

**UNDER REVIEW**

# Fairer Contributions Policy (Non-Residential Care /Personal Budgets)

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## Fairer Contributions Policy (Non-Residential Care / Personal Budgets)

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## 1. Policy Statement

With the introduction of personal budgets to support greater choice and control, comes the need to determine how an individual's contribution (if any) towards the cost of non-residential services will be worked out. As well as spending their budget on specialist social care services, people can choose to spend their budget on a range of community services. The contributions policy needs to enable people to make informed decisions on how they spend their budget.

## 2. Purpose

Gloucestershire County Council's Adult Social Care relies on people who use services making a financial contribution to the cost of providing them, if they are able to afford to do so. Without this income, service levels would be significantly reduced. Central government assume that councils will partly fund services with contributions from the people who use these services, and the allocation of funding each year reflects this.

## 3. Definitions

**Carer** - A carer is someone who (without payment), provides regular and substantial help and support to someone that could not manage without their help. The person requiring help may be a partner, child, relative, friend or neighbour - who could not manage without their help. This could be due to age, physical or mental illness, addiction or disability.

**Indicative Budget** – The amount of money the local authority estimates it will cost to meet a person's assessed social care needs.

**Personal Budget** – the amount of money the local authority has agreed it will cost to fund the support to meet the outcomes in the approved support plan.

**Resource Allocation System** – This is the calculation made to translate assessed needs into an amount of money to meet those needs, to ensure a fair and transparent allocation of funds between individuals according to their needs.

**Direct Payment** – the part of a Personal Budget that is a cash payment made to an individual, so that they can arrange their own services to meet their social care needs.

**FAB team** – Financial Assessment and Benefits Team - A team of officers who collect information (usually via a visit) about a person's finances. It identifies benefits that they are entitled to apply for, and calculates the contribution to be made to their Personal Budget.

**Maximum Chargeable income** - The maximum contribution a person will be required to make.

#### **4. Implementation**

- 4.1 This policy is the formal statement about how we will operate in relation to assessing contributions, to ensure fairness and sustainability for people who are eligible for support.
- 4.2. It is the responsibility of each Line Manager to ensure that staff are adequately informed and, if appropriate, trained in all signed off policies and processes that relate to the way Adult Social Care provides services to the community, individuals, their families and carers.
- 4.3. It is each employee's responsibility to ensure that they have a good working knowledge of the policies and procedures that relate to their specific areas of work.

#### **5. Scope**

- 5.1 This policy applies to non-residential social care services only.
- 5.2. Non-residential services provided by the council to meet social care needs will be subject to an assessed contribution, except:
- After Care Services provided under S117 Mental Health Act 1982.
  - Intermediate Care or Re-ablement Services for a time limited period
  - Assessments (needs and financial)
  - Information, Advice and Advocacy
  - Drop-in centres
  - Community equipment and minor adaptations up to the value of £1000 e.g. grab rails
  - Services provided to carers
  - Telecare
  - Supported employment

These services can preserve independence, and prevent or delay the need for more intensive support or are health services that are free by statute.

- 5.3. There are some circumstances when people cannot, or may not be required to make a contribution:
- People suffering from Creutzfeldt Jacob Disease cannot be required to contribute.
  - People who are terminally ill and require intensive care from palliative health and Adult Social Care staff for either rehabilitation during or following treatment, or who wish to remain in their own homes to die, will not be required to contribute to the cost of services provided. The

duration of these services is normally 6 weeks and a review of the care and support plan would take place at this time to consider an extension.

- Carers who receive services in their own right will not be required to make a financial contribution.
- People who are supported via safeguarding procedures should have their case considered as and when required - to determine whether or not they should be financially assessed to make a contribution. This consideration should determine whether:
  - the sustainability of the protection plan put in place to safeguard the person is threatened due to an unwillingness to make assessed contributions; and / or,
  - the person has mental capacity to agree to the protection plan and accept the responsibility of contributing to the cost. If the person lacks capacity we need to demonstrate that we are acting in the best interest of the person, and then if the plan results in a cost to the person, we may require the contribution to be made. However if there are disagreements between LA staff and family members about a safeguarding plan, consideration should be given to allow a waiver.

5.4. Community meals will continue to be charged separately at a flat rate on the basis that they are a substitute for ordinary expenditure.

5.5 Following the introduction of electronic call monitoring, people will be charged based on actual care delivered rather than on planned care.

## **6. Legal Context**

This policy reflects the requirements of:

- The Care Act 2014,
- The Care and Support (Charging and Assessment of Resources) Regulations 2014,
- The Care and Support Statutory Guidance issued under the Care Act by the Department of Health in October 2014.

## **7. Principles of the Fairer Contributions Policy**

The following 4 principles underpin a contributions based system and are felt to be important if a contributions based system is to be successful:

**7.1. The system should be built on equity and fairness**

Equalities legislation requires that any discriminatory practice is identified and removed. Any approach to contribution should be fair and equitable for all, irrespective of care group, age, gender and also the services that they ultimately choose to spend their personal budget on.

**7.2. The system is based on people making contributions towards their personal budget**

Everyone makes contributions towards meeting their needs throughout their lives. In adult social care, some people, even those with high needs, may have the financial resources to contribute to meeting those needs. The role of the state is to ensure that there are sufficient resources available in the personal budget from the local authority and the service user to meet an individual's assessed needs. The Fairer Contribution system should ensure that a fair system is in place to calculate the contribution an individual can be required to make towards their personal budget.

**7.3. The system should be linked to a person's ability to make contributions**

Some people have a greater ability to contribute than others. Any system of contributions needs to ensure fairness across all financial situations.

**7.4. The system should not restrict the choices people can make**

A person who is assessed as needing support should not be deterred from opting for one type of service or support over another on the grounds that they will be financially disadvantaged.

7.5. The Fairer Contributions process encompasses a Financial Assessment and Benefits service that provides a benefit maximisation check - to ensure that the financial burden of people making a fair contribution to their Personal Budget is minimised.

7.6. People who are assessed as needing support will be informed of an estimated amount of money required to meet their social care needs (called an "Indicative Budget" – please see definitions section). This will be established in their care needs assessment.

7.7. The actual amount of money required will be finalised after Support Planning and is called a "Personal Budget" (please see definitions section). The contribution people will be required to make to their Personal Budget will be based on their ability to pay.

7.8. Potentially, people will be required to make a financial contribution up to the whole amount of their Personal Budget. This means that people could, if they

are assessed as being able to afford it, contribute the full amount of their Personal Budget and not be eligible for a LA contribution.

- 7.9. People allocated a Personal Budget, whose income is below minimum income allowances as announced by Government each year, will be assessed as not being able to make a financial contribution to their Personal Budget.
- 7.10. Following a Financial Assessment and Benefits check; if there remains a shortfall between the money a person has, and the amount they need to meet the cost of support to address their assessed social care needs; Adult Social Care will consider making a contribution.
- 7.11. Services cannot be withdrawn because a person refuses to pay a contribution. The Council, however, will pursue a debt in accordance with the Council's Debt Recovery procedures.

## **8. Practice Guidance – the framework for assessing contributions**

- 8.1. Everyone who is assessed as needing support to meet eligible social care needs will be required (during the process of financial assessment) to provide accurate information about their income and expenditure. This is to determine their eligibility for a Local Authority contribution to their Personal Budget. Until this information is provided, it will be assumed that the individual is contributing the whole amount of their Personal Budget.
- 8.2. The financial assessment process will also check that the person is claiming all the welfare benefits that they are entitled to and, if necessary, provide support to make a claim.
- 8.3. If an application for a benefit is successful, the contribution the person is required to make to their Personal Budget will be back-dated to the start date of the award.
- 8.4. Individuals are responsible for informing the FAB visiting officer when they have been notified about a benefit application, or of any other change in their financial circumstances.
- 8.5. If someone is entitled to claim a benefit but refuses to do so, their contribution will be calculated as if they were receiving the money they are entitled to.
- 8.6. Earnings are not taken into account in assessing the contribution an individual can make.
- 8.7. Any savings under the lower capital limit (£14,250 as at 1 April 2015) will not be taken into account when assessing the level of contribution.
- 8.8. Only the income and savings belonging to the individual with assessed needs will be considered in the financial assessment. This is except when they can

reasonably be considered to have access to savings or income other than earnings held in a partners' name or in joint names. (See also section 11.4 on the treatment of partners' income and savings.)

- 8.9. A person's income, savings, and allowance rates will be reviewed each year in line with government guidance, inflation, and benefit changes. Changes may result in their contribution increasing or decreasing.
- 8.10. Increases in the costs of services will be reflected in the Resource Allocation System and, following review or re-assessment, a person's contribution may change.
- 8.11. Contributions will automatically increase annually to reflect the annual increase in Benefit awards.
- 8.12. The maximum contribution a person will be required to make, called the Maximum Chargeable Income or MCI (please see definitions section), will take into account minimum income allowances as announced by Government each year.

For many people the maximum contribution will be less than their personal budget. For others it may be more, and these people will contribute up to the full cost of their budget.

- 8.13. Disability related expenses will be considered when determining the level of contribution. This is irrespective of whether or not the person receives disability benefits such as Attendance Allowance, or Disability Living Allowance Care Component.
- 8.14. If a person refuses a financial assessment and benefits check they will be required to pay the full cost of their support.
- 8.15. Where someone chooses to receive a Council provided service then, once a person's contribution to their personal budget has been established, this is the amount that they will be required to contribute.
- 8.16. A schedule of costs for council provided and managed services, will be published regularly and subject to an annual review.
- 8.17. Anyone who cannot pay their contribution can use the Appeals and Complaints procedure as outlined in section 12.
- 8.18. Failure to pay a contribution by the specified date will be followed up. Outstanding debts may be referred to Legal Services and these will be pursued through the civil courts.



## 9. Methods of payment for contributions

Gloucestershire County Council's preferred method of payment is through Direct Debit arrangements; this offers the most cost effective and efficient method of payment for any contributions. If an individual does not have access to a bank account then alternative methods of payment can be discussed and are detailed on invoices that are issued by Gloucestershire County Council:

**By Direct Debit** – The Financial Assessment & Benefits Visiting Officers will provide the person with a Direct Debit form at their assessment or details about direct debits can be obtained by telephoning 01452 425554.

**By Telephone** – Credit or debit card payments can be made by calling 01452 425899 during normal office hours. Outside of these hours payments can be made using touchtone keypads on 01452 427575.

**Internet Payment** – At [www.gloucestershire.gov.uk](http://www.gloucestershire.gov.uk) select the £ logo or log on directly at [www.gloucestershire.gov.uk/epay](http://www.gloucestershire.gov.uk/epay).

**At the Bank** – Using the Bank Giro Credit form attached to the invoice, payments can be made at any branch of HSBC or the service user's own bank. Cheques should be made payable to Gloucestershire County Council.

GCC Bank details for standing orders, BACS payments or Internet banking are: Sort Code: 40-22-09 Account Number: 11600001

**At the Post Office** – Using the Santander Transcash form to pay in at any Post Office. Cheques should be made payable to Post Office Ltd.

**By Post** – In exceptional circumstances - by crossed cheque or Postal order made payable to Gloucestershire County Council and sent to Head of Finance, Shire Hall, Gloucester, GL1 2TJ. Ensure the invoice number is recorded on the back of the cheque. Do not send cash through the post.

## 10. Options for accessing a Personal Budget

- 10.1. If a person's assessed contribution is less than their Personal Budget then they must decide how they want to access this money. The choices are as follows:

Direct Payment - People with capacity who opt to take their Personal Budget as direct cash payments will receive the net amount (i.e. less their assessed contribution). If they want, they can appoint a "nominated person" to receive this on their behalf.

A direct payment for someone assessed as lacking capacity to make decisions about direct payments will be paid net of the person's assessed

contribution(if any) to any 'authorised person' appointed by the Council to manage direct payments on the person's behalf.

A mix of directly provided service and Direct Payments - People who choose a mixture of a cash budget and Council provided services as part of their support plan - and are assessed to make a financial contribution - will have their contribution netted off against their cash payment, or will be invoiced for the remainder if their contribution is more than the cash element of their Personal budget.

- 10.2. Where a person is assumed to be contributing the full cost of their budget (see section 8.14), once they have provided all the information required to complete the financial assessment, any debt will be re-calculated based on the outcome of the financial assessment at the discretion of a Team Manager.

For example; if the person or their representative has been unduly slow or obstructive in providing relevant information, any contribution that Adult Social Care make will start from the date the correct information is provided. Any support arranged or purchased from a Personal Budget before this will have to be paid for in full by the person for whom the support is provided.

## **11. More detail about the financial assessment**

### 11.1. General principles

The Council invoices users for their contribution (if they are due to be made to the council) 8 weeks in arrears, and it is therefore very important that the financial assessment is completed as soon as possible after notification of the indicative personal budget. This will ensure that the first invoice and all future invoices can reflect the council's contribution.

### 11.2. How Maximum Chargeable Income is worked out:

The maximum chargeable income is the most that any individual will be expected to contribute towards their budget (with the exception of meals). It will be worked out as follows. Assessable income will be calculated and the following amounts will be deducted from that figure:

- Relevant minimum income allowances as announced by the Government each year
- Housing Costs.
- Disability Related Expenses.

People with savings over the capital limit (£23,250 as at 1 April 2015) will have to contribute the full cost of their budget.

### 11.3. Assessable Income

The following sources of income will count in full as a person's assessable income:

- Attendance Allowance, including Constant Attendance Allowance and Exceptionally Severe Disablement Allowance
- Bereavement Allowance
- Carers Allowance
- Disability Living Allowance (Care component)
- Employment and Support Allowance or the benefits this replaces such as Severe Disablement Allowance and Incapacity Benefit
- Income Support
- Industrial Injuries Disablement Benefit or equivalent benefits
- Jobseeker's Allowance
- Maternity Allowance
- Pension Credit
- Personal Independence Payment (Daily Living component)
- State Pension
- Universal Credit
- Working Tax Credit.
- Any payment to the person by way of a charge for board and lodging accommodation provided by the person.

### 11.4. Treatment of a partner's income and savings

Parents and other members of the family of an adult who has a Personal Budget cannot be required to pay contributions, except in certain legal circumstances. An example would be where a family member was managing money on behalf of the person in receipt of a Personal Budget.

Where a partner's finance can be considered, we will assess the person individually and as half of a couple, and this will inform the level of contribution.

If Adult Social Care consider that someone has a legal right to a share of an asset (such as a bank account of a partner whether they are married or not), then the partner will be asked to disclose that asset. Adult Social Care needs to determine that the person with a Personal Budget has sufficient means to pay their contribution.

For benefits paid to a couple, the amount will not be halved automatically as the other partner's expenditure should be taken into account. A check will be made that contributions do not reduce the couple below minimum income allowances as announced by Government each year. In these circumstances, the assessment will be applied on the basis of the household.

Jointly held savings will be treated as divided equally between the owners, unless the contrary is demonstrated by, or on behalf of, the person in receipt of a Personal Budget.

#### 11.5. Income not included when assessing a person's resources (to determine their contribution)

The types of income that will not be included when assessing a person's resources to determine their contribution include:

- All earnings (as defined in Annex C of the Care and Support Statutory Guidance)
- Any partner's earnings
- Pension Credit (Savings Credit)
- Any payment of Working Tax Credit
- Disability Allowance Mobility Component
- Personal Independence Payment (Mobility)

Note: Any disability-related expenses claimed for support at night will be reduced by any payment of benefit made for support at night - such as Attendance Allowance and Disability Allowance Care Component.

The levels and types of capital that will be included when assessing a person's resources to determine their contribution are currently:

- Capital up to and equal to £14,250 will be disregarded.
- Capital between £14,250 and £23,250 a weekly income of £1 for every £500 or part thereof will be assumed.
- People with capital over £23,250 will contribute the full cost of their budget.
- Capital includes all forms of cash savings, e.g.
  - Money in the bank/building society current and deposit accounts
  - Post Office/National Savings and Premium Bonds
  - ISAs
  - Stocks, Shares and Unit Trusts
  - Money owed by third parties
  - Any other cash savings
  - The value of all Trust Funds will be treated as specified in Annex B of the Care and Support Statutory Guidance.
  - The surrender value of any life insurance, private pensions or annuities will be disregarded, unless taken out in order to avoid payment of contributions.
  - If capital has been earmarked by the service user for a particular piece of disability related equipment (e.g. a stair lift or a wheelchair), any such capital over £14,250 will be disregarded

for up to 6 months (or longer if reasonable). Confirmation of expenditure will be asked for.

#### 11.6. Deprivation of Capital

Where a person transfers any capital to a third party to avoid paying contributions, they will be assessed as retaining that capital.

#### 11.7. Treatment of property

The value of a property occupied by a service user as their sole or main dwelling will be disregarded.

The value of any other property owned or part owned by the service user will be regarded as capital.

All of the above make up a person's assessable income, and various amounts have to be deducted from this to get to the chargeable income.

#### 11.8. The deductions that can be set against contributions:

- Minimum income allowances as announced by Government each year
- Housing Costs - These include:
  - Rent (net of any housing benefit)
  - Mortgage repayments and endowment repayment costs (net of any help towards housing costs paid with a person's Income Support, Jobseekers Allowance, Employment & Support Allowance, or Pension Credit).
  - Council Tax – (net of any Council Tax, second adult rebate or status discount).
  - Water charges will be allowed as a housing cost only where the supply is metered and it can be shown that water usage is high because of the service user's disability.
  - Buildings and contents insurance.
- Disability Related Expenses (DREs) –receipts and bills may be requested as proof of expenditure.

#### 11.9. Chargeable Income

The assessable income less the above deductions represents a person's maximum chargeable income (i.e. the most that a person can be asked to contribute towards their Personal Budget with the exception of meals).

## **12. Appeals and complaints about contributions**

When someone indicates that they cannot afford to pay their contribution after their financial assessment, they can ask for a review.

On receipt of such a request, a different financial assessment officer will review the original financial assessment. This person will check that the assessment has been carried out fully in line with this policy, and review the practice advice on what can be treated as disability related expenses.

If the person still feels they cannot pay their charges, they will be referred to the service budget holder who can consider reducing or waiving their charges.

If the person remains unsatisfied with the findings of the financial assessment they can use the Adult Social Care complaints procedure.

## **13. Monitoring and Review**

This policy will be monitored through staff supervision. Policy will be reviewed by 1 April 2017.

# APPENDIX 1

