



Brighton & Hove City Council

CHARGING POLICY For Adult Social Care Services – 8th APRIL 2024-2025

CONTENTS

1. Introduction

- 1.1 Compliance with the Care Act 2014
- 1.2 Review of policy in the light of *SH v Norfolk County Council [2020] EWHC 3426*,
- 1.3 Services covered by this policy
- 1.4 Services excluded from the charging policy
- 1.5 Carers' Services

2. Maximum Charges for in-house services

- 2.1 Home Care
- 2.2 Day Care / Day Activities
- 2.3 Additional fixed rate charges for meals and transport

3. Financial Assessment Procedure

- 3.1 The Financial Assessment Process

4. The Financial Assessment Calculation

- 4.1 Treatment of capital
- 4.2 Income to be taken fully into account
- 4.3 Income to be disregarded

5. Calculations for non-residential services

- 5.1 Standard allowances
- 5.2 The Disability Related Expenditure assessment (DRE)
- 5.3 Housing Costs
- 5.4 Method of calculation for non-residential services
- 5.5 Assessing Couples.

6 Charging for permanent Residential Care and Nursing Homes

7 Charging for Residential Care on Temporary Basis

8 Reassessments and Reviews

9 Backdating Charges

10 Notification of Charges

11 Paying the Contributions

- 11.1 Care Agencies
- 11.2 Council Services
- 11.3 Direct Payments

12. Recovery of Debt

13. Appeals and Complaints

Appendix A Disability Related Expenditure Assessment

Appendix B: 1) Preventive Service charges

2) Protection of Property charges

1. Introduction and Legal basis for charging for Care and Support

- 1.1 This policy is approved by Brighton and Hove City Council and is compliant with The Care Act 2014, Care Act Regulations and Guidance. The aim is to provide a consistent and fair framework for assessing and charging all service users following an assessment of individual needs, and individual financial circumstances. The policy applies to all service users equitably. Section 14 of The Care Act 2014 provides councils with a power to charge for meeting a person's eligible needs in a single legal framework. Section 17 of The Care Act requires local authorities to undertake an assessment of financial resources. This will determine the amount a person should pay towards the cost of providing for their needs for care and support whether provided to people living in their own home or in a care home.
- Some of the assessment rules for residential care differ from non-residential but many are the same.
- The policy for non-residential services was originally formulated in December 2002 under consultation with service users and their carers. This has been revised to take account of the requirements of the Care Act 2014 and subsequent amendments.
- For the purposes of this policy, an adult is a person aged 18 or over and whose eligible needs are being met through Adult Social Care funding.

- 1.1 **In *SH v Norfolk County Council [2020] EWHC 3426***, the High Court decided that Norfolk's charging policy unlawfully discriminated against severely disabled people in the enjoyment of their benefits income. SH was of working age and her income comprised the highest rates of (severe) disability benefits. The national charging regulations expressly disregard earnings but do not disregard most disability benefits. Norfolk applied the minimum allowances against SH's income as prescribed by DHSC, which led to higher charges. It is open to councils to give higher allowances so that people are left with more of their income after charging. The decision of the High Court in this case is not binding on other councils but BHCC has taken the opportunity to review its own Charging Policy in light of it.
- BHCC cannot amend the DHSC regulation to disregard income from severe disability benefits. That is a national requirement. However, BHCC does make a more generous allowance to people of working age which is above the minimum allowances prescribed by DHSC. BHCC also provides for a bespoke Disability Related Expenditure Assessment which looks at necessary additional expenditure particularly related to disability and provides for further allowances in appropriate circumstances so that charges are reduced. For these reasons no material changes are considered necessary to the BHCC charging policy.

1.2 The services included for this financial assessment policy are:

Home Care, including all eligible needs at home
Deep clean services
Day Care, Day Activities
Community Support / outreach services
Intermediate and reablement care after 6 weeks
Direct Payments / Personal Budgets for any services
Money Advice and money management services
Supported Accommodation*

Shared Lives Schemes*
Extra Care Housing care services
Residential Care including Nursing Homes
*Carelink alarm systems (where part of a care package)
***Carelink provided as a Preventive Service**
Adaptations over £1,000

*People in Shared Lives and Supported Accommodation schemes, including Extra Care Housing, in addition to any assessed care and support charge, will also be responsible for rent, food and utilities from their own income, often with Housing Benefit or universal credit.

1.3 Services excluded from charges are:

All Daily Living Equipment
Adaptations under £1000
Services provided under Section 117 of the Mental Health Act, “after care” services.
Intermediate Care and Reablement Services for up to 6 weeks
Any Care funded under Continuing Health Care by the Health Authority
Care and support provided to people with Creutzfeldt-Jacob Disease
Assessments of care needs and care planning

1.4 Care and Support for Carers

There is no charge to carers for any services provided directly to them during 2022/22. This policy will be kept under review. Where services are provided directly to the service user to meet their eligible care needs, in order to provide the carer with support, the service user will be charged in accordance with this policy.

2. From April 2023 the maximum charges for non-residential services are as follows:

2.1 Home Care provided by the council, including all forms of support at home £32 per hour

(Please note that the charge is double where two carers are provided)

The maximum charge for care provided by an independent agency will depend upon the fees set by them. This can vary between providers but is usually less than £27 per hour.

2.2 Day Care / Day Activity provided by the council (for any time period) £48 per day

The maximum charge for care provided by an independent agency will depend upon the fees set by them. This can vary between independent day care providers.

2.3 Additional Fixed Rate charge for Transport

Any transport costs will not form part of the assessed charge as they substitute for ordinary daily living costs. The charge is **£4.90 per return journey**
These charges are payable in addition to assessed contributions.

3 The Financial Assessment Process

3.1 The financial assessment follows on from the care needs assessment. Relevant details are referred to the Financial Assessment team who may make arrangements for a personal visit to the service user or their representative. In some cases it may be possible to complete an assessment over the telephone or by post or email but information received will be subject to full verification. Where a person lacks mental

capacity to complete a financial assessment form we will contact someone with Power of Attorney for Property and Affairs or a Deputy of the Court of Protection. If there is no person with a formal authority we can discuss the financial assessment with someone who has been given Appointeeship by the Department of Work and Pensions (DWP) or any other person who is helping to deal with that person's affairs. We will:

- (a) Gather financial information from the service user or their representative and have sight of relevant documentation for verification purposes e.g. Bank statements, property valuations, completion statements etc.
- (b) Assist with the completion of the Financial Assessment Form which is signed as a correct statement by the service user or their representative
- (c) Arrange for "Forms of Authority" to be signed if any information needs further written verification from the asset holders, building societies etc.
- (d) Complete postal or telephone assessments and any further financial enquiries and verification
- (e) Undertake a Welfare benefits check, either directly with the person or remotely from council and DWP records and we will help with benefit claims if applicable.
- (f) Provide written notifications to service users by email or post informing the chargeable amount and how it will be collected
- (g) Notify the care provider of the charge for their collection (in some cases).
- (h) Arrange for invoices to be sent to the service user by the council's Central Collections Team (in some cases)

4. The Financial Assessment Calculation for all services

First we take account of Capital and Savings (including property where applicable)

Then we take account of income

Then we make allowances for various types of expenditure

The difference between the income calculation and the allowable expenditure is the amount charged for care services.

The amount charged will depend upon whether the service user needs a Residential Care Home service or other services while remaining in their own home (known as "non-residential services" or "community services")

4.1 Treatment of Capital and Savings

People with over £23,250 in chargeable capital and savings are assessed to pay the full cost of any service from the start date of the service.

People who do not want to disclose full financial information may opt to pay the full cost without going through a financial assessment. This is sometimes known as a light touch assessment.

People who are unable to show that they do not have savings above £23,250 will pay the full cost from the start of the service.

Where care needs are met in a person's own home, the main residence occupied by the service user will not be taken into account but the value of all other forms of capital and savings will be taken into account, including any other property, eg

second homes, holiday homes, whether or not they are rented out and whether they are located in this country or abroad. Where a property is not occupied as a main home, for example where the person has moved out to live with other family members or to live in rented accommodation, the property value will usually be taken into account for charging purposes. This does not apply to a temporary absence from home, for up to 26 weeks where there is a viable plan to return home.

We take into account any form of savings irrespective of where and how invested (with the exception of special complex rules regarding capital held in a trust and capital held in investment bonds with Life Assurance). (Note that, where funds are held in trust, or in a disregarded savings bond, the financial assessment will seek to determine whether any income received should be included or disregarded. Copies of trust documents (e.g. Trust Deeds, Will Settlements etc.) must be provided for verification. The council's policy follows the Care Act 2014 Charging Regulations and Statutory Guidance.

The capital limits are currently £23,250 upper limit and £14,250 lower limit. Any capital above £14,250 is calculated as "tariff income" which is calculated as £1.00 per week for every complete £250 or part.

People with more than £23,250 held in their own name, or held in their share of joint accounts, or in accounts held by another person on their behalf, will pay the full cost of the care service. **This charge applies from the start date of the service.**

Where a person is liable for the full cost of care provided at home and chooses to use the Council's contract for care services there will be a charge of **£336 for the initial contract set-up fee and then £105 per year administration charge thereafter**. (Note: the level of these fees are reviewed, usually in April each year and are subject to change).

4.2 Notional assets, savings or income included in the financial assessment:

If a person has gifted any savings, investments, income or property to another person, prior to, or whilst receiving any care services, any such amounts may be included in the financial assessment as though they remain in their own possession. This is called "notional capital" or "notional income". Each case will depend upon detailed information and will apply where the person ceases to possess assets in order to reduce the level of the contribution towards the cost of their care. This may also apply where a person has spent down their capital more significantly than would usually be the case, with the purpose of paying less for care services. Consideration will be given to relevant circumstances. This is sometimes referred to as deprivation of assets and can include transfer of ownership or conversion from one kind of asset to one that would otherwise be disregarded. In all cases, it is up to the person to prove to the council that they no longer possess the income or asset and the council will determine whether deprivation has occurred as part of the financial assessment. Notional capital or income will also be taken into account if a person is not claiming monies to which they are entitled.

Where notional assets are included in the assessment and the resident is unable to pay for their care and support, the council may instead charge the person(s) who received the gifted monies.

4.3 Income to be taken fully into account

Income includes **most state benefits** means tested and non-means tested, including State Retirement Pension, Pension Credit, Employment and Support Allowance, Income Support (including all premiums for age, family and disability), Job Seekers Allowance, Attendance Allowance, DLA and Personal Independence Payments (PIP) care component, Universal credit etc.

And all other Income: **(subject to exceptions below in 4.3)**

Occupational Pensions

Private Pensions

Income from annuities

Trust Income (where applicable)

Income from charitable or voluntary sources (subject to £20 per week disregard)

Rental Income / lodging payments (including other persons in the household)

Where another person, who is not a spouse or partner or civil partner or a dependent child, lives in the household of the service user (e.g. relatives, friends, lodgers etc.) the payments they make towards the household expenses will be taken into account as income.

Where no actual payments are made by the person living in the household there will be an assumed income of one third of the basic Income Support allowance as a contribution towards general household living costs.

4.4 Income to be disregarded

- Earnings are disregarded (Earnings consist of any remuneration or profit derived from employment or self-employment, including bonus or commission and holiday pay but excluding re-imbusement of expenses and any occupational pension)
- Personal Independence Payments (PIP) — Mobility Element only
- Disability Living Allowance (DLA) — Mobility Element only
- War Pensions payable to those in service
- War Pensioners Mobility Supplement
- War Widow(er) Special Payments
- Tax credit income (related to earnings)
- Child Tax Credits
- Child Benefit
- Child Support Maintenance payments
- Savings Credit element of Pension Credit payments are disregarded for non-residential services but there are other special rules for residential care with a partial disregard
- And any other disregards required in the Care Act 2014 Charging Regulations and Statutory Guidance.

5. Assessment for non-residential services

5.1 General Living Allowance – known as MIG (Minimum Income Guarantee)

Local authorities must ensure that a person's income is not reduced below a specified level, after charges have been deducted. The allowance rates are set out in

the Care and Support (Charging and Assessment of Resources) Regulations and are reviewed by the Department of Health every April. **This allowance is for people who live in their own home** and is intended to cover general living expenses including food, utilities, fuel, transport, leisure, insurances, pets and other miscellaneous living costs and includes any debts relating to these expenses.

In this policy single people or people in a couple with no dependent children will be given the following weekly allowance irrespective of the age of the service user.

£229 per week for single people

£175 per week for one person in a couple

The National Minimum MIG for a person of working age and in receipt of maximum disability benefits is £171.75 per week. However, BHCC policy provides for an enhanced MIG allowance for people of working age by an extra £43.25 per week to allow for the additional costs of disability.

Where there are dependent children living in a household, the weekly allowance rates for adults differ according to age and other circumstances and the general allowance is calculated in accordance with Government Guidance as follows:

Where the service user is a **single person and:**

- a) aged 18 or older but less than 25, the amount of £87.65
- b) Aged 25 or older but less than pension credit age the amount of £110.60
- c) Pension credit age, the amount of £228.70
- d) Is a lone parent £110.60

Where the service user is a **member of a couple** the basic weekly allowances are:

- a) one or both are aged 18 or over, the amount of £86.85
- b) one or both have attained pension credit age, the amount of £174.60

Additional weekly allowances apply as follows:

For each dependent child living in the household an additional allowance of £94.90

For a single person with:

- a) Disability premium, the amount of the additional allowance is £48.80
- b) Enhanced disability premium, the amount of the additional allowance is £23.85

For one member of a couple in receipt of:

- a) Disability premium, the amount of the additional allowance is £34.80
- b) Enhanced disability premium, the amount of the additional allowance is £17.15

When in receipt of carers' premium, the amount of the additional allowance is £52.35

The Personal Expenditure Allowance for a resident in a **care home** is £30.15 per week

5.2 The Disability Related Expenditure assessment (DRE) for non-residential care

Service Users who live in their own homes will be asked to list any additional expenses, extra to the standard allowances explained in 5.1 that arise specifically as a consequence of disability. Examples of such expenditure and verification methods are set out in **Appendix A**.

5.3 Housing Costs for people in their own homes

Allowances are given for the following housing costs:

- Rent (net of Housing Benefit - or Universal Credit)
- Council Tax (net of Council Tax Reduction and discounts)
- Minimum mortgage repayments (as a substitute for rent) excluding enhanced mortgage payments.
Ground Rent and Maintenance (except costs already allowed in the standard living allowance eg. Lighting, heating, Hot water, etc.)
- Water Rates / Metered Water Costs

No Allowance for rent will be made where the service user lives in another person's household and there is no legal liability for rent payments. This is because any charge made for living in the other person's household will be deemed to be covered by the general living allowance of at least £175 per week. Where the person is not liable for these costs but contributes towards them through a private board agreement or similar, then the service user will be expected to meet this expenditure from their general living allowance.

5.4 Method of Calculation for non-residential services

- a) Income, less expenditure and allowances, equals "assessable income"
- b) Assessable income is rounded down to the nearest whole pound.
- c) There is no charge if this is below £3.00 per week
- d) Note that where the actual service costs are less than the assessed charge, the lower amount will be charged.
- e) Note that for adaptations over £1000, the weekly charge will be calculated in the same way but the charge will be payable for a maximum of 7 years.

5.5 Financial Assessment for couples

When assessing one member of a couple, that person will be assessed on their own financial resources.

Where the total savings and assets of the service user are over £23,250, including any beneficial interest in savings held by their partner or any other person, the full cost of care services will be charged

100% of solely owned and 50% of all jointly owned capital will usually be taken into account unless there is evidence of an unequal share, in which case a different percentage will be used.

All assessable income appropriate to the service user will be taken into account.

Where benefits are paid at the couple rate, the benefit income will be apportioned. In these cases we will usually presume the service user has an equal share of the income unless it is clear that this is not the case and consideration will be given to both partners' financial circumstances.

*Note: Savings and capital are normally defined as belonging to the person in whose name they are held. However, in some cases there may be a beneficial ownership for a partner, e.g., where they have the benefits of ownership, even though the title

of the asset is held by someone else or where they are able to make or influence transactions. The origin of the income and capital will be considered and the intentions for future use and such assets may be considered as notional income or capital. For this reason, financial assessments will usually be completed by reference to all income, savings and expenditure of the household.

- 50% of a couple's eligible household expenditure will usually be allowed
- Eligible Disability Related Expenditure for the service user will be allowed (see appendix A)

The general living allowance will be applied in line with statutory regulations as set out above at 5.1.

6. Care Homes: Charging for residents with long term care needs.

6.1 Where a person's long term needs are assessed to be met in a care home the financial assessment will determine whether the person must pay the full cost of the care home fees or whether the council will help to pay towards the cost.

6.2. Charges for residential care are payable from the date care commences.

6.3 If the resident owns any property the net value is usually taken into account when calculating the level of savings and capital. Where that value exceeds £23,250 the resident will be assessed to pay the full cost of the care home fees. However where the residents' former home is occupied by a spouse or partner or another relative aged over 60 or disabled, the value will not be taken into account as it will be disregarded in the financial assessment.

Further details are available in the Care Act 2014 Guidance at paragraphs 34/35 and can be found at the following website

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>

6.4 The Financial Assessment will take into account income, capital and the value of any assets. The calculation will take into consideration any mandatory disregards of income, capital and property as defined in the Care and Support Statutory Guidance.

6.5 The Assessment will allow the prescribed minimum personal allowance known as the 'Personal Expenditure Allowance' (PEA) of £30.15 per week. Some people may also qualify for an additional Savings Credit Disregard allowance depending upon eligibility for this benefit and their level of income and state benefits.

6.6 Where someone chooses to live in a care home with fees above the council's usual fee rates they must identify a person, known as a third party, to meet the additional cost. This additional cost is often called a 'top-up'. The local authority has the right to refuse this option if the extra costs cannot be met over a sustained length of time.

6.7 The third party must confirm they are able to meet the costs of the top-up for as long as the resident remains in the care home and they will be asked to enter into a formal agreement.

6.8 People who own a property may be eligible to defer the cost of part of their care home fees costs. They will be required to agree to a legal charge against the value of their property and this is known as a Deferred Payment Agreement. There is a **setup fee for this arrangement of £639** and there are interest charges on the amount loaned to pay for care home fees. Details of this scheme can be found in the council's separate **Deferred Payment Agreement information sheet**.

7. Charging for Care Homes where support needs are assessed as temporary or Short Term.

- 7.1 The council will financially assess and charge people having a temporary stay in a care home from the start date of the service.
- 7.2 A temporary resident is defined as a person whose need to stay in a care home is intended to last for a limited period of time **and where there is a plan to return home**. The person's stay should be unlikely to exceed 52 weeks, or in exceptional circumstances, unlikely to substantially exceed 52 weeks.
- 7.3 Where a person's stay is intended to be permanent, but circumstances change and the stay is temporary, the council will usually review the assessment on the basis of a temporary stay but this may depend upon the length of time the person has been resident in the care home.
- 7.4 The financial assessment for a temporary stay in a care home accounts for income and capital in the same way as for permanent residential care with the following exceptions:
- 7.5 The value of the person's main or only home will be disregarded where the resident intends to return and there is a plan to return home.
- 7.6 The value of the following will be disregarded:
- All Disability Living Allowance or Attendance Allowance or Personal Independence Payments will be disregarded
 - Where Severe Disability Premium or Enhanced Disability Premium are in payment, these will be included in the assessment.
 - Liabilities for rent, mortgage interest and water rates are taken into account subject to verification

8. Financial re-assessment reviews for all Services

Reviews will be conducted in the following circumstances:

- a) Where someone receives a new or backdated state benefit, such as Attendance Allowance, Severe Disability Premium etc. Note that charges will be backdated to the date of the DWP award for the additional benefit. (Actual payments from DWP may be later).
- b) At any time where the council discover an amendment to the financial information previously provided: e.g. financial or property Inheritance, previously undisclosed property, savings or income, including benefits (this can lead to additional charges being backdated).
- c) Where a person notifies the council that their circumstances have changed
- d) Where there is a significant change to Government regulations, state benefit entitlements or charging policy revisions
- e) Where state benefits are uprated (usually in in April of each year)
- f) Otherwise, financial reviews will take place over a period of time

9. Backdating charges

Charges will usually date from the start of the service. Backdated charges apply where additional benefits have been successfully claimed. People will be advised of this policy in writing and will be required to pay the additional charge from the date they are found to be eligible for the benefit. This may include a period of backdated payment from the DWP.

Where people have not provided correct financial information, backdated assessments and charges will usually apply from the start of the service or from the date any additional assets were acquired. This may include gifted assets.

Sometimes, for residential care, we are unable to establish the extent of a person's income in a timely manner but as the resident is receiving full care and board, the charge will be backdated once the information is available to calculate the charge.

Where it is found, at any time, that a person still has or had, over £23,250 the full cost will be backdated to the start date of the service.

10. Notification of Charges

The outcome of the financial assessment and charge information will be confirmed in writing. This might provide a provisional charge pending the verification of income, savings, capital, expenditure, additional costs related to personal disabilities, or awaiting the outcome of state benefit claims. If all financial information is complete the notification will provide details of the final assessment.

11. Paying the contributions

11.1 Care Agencies:

Where the person has capital over £23,250 and is therefore assessed to pay the full cost for care services, **they will pay the agency direct**, upon receipt of an invoice from the care agency or by standing order or other method agreed with the agency. If the service user fails to pay the provider, further action may be taken.

Where the person has been assessed to pay a contribution towards the cost of their care service, this will usually be payable direct to the care provider, otherwise the council may invoice the service user monthly in arrears, from the Council's Central Collections Team. This includes any care services provided by the Council.

11.2 Care Homes:

Where a person is resident in a care home, we will usually arrange for them to make payment of their contribution directly to the care home

11.3 Direct Payments for care services

Where the service user receives Direct Payments in order to purchase their own care services, they will be required to pay their contribution into their Direct Payments account. The preferred method is for the service user to set up a standing

order from their personal bank account into the Direct Payments account. Where a contribution has been assessed, the service user must pay this into the account first, to cover the first part of the care costs, and the council will pay the remainder of the agreed eligible care costs into the account on a 4 weekly basis. Failure to pay the contribution into the account may lead to further legal action.

12. Recovery of Debt

12.1 Where a person fails to pay the amount they have been assessed to pay for their care and support, the Care Act 2014 provides the council with powers to recover money owed

12.2 Action for recovery of debt extends to the service user and their representative, where they have misrepresented or have failed to disclose (whether fraudulently or otherwise), information relevant to the financial assessment

12.2 The council will only proceed with Court action where alternatives have been exhausted. Any proceedings will usually go through the County Court. The council will deal with each case of debt on an individual basis and all circumstances will be carefully considered.

13. Appeals and Complaints

Service users have the right to ask the Council for a review of the assessed charge if they consider it to be unreasonable.

The appeal will involve the following checks:-

That income included in the assessment is correct

That the standard disregards/allowances are correct

That all eligible additional disability costs have been included

That any further exceptional circumstance has been considered which may warrant special discretion.

The Appeal Decision is initially made by the Head of Financial Assessments to ensure consistency and equity with other service users and provides an information base of exceptional decisions. The appeal should be completed within 4 weeks of referral including written notification of the outcome. If the service user is still dissatisfied they can use the complaints procedure.

Diversity and equality

The council is committed to the broad principles of social justice and is opposed to any form of discrimination. It embraces best practice in order to secure equality of both treatment and outcome. The council is committed to ensuring that no person is treated in any way less favourably on the grounds of personal differences such as age, race, ethnicity, mobility of lifestyle, religion, marital status, gender, sexual orientation, physical or mental impairment, caring responsibilities and political or personal beliefs.

BRIGHTON AND HOVE CITY COUNCIL CHARGING POLICY

APPENDIX A - Disability-related expenditure (DRE)

The Care Act Guidance states: “Where disability-related benefits are taken into account, the local authority should make an assessment and allow the person to keep enough benefit to pay for necessary disability-related expenditure to meet any needs which are not being met by the local authority”

The Statutory Regulations refer as follows:

SCHEDULE 1 Regulation 15

Sums to be disregarded in the calculation of income

4.—(1) Where a local authority takes into account in the calculation of income any disability benefits the adult receives, any disability-related expenditure incurred by the adult.

(2) In this paragraph—

“Disability benefits” means any attendance allowance (other than severe disablement occupational allowance), disability living allowance or personal independence payment;

“Disability-related expenditure” includes payment for any community alarm system, costs of any privately arranged care services required including respite care, and the costs of any specialist items needed to meet the adult’s disability.

Care Act Guidance: Disability-related expenditure (DRE)

40) *In assessing disability-related expenditure, local authorities should include the following. However, it should also be noted that this list is not intended to be exhaustive and any reasonable additional costs directly related to a person's disability should be included:*

- (a) payment for any community alarm system*
- (b) costs of any privately arranged care services required, including respite care*
- (c) costs of any specialist items needed to meet the person's disability needs, for example:*
 - (i) Day or night care which is not being arranged by the local authority*
 - (ii) specialist washing powders or laundry*
 - (iii) additional costs of special dietary needs due to illness or disability (the person may be asked for permission to approach their GP in cases of doubt)*
 - (iv) special clothing or footwear, for example, where this needs to be specially made; or additional wear and tear to clothing and footwear caused by disability*
 - (v) additional costs of bedding, for example, because of incontinence*
 - (vi) any heating costs, or metered costs of water, above the average levels for the area and housing type*
 - (vii) occasioned by age, medical condition or disability*
 - (viii) reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by the individual's disability and not met by social services*
 - (ix) purchase, maintenance, and repair of disability-related equipment, including equipment or transport needed to enter or remain in work; this may include IT costs, where necessitated by the disability; reasonable hire costs of equipment may be included, if due to waiting for supply of equipment from the local council*
 - (x) personal assistance costs, including any household or other necessary costs arising for the person*
 - (xi) internet access for example for blind and partially sighted people*
 - (xii) other transport costs necessitated by illness or disability, including costs of transport to day centres, over and above the mobility component of DLA or PIP, if in payment and available for these costs. In some cases, it may be reasonable for a council not to take account of claimed transport costs – if, for example, a suitable, cheaper form of transport, for example, council-provided transport to day centres is available, but has not been used*
 - (xiii) in other cases, it may be reasonable for a council not to allow for items where a reasonable alternative is available at lesser cost. For example, a council might adopt a policy not to allow for the private purchase cost of continence pads, where these are available from the NHS.*

Brighton and Hove City Council DRE Policy

The maximum DRE allowance will be limited to the total of disability benefits as required in the Care Act Regulations.

It should be noted that financial assessments include an allowance for everyday living costs. This allowance is higher than DWP standard means tested benefit payments (excluding disability benefits with their premiums) This general living cost allowance is known as the Minimum Income Guarantee (MIG) and is explained at 5.1 of the BHCC Charging Policy.*

***5.1 General Living Allowance – known as MIG (Minimum Income Guarantee)**

Local authorities must ensure that a person's income is not reduced below a specified level, after charges have been deducted. The minimum allowance rates are set out in the Care and Support (Charging and Assessment of Resources) Regulations and are reviewed by the Department of Health every April. This allowance is for people who live in their own home and is intended to cover general living expenses including food, utilities, fuel, phones, transport, leisure, insurances, pets and other miscellaneous living costs and includes any debts relating to these expenses.

In this policy the assessment for single people or people in a couple with no dependent children will have the following weekly allowance irrespective of the age of the service user.

The National Minimum MIG for a person of working age and in receipt of maximum disability benefits is £183.25 per week. However, BHCC policy provides for an enhanced MIG allowance for people of working age by an extra £45.75 per week to help with the additional costs of disability. This is:

£229 per week for a single person

£175 per week for one person in a couple

The DRE allowances shown below may be agreed but this is not an exhaustive list of disability-related costs. It is reasonable to expect that most people would not qualify for the full range of allowances. The council would not expect to allow costs that could be obtained free of charge or should otherwise be met by other agencies, such as the NHS. This includes therapies, such as physiotherapy, and applies to chiropody and continence pads.

Some allowances have maximum amounts but these can be reconsidered where there is evidence of actual expenditure, such as receipts and bank statements. These may be requested at the Council's discretion to verify that items claimed have actually been purchased, particularly for unusual items or heavy expenditure. Eligible allowances should be based on actual past expenditure. Spending not yet incurred is not allowed as it is not practicable for assessments to take account of expenditure people might incur if they had more income. Where receipts have not been kept, the council may request they are kept for future expenditure allowances.

To qualify for the additional allowance the expenditure claimed must be directly related to the person's disability or medical condition and must be over and above the amount a non-disabled person might incur in everyday general living costs.

For example, some people may have a disability which means they are not able to manage the essential cleaning tasks in their home. Where they live alone or have nobody else to do this, they may pay someone else to do this for them. BHCC has a guideline maximum allowance of £14 per week which is based on an hour per week but this is subject to proof of payment and essential cleaning needs and can be higher in exceptional circumstances.

Where a person is paying privately for someone to carry out their personal care service, we will check the expenditure and the care plan to see whether this is considered eligible and necessary. An allowance will be given where eligible.

It may be possible to provide a small allowance for any additional costs of a specific diet as prescribed by a GP due to illness or disability. We have a maximum allowance of £6 per week. This is because different diets are not likely to cost more than the average cost of a diet which is already included in the MIG allowance of £229 per week. Allowances for other extra costs must be "reasonable" and as a result of disability / medical issues rather than choice.

An allowance may be given for essential garden maintenance, e.g. monthly grass cutting in the spring and summer. There is a guideline maximum weekly allowance of £14 which is

based upon an average of £60 per month. This is subject to proof of expenditure and applies where people are not able to manage essential garden maintenance themselves and where they live alone or have nobody else able to do this for them.

An additional allowance may be given for transport costs necessitated by illness or disability. However, this may depend upon whether there is a suitable, cheaper form of transport available and whether the cost is over and above any Mobility benefits received with DLA or PIP. We have a guideline maximum allowance of £14 per week which is considered to be an amount extra to average general transport costs which are already included in the General Living Costs allowance of £229 per week. No allowance will apply where a person is able to use public transport and has a free bus pass or where free taxi vouchers are available.

DISABILITY RELATED EXPENDITURE ALLOWANCES 2023-24

An additional fuel allowance will apply where costs exceed average usage as set out in the table below. If you pay a set amount each month based on estimated usage we will need a copy of the statement you receive detailing your actual usage during the year. Amounts paid will be compared to the national average for a similar household size and type. Any additional allowance will be the difference between the average cost and the amount you pay. The average cost is already included in the MIG allowance of £229 per week.

These figures are extracted from Ofgem data	Average Annual Costs
1 – 3 person household	£1,960
4+ in household	£2,725

Winter Fuel payments are disregarded

The guideline maximum allowances shown below can be reviewed in individual circumstances.

ITEM	AMOUNT	EVIDENCE
Community Alarm System	Actual cost to service user	Bills from provider
Domestic support services	Actual cost where this is not provided in the care provision and the amount is reasonable and necessary for hygiene purposes	Evidence of employment and correct payments to an employee under UK law. Or paid invoices from care agency. Guideline Max £14 per week .
Private care services	Actual cost where this is not provided as part of the care plan but the amount is reasonable and necessary for care and support	Evidence of employment and correct payments to an employee under UK law. Or paid invoices from care agency.
Laundry/ Specialist Powder	£4.60 per week is considered to be reasonable as additional expenditure due to disability and more than 4 loads per week	Care Plan or other source identifies continence problems.
Special Dietary needs	Discretionary as special dietary needs may not be more expensive than average weekly food costs	Medical evidence and details of special purchases. An allowance of up to £6 per week is considered

		reasonable
Gardening	Discretionary based on individual costs of garden maintenance	Signed receipts for at least 4 weeks using a receipt book. An allowance of up to £14 per week is considered reasonable
Wheelchair	£4.75 per week manual £11.55 per week powered	Evidence of purchase. No allowance if equipment provided free of charge
Powered bed	Actual cost divided by 500 (10 yr life) up to a maximum of £5.25 per week	Evidence of purchase
Turning bed	Actual cost divided by 500 up to a maximum of £9.20 per week	Evidence of purchase
Powered reclining chair	Actual cost divided by 500 up to a maximum of £4.15 per week	Evidence of purchase
Stair-lift	Actual cost divided by 500 up to a maximum of £7.40 per week	Evidence of purchase without DFG input
Hoist	Actual cost divided by 500 up to a maximum of £3.65 per week	Evidence of purchase without DFG input
Prescription Charges	Cost of an annual season ticket divided by 52 or actual cost of prescriptions whichever is less	Where ineligible for free prescriptions
Transport	Discretionary based on costs that are greater than those incurred by the general public.	Evidence in Care Plan for transport needs where person cannot use public transport– max £14 per week

Note: - Mobility Allowance cannot be included in the financial assessment as an income but the statutory guidance states that transport costs should be allowed where necessitated by illness or disability, over and above the mobility component of DLA/PIP if in payment. Therefore no further transport costs are allowed if Mobility Allowance covers them.

Summary of Publications

The following publications have been referred to in the compilation of this policy

- The Care Act 2014
- The Care Act 2014 Regulations Part 1
- The Care Act 2014 Care and Support Statutory Guidance
- Mental Health Act 1983

BRIGHTON AND HOVE CITY COUNCIL CHARGING POLICY

Appendix B: Charging for Preventive Services and Protection of Property

Preventive Services

Under section 2 of the Care Act 2014 The Local Authority has a duty to provide prevention services to prevent, delay or reduce needs when it believes that such prevention services will contribute towards the prevention or delay of the need for Care and Support or reduce such needs;

Care Act Guidance:

*2.55 Preventative services, like other forms of care and support, **are not always provided free**, and charging for some services is vital to ensure affordability. The Care and Support (Preventing Needs for Care and Support) Regulations 2014 continue to allow local authorities to make a charge for the provision of certain preventative services, facilities or resources..*

*2.58 When charging for any type of preventative support, local authorities should take reasonable steps to ensure that any charge is affordable for the person concerned. **This does not need to follow the method of the financial assessment used for mainstream charging purposes**; and the use of such a process is likely to be disproportionate.*

*2.59 However, local authorities should consider adopting a more proportionate or **'light-touch'** approach which ensures that charges are only paid by those who can afford to do so..*

Preventive services can cover a number of miscellaneous costs. This may include one-off deep cleans, transport and other preventive services that are not otherwise eligible under The Care and Support (Eligibility Criteria) Regulations 2014.

In principle, preventive services should be funded by the person themselves direct to the provider. However, where there is an urgency the council can fund the service and then invoice the person for the full amount for reimbursement. The person can make arrangements to repay the council by instalments by negotiating with the council's corporate collections team.

If it is considered essential to prevent further care costs and if the person is not able to pay for the service then the council can undertake a "hardship assessment" and will fund the service in full where the person

- Has less than £3,000 in savings **or**:
- **is not** in receipt of any of the following benefits:
 - Attendance Allowance (AA)
 - Disability Living Allowance (care component)
 - Personal Independence Payment (PIP) (care component)

Protection of Property

Protecting property of adults being cared for away from home

Care Act Guidance:

10.88 Local authorities must take all reasonable steps to protect the **moveable** property of an adult with care and support needs who is being cared for away from home, **in a hospital or in accommodation such as a care home, and who cannot arrange to protect their property themselves**; this could include their pets as well as their personal property (for example, private possessions and furniture). Local authorities **must act** where it believes that if it does not take action there is a risk of **moveable** property being lost or damaged.

10.89 For example, protecting property may include arranging for pets to be looked after when securing premises for someone who is having their care and support needs provided away from home in a care home or hospital, and who has not been able to make other arrangements for the care of their home or pets.

10.94 This duty on the local authority lasts until the adult in question returns home **or makes their own arrangements** for the protection of property or until there is no other danger of loss or damage to property; **whichever happens first**. Often a one off event is required such as the re-homing of pets or ensuring that the property is secured. **However, if costs are incurred or if there are ongoing costs the local authority can recover any reasonable expenses they incur in protecting property under this duty from the adult whose property they are protecting.**

Funding Protection of Property Services

HASC should not usually incur actual costs for protection of property as the person can make the payments direct to the provider themselves. However, there may be exceptional circumstances requiring the council to pay **and claim full reimbursement from the person**. The council will usually issue an invoice for the costs incurred and can consider giving the person time to reimburse the council in instalments.

If it is considered essential to prevent loss or damage to moveable property and if the person is not able to pay for the service then HASC can undertake a “hardship assessment” and will fund the service in full where people have

- less than £3,000 in savings **or**:
- are not in receipt of any of the following benefits:
 - Attendance Allowance (AA)
 - Disability Living Allowance (care component)
 - Personal Independence Payment (PIP) (care component)

Section 117 services

ADASS Guidance:

GUIDANCE AND PRINCIPLES FOR AFTER CARE SERVICES UNDER SECTION 117

The following services will not be provided under Section 117.

- Storage of property
- Housing pets
- Household bills
- Food
- Holidays
- General Needs/Ordinary Accommodation

R (Afework) v LB Camden [2013] EWHC 1637 (Admin), [2013] MHLO 51

However, note that where someone is admitted to hospital, the Local Authority must take reasonable steps under s47 of the Care Act 2014 to prevent or mitigate the loss or damage to moveable property.

The charging policy described above will be applicable in these circumstances.

AE 13/2/2024