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LUTON BOROUGH COUNCIL

HOUSING & COMMUNITY LIVING

Charging Policy for Non Residential Services (Fairer Charging)

1. Background.....	3
2. Services and circumstances where no charge is made	4
3. Services for which Luton Borough Council will charge in accordance with fairer charging	4
4. Fairer Charging Financial assessment	5
5. Capital and savings	6
6. Treatment of Income.....	7
7. Assessment of disability-related expenditure (DRE)	8
8. Other allowable expenses.....	8
9. Charge calculation	9
10. Charges for Services.....	9
11. Supporting People.....	9
12. Treatment of Couples.....	10
13. Commencement of charges	10
14. Review/Appeal Procedure.....	10
15. Change of circumstances.....	10
16. Monitoring	10
Appendix 1	11
Appendix 2	13

Luton Borough Council Fairer Charging Policy

1. Background

In November 2001 the Department of Health issued statutory guidance for charging policies for home care and other non residential services (LAC(2001)32). The aim was to ensure that charging policies are fair and that the overall objectives to promote the independence and social inclusion of customers are upheld. This guidance was followed up with practice guidance documents in February 2002, August 2002 and September 2003 which provided further guidance relating to the implementation of the Fairer Charging Policies.

1.1. Luton Borough Councils fairer charging policy has a number of objectives:

- To promote independence and social inclusion
- Charges for home and day care services are based on standard hourly and daily rates.
- A financial assessment will be made to determine a customers ability to pay standard rates
- Charges will not reduce a customers net income below basic Income Support/Pension Credit plus 25%
- Disability benefits will be taken into account and disability related expenditure will be also be taken into account

1.2. The purpose of this practice guidance is to ensure that the objectives of Luton Borough Councils fairer charging policy are achieved. This guidance is based on the good practice guide developed by the National Association of Finance Officers (NAFAO).

Legal framework

1.3 Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA Act 1983) gives local authorities a discretionary power to charge adult recipients of certain non-residential services. These are services provided under the following enactments:

- a) section 29 of the National Assistance Act 1948 (welfare arrangements for blind, deaf, dumb and crippled persons etc.);
- b) section 45(1) of the Health Services and Public Health Act 1968 (welfare of old people);
- c) Schedule 8 to the National Health Service Act 1977 (care of mothers and young children, prevention of illness and care and after-care and home help and laundry facilities);

- d) Paragraph 1 of Part II to Schedule 9 to the Health and Social Services and Social Security Adjudications Act [other than the provision of services for which payment may be required under section 22 or 26 of the National Assistance Act 1948].
- 1.4 Section 17 allows authorities to recover such charges as are reasonable. Unlike residential care, there are no national regulations that say what the charge should be. However, when deciding on their policy authorities must have regard to guidance on charging issued by the Secretary of State, via the Department of Health, under Section 7 of the Local Authority Social Services Act 1970. Key guidance issued by the Department of Health in November 2001 is "Fairer Charging for home care and other non-residential Social Services"
- 1.5 Section 17 puts the onus on the customer to satisfy the authority providing the service that his or her means are insufficient for it to be reasonably practicable to pay for the service.

2. Services and circumstances where no charge is made

Some services are excluded from the charging process altogether where there is no legal authority to charge. In addition there may be exclusions of groups of people which, when applied, mean that an individual is exempt from the calculated charge. Examples of exclusions include: -

- After-care services under the Mental Health Act (Section 117).
- Sufferers of CJD.
- All customers whose income is less than basic Income Support + 25%
- Individuals receiving intermediate care services.
- Any services funded by the Local Health Authority (Section 28A).
- Occupational Therapy/Equipment.
- Drop-in services that do not require a Community Care Assessment.

2.1. Customers with more than one carer ('double ups') will be charged on the basis that they have one home carer after receiving a financial assessment.

2.2. In exceptional circumstances, where a customer is deemed to be at risk to themselves or others, the Head of Community Care may agree to waive any charge payable under this policy.

3. Services for which Luton Borough Council will charge in accordance with fairer charging

3.1. The following services are charged and assessed in accordance with the fairer charging policy:

- Personal home care including “Supported Living”
- Day care (Day Centres)
- Direct Payments

4. Fairer Charging Financial assessment

4.1. To ensure that everyone is treated fairly every customer will be offered a financial assessment at the point where they are assessed as needing non-residential care services. The charging assessment will be based on the customers overall income, allowable expenditure and costs relating to disability or ill health. In order to assess a customer’s ability to pay, Luton Borough Council will ensure that customers have access to appropriate benefits advice and assisted to apply for their full benefit entitlement.

The completion of financial assessment forms and benefits advice is carried out by a team of Visiting Finance Officers. This will be an integrated financial assessment normally in the customer’s home. Arrangements will be made for an interpreter to be present if necessary. Completed financial assessment forms and notification letters will be processed by the Finance and Assessment team.

4.2. Customers will receive a notification letter clearly showing how their charge has been calculated and informed that they have a right to be re-assessed should their circumstances change. Customers will also be advised of the complaints procedure should they disagree with the charge or any other matter relating to the financial assessment. Information and leaflets will be made available in large print, community languages and audio tape.

4.3. Customers charges will be reviewed every year.

4.4. The basic principle of the charge is that no one will be left with less than the basic income support/pension credit plus 25% after paying for services. This protected level of income includes the appropriate premiums but **not** the severe disability premium/addition. See Appendix 2 for current rates.

4.5. If a customer or their appointee chooses not to disclose their finances or fails to disclose their finances then they will be charged the standard cost of services.

4.6. There is a minimum charge of £2.50 per week, this means that any charge that is calculated as being less than £2.50 will not be invoiced to the customer. The maximum charge is set at 75% of the standard cost of residential care (older person's services). This is £288.75 per week in 2005/06.

4.7. Any customer who has capital/savings in excess of the maximum figure as set out in the Charges for Residential Accommodation Guidance [CRAG in LAC(99)9] will be charged the cost of the service received (£20,500 in 2005/06).

5. Capital and savings

The fairer charging policy assesses a customer's ability to pay and has regard to capital/savings in accordance with national guidance issued by the Department of Health.

5.1. Examples of capital and savings include:

- Cash
- Funds held in a bank, building society and Post Office accounts
- Saving bonds, premium bonds
- Stocks and shares, ISAs, Peps,
- The value of the main residence occupied by the customer is disregarded. However the value of any land or other property will be taken into account after 12 weeks from the day they moved into their main residence (following guidance in CRAG).

(Note: This list is not exhaustive)

5.2. **Deprivation of capital rules.**

Decisions on the deliberate deprivation of capital/savings with a view to reducing or avoiding costs are made by the Finance and Assessment team in conjunction with the appropriate budget holder. Where a customer or appointee deliberately deprives themselves of capital they will be treated as though they still possess that capital/savings for the purpose of the fairer charging assessment.

5.3. **Disregarded capital:**

- Ex- gratia payments made to former Far Eastern prisoners of war and payments made under the Vaccine Damage Payment scheme will be disregarded entirely as per guidance in CRAG.
- Capital of less than the lower limit defined in CRAG will be disregarded (£12,500 in 2005/06).

5.4. If savings/capital are held in joint names, an equal proportion will be assumed unless there is evidence to prove otherwise. The savings/capital held solely by a customer's partner will be disregarded (unless his/her partner is receiving services which require a financial assessment in accordance with fairer charging).

6. **Treatment of Income**

6.1. The following income will be disregarded:

- All income derived from paid employment, including self employment
- Earnings replacement payments paid by Critical Illness Policies
- The mobility component of Disability Living Allowance
- The night time element of the care component of Disability Living Allowance and Attendance Allowance unless night care is provided
- War Disablement Pension and War Widows Pension, however any Constant Attendance Allowance paid will be treated as income (as per Attendance Allowance)
- First £20 of any Charitable Income unless it is wholly disregarded as per CRAG
- Savings Credit element of Pension Credit
- Working Tax Credit
- Disabled Person's Tax Credit
- Child Tax Credit
- All of a partner's income is also ignored (subject to the 'better off' calculation)
- Child Benefit

Income will be calculated on a weekly basis. All other income will be treated as assessable income along with tariff income from savings/capital.

Tariff income will be charged in accordance with the guidance in CRAG. In 2005/06 the tariff charge is £1 for every £250 held in capital above £12,500 and below £20,500.

7. Assessment of disability-related expenditure (DRE)

- 7.1. People with a disability will be charged on their full assessable income but will be given extra allowances for disability-related expenditure.
- 7.2. In assessing disability-related expenditure the Council will make allowance for the actual expenditure as detailed in Appendix 1.
- 7.3. Allowable Disability Related Expenditure will be for services deemed necessary as a result of disability, ill health or for health and safety reasons. Disability Related Expenditure arising simply from a matter of personal choice or where a reasonable alternative is available at lesser charge, will not normally be allowed.
- 7.4. Reasonable evidence of expenditure will be requested and there will be a requirement for evidence to be kept in future. In the first instance this should be an invoice, failing this, duplicate receipts will be required.
- 7.5. Items for which a Social Fund Community Care Grant has been paid will not be allowed in the assessment.
- 7.6. In some cases only 50% of expenditure may be allowed if it is deemed to be a joint expenditure. However if the expenditure is due to the fact that a carer is not able to undertake the task due to the amount of time they are caring then 100% of the expenditure will be allowed.

8. Other allowable expenses

8.1. Allowable expenses other than disability related expenditure will include:

- Rent, where a customer has a legal liability to pay rent minus any Housing Benefit
- Mortgage payments minus any Income Support/Pension Credit Mortgage Interest Payments
- Service charges - Any charge for housing services not covered by benefit
- Council Tax , minus any Council Tax Benefit.

Allowable expenditure should be divided proportionally between all adult occupants of the property. Evidence is required of all of the above items of expenditure.

9. Charge calculation

- 9.1. The Fairer Charging Guidance allows for expenses listed above, plus a buffer of 125% of the Income Support/Pension Credit personal allowances.
- 9.2. Disability Related Expenditure and allowable expenses are then deducted from the assessable income to give an amount which will be deemed to be chargeable income. If the cost of the total care package is less than the chargeable income then the actual cost of the care package will be the maximum weekly charge. This charge however will not exceed the maximum charge – see point 4.6.

10. Charges for Services

- 10.1. Home care will be charged at a standard hourly charge. All charges will be reviewed annually. The rates for 2005/06 are as follows:

- Home care hourly charge: £12
- Day Centre charge: £20 per day, including transport to the Centre (a day is up to 8 hours).

11. Supporting People

The charging policy for mainstream long term Supporting People services is being reviewed and, subject to consultation, may change in April 2006. The only situation where a financial assessment should be carried out is for leaseholders. Leaseholders, as defined within the Supporting People programme, are people who own a long lease for their property and receive a support service as part of their service charge. A good example would be a group of retirement flats where individuals could purchase a long lease on a flat. The flats may include a warden who could assist people with filling in benefit claim forms or other tasks eligible for Supporting People. There may also be an alarm provided to alert the warden where an individual is in need. As a condition of the lease the individual would pay an annual service charge, a part of which would cover the cost of the warden and alarm. The policy agreed for this group is that leaseholders eligible for the guarantee element of pension credit will have the supporting people related charge paid in full. No other leaseholders will be eligible for support. This will be reviewed with the review of mainstream Supporting People services. Payment of the Supporting People related charge will be dependent on the leasehold scheme meeting criteria covering:

- strategic relevance
- value for money
- quality of service

In addition if the charge is above £10 a week the leaseholder will be asked to provide information on their level of need to ensure that the service is appropriate for their situation.

12. Treatment of Couples

12.1 If only one member of a household is assessed as needing home care, only their individual income and assets can be taken into consideration in the financial assessment. If both members of the household receive the service a joint assessment is required.

12.2 A joint assessment will be offered in addition to a single assessment and the customer must be allowed to choose the resulting calculation that they prefer ('better off calculation'). For instance, if the customer is the main recipient of the couple's income the resulting charge of a single assessment could mean that they are not left with enough disposable income to support their partner.

13. Commencement of charges

13.1 Customers will not be charged for services until they have received written notification of the costs.

14. Review/Appeal Procedure

14.1 The customer has the right to ask for a review and appeal of their assessment and the charges. In the first instance, the review will be carried out by the Senior Finance Officer. If the customer is still dissatisfied, their case will be referred to the Finance Manager. Customers will be advised how to access the Complaints procedure if the matter is still not resolved to their satisfaction.

15. Change of circumstances

15.1 Customers are responsible for notifying the Finance & Assessment team of any changes in circumstances which may affect their charges. Any resulting changes to their charges will be back-dated to the date of the change in circumstances.

16. Monitoring

16.1 The impacts of the implementation of this policy will be monitored with regard to increased benefit take-up, non take-up of services and non payment of charges. Impacts of the policy on any particular section of society, i.e. ethnic group will be monitored.

Appendix 1

Assessment of Disability Related Expenditure (DRE)

Luton Borough Council's assessment of DRE is based on the good practice guidelines developed by the National Association of Financial Assessment Officers (NAFAO).

Heating

An allowance is made for excessive fuel costs incurred by a customer. The Government has identified typical annual fuel figures for six scenarios. Any fuel costs above these amounts will be allowed as an expense:

Single person in flat or terraced property	£495
Couple in flat or terraced property	£652
Single person in semi-detached property	£525
Couple in semi-detached property	£691
Single person in detached property	£638
Couple in detached property	£841

Other allowable Disability Related Expenditure

ITEM	ALLOWANCE
Community Alarm System	Actual cost unless included in Housing Benefit or Supporting People Grant – proof needed: bills from provider
Privately arranged care (including payments to relatives)	Actual cost if social worker confirms requirement as part of the Care Plan and Council supported care is reduced accordingly
Private Domestic help	Actual cost if social worker confirms requirement as part of the Care Plan and Council supported care is reduced accordingly
Laundry/ Washing Powder	£2.74 pw – careplan will have identified an incontinence problem. Identify more than 4 loads per week
Dietary	Discretionary as special dietary needs may not be more expensive than normal. Details of special purchases required.
Gardening	Discretionary up to a maximum of £5 per week based on individual cost of garden maintenance

	and there is no-one else in the household capable of gardening. Evidence required.
Wheelchair	£2.85 pw manual £6.94 pw powered
Powered bed	Actual cost divided by 500 (10 yr life) - up to a maximum of £3.18pw. Evidence of purchase required.
Turning bed	Actual cost divided by 500 (10 yr life) - up to a maximum of £5.54 pw. Evidence of purchase required.
Powered reclining chair	Actual cost divided by 500 (10 yr life) - up to a maximum of £2.52 pw. Evidence of purchase required.
Stair-lift	Actual cost divided by 500 (10 yr life) - up to a maximum of £4.47 pw. Evidence of purchase is required.
Hoist	Actual cost divided by 500 (10 yr life) - up to a maximum of £2.20 pw. Evidence of purchase is required.
Prescription / Medical Charges.	Discretionary up to a maximum of £2.
Other disability related expenditure	There is discretion to allow other items of disability related expenditure. Evidence of cost is required.

There should be **no** allowances made for the following which should be paid from the "Basic Income Support plus 25% Disregard" : -

- ♦ Water rates
- ♦ Insurance
- ♦ Loans including Hire Purchase and catalogues
- ♦ Normal fuel bills, TV licences etc.
- ♦ Meals, including meals-on-wheels and meals at day centres.

Appendix 2

Basic Income Support / Pension Credit plus 25% in 2005/06

The Government has decided that everybody being charged for non-residential services must be left with a minimum income. This has been defined as the amount of basic Income Support/Pension Credit plus 25%. Basic Income Support/Pension Credit includes Personal Allowance, age and disability premiums but **NOT** Severe Disability Premium/Addition, Attendance Allowance or Disability Living Allowance.

The amounts for 2005/06 are:

Adults under Pension age	£100.19
Adults under Pension age and in receipt of Enhanced Disability Premium	£114.81
Couple under Pension age	£174.06
Pensioner, aged 60 plus, single	£136.81
Pensioner, aged 60 plus, couple	£208.81

Additionally, the night time element of Disability Living Allowance and Attendance Allowance is also disregarded if no night care is being provided – (£20.05).