



EDUCATION AND SOCIAL CARE SERVICES

Policy for contributing to the cost of adult social care and support (non-residential) within a Self-Directed Support system

Applicable from 2014 to April 2017

DO YOU HAVE A VISUAL IMPAIRMENT?

This document is available in large print format upon request.

DO YOU HAVE DIFFICULTY UNDERSTANDING THE ENGLISH LANGUAGE?

If you have a problem reading or understanding the English language this document is available in a language of your choice.

Please ask an English speaking friend or relative to phone or write to The Moray Council Equal Opportunities Officer:

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Corporate Policy Unit
The Moray Council
High Street
Elgin, Moray
IV30 1BX
Tel: 01343 563321
Email equalopportunities@moray.gov.uk

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1. Introduction

As a local authority, Moray Council is required by the Scottish Government to implement the Social Care (Self-Directed Support) (Scotland) Act 2013.

This requires the council to provide a spectrum of options, with varying levels of choice and control, to people with eligible social care and support needs.

The implementation of Self-Directed Support has led to a review of the council's previous charging policy for non-residential services. To ensure a fair, effective, consistent and transparent system is in place, the Moray Council is moving to this contributions policy.

Under Self-Directed Support (SDS), individuals will know up front what money, if any, they are entitled to from the council as part of their overall personal budget to meet their needs and achieve their outcomes.

They will also know how much they will have to contribute (based on their ability to pay) to their individual budget to pay for the care and support they choose.

This policy explains how Moray Council considers and calculates the contribution individuals over the age of 16 years will be expected to make to their overall budget for social care and support (non residential).

All contributions are determined in accordance with the Department of Works and Pensions rates and regulations, national legislation and guidance incorporating the introduction of Self Directed Support (SDS) and [COSLA guidance on Charging for Non Residential Care Services \(2014/15\)](#).

Following agreement at a meeting of The Moray Council on 5 November 2014, this policy is now in force and will be applied to all new service users and to existing service users following a review of their care plan or a financial review.

A copy of this policy along with all supporting documents can be found on the Moray Council website www.moray.gov.uk. These can also be obtained on request from the Community Care Finance Team.

2. Principles of the policy

This policy is based on the following principles:

- The provision of a SDS individual budget is based on an assessment of social care needs by Moray Council Social Care staff in accordance with the Moray Council Eligibility Criteria
- The contribution an individual is required to make is based on the council's financial assessment process
- The financial assessment will include specialist advice and assistance to support individuals to maximise their income through claiming for welfare benefits to which they may be entitled
- The proportion of the contribution the individual will be required to make will not be influenced by the size of the care and support package required
- Part or all of the individual's contribution can be abated/ waived in cases of hardship or exceptional need; or as the outcome of a risk assessment.

3. Self-Directed Support

Self-Directed Support (SDS) in Scotland is part of the mainstream of social care delivery targeted at empowering people by ensuring they are at the centre of the process of assessment of needs and support planning.

The objective of SDS is to promote independence, health and wellbeing by giving an individual more choice and control over the support they want to meet their assessed eligible social care and support needs.

This includes the use of resources and requires an individual to be aware of the financial value attributed to meeting their needs – known as an individual budget. An individual budget is an allocation of money that can be used by an individual to design and purchase support from the public, private or voluntary sector to meet their assessed eligible needs, in line with their outcome based support plan.

An individual budget might be used by a person to purchase support, for example such as having a bath or getting washed and dressed to continue to live in their own home. Out-with the home it could be used to arrange support for an individual in college or to enjoy community based leisure pursuits or to take up employment.

The use of an individual budget is subject to certain restrictions and safeguards as set down by law.

It is worked out by the Moray Council using a Resource Allocation System which provides a transparent process for the allocation of resources, linking money to outcomes while taking into account the different levels of support people need to achieve their goals. This is only an indication of what it may reasonably cost to meet the persons outcomes and may not be the final amount allocated.

There are 4 options available to an individual to manage their support:

Option 1 - The making of a direct payment by the local authority to the supported person for the provision of support.

Option 2 - The selection of support by the supported person, the making of arrangements for the provision of it by the local authority on behalf of the supported person and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of that provision.

Option 3 - The selection of support for the supported person by the local authority, the making of arrangements for the provision of it by the authority and, where it is provided by someone other than the authority, the payment by the authority of the relevant amount in respect of the cost of that provision.

Option 4 - The selection by the supported person of Option 1, 2 or 3 for each type of support and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of the support.

[The Moray Council Self-Directed Support Policy](#) is available on the Moray Council website or on request from Social Care staff.

4. Services out with the individual budget

There is a range of services which the Moray Council has a duty to provide for which an individual will not be required to use their individual budget to pay for.

These include:

- Information and advice
- A needs assessment or financial assessment
- Care management
- Criminal Justice Social Work Services.

Anyone aged over 65 will not be required to pay towards the cost of:

- Personal care at home, including meal preparation
- Non-personal care at home which is a new or additional service for a maximum of six weeks (42 days) following discharge from hospital.

Anyone diagnosed with end stage terminal illness (DS1500 certificate to have been issued or the criteria met) will not be required to pay towards the cost of:

- End of life care at home.

Anyone receiving treatment under the Mental Health (Care and Treatment) Scotland Act 2003 will not be required to pay towards the cost of their care and support

Any individual will not be required to pay towards the cost of the Moray Council reablement service, including personal and non-personal care at home, for a maximum of six weeks (42 days).

5. The Financial Assessment

After an individual has had an assessment of their social care needs and if they are eligible for social care support, they will be offered a financial assessment.

This is carried out by a member of the Community Care Finance Team or Social Worker who will require a range of information relating to the person's finances to determine their ability to contribute towards the cost of their individual budget and at what level.

If an individual does not take up the offer of a financial assessment, it will be assumed they have sufficient income to meet the total value of the individual budget.

A copy of the Financial Assessment form is attached at Appendix 1.

6. Determining the level of contribution towards the individual budget

The amount will vary from individual to individual.

A person's ability to contribute towards their individual budget is based upon their available weekly income. This is worked out by looking at what can be included in the calculation and what should be left out or disregarded.

The council begins by considering income from a range of sources, for example:

- Capital, savings and investments
- Net earnings from employment
- Other property/land
- Any other sources of income such as rental income

- Allowances – Attendance Allowance; Carers Allowance; Disability Living Allowance – Personal Independence Payment (PIP) care component; Disability Living Allowance (mobility component) – Personal Independence Payment (PIP); Employment and Support Allowance; Severe Disablement Allowance
- Credits - Pension Credit – Guarantee Credit; Pension Credit – Savings Credit; Universal Credit; Working Tax Credits
- Benefits - Incapacity Benefit
- Pensions - Bereavement Pension; Retirement Pension; War Widows Pension; War Disability Pension; Occupational Pension
- Income Support
- Compensation Payments

6.1. Capital and Tariff Income

Anyone under the age of 60 who has capital of over £16,000 will not receive a contribution from the Moray Council towards their individual budget.

If they have capital of between £6,000.01 and £16,000 a capital tariff will be applied. £1 per every £250 will be added to the calculation of their weekly income.

For anyone over the age of 60 there is no upper capital limit.

If they have capital over £10,000 a capital tariff will be applied. £1 per every £500 will be added to the calculation of their weekly income.

6.2. Property

The value of the home in which the individual lives i.e. the main residence, is disregarded in full.

The value of second properties will be taken into account as capital.

If the property (main residence or second property) is being marketed for sale it will be disregarded for a period of 26 weeks or longer if considered reasonable as in line with Department of Work and Pensions (DWP) regulations.

6.3. Income and capital not taken into account

The following types of income are not taken into account in the financial assessment. Any payment from:

- Child benefit
- Child Tax Credit
- Christmas bonus
- Council Tax Benefit
- Disability Living Allowance (Mobility component)
- Far East Prisoner of War payment
- Gallantry awards
- Housing Benefit / Discretionary Housing Payment
- Kinship Care payments
- Social Fund Payments
- Payments from the Scottish Welfare Fund
- Student's grant payment from a public source intended for the childcare costs of a child dependent
- Therapeutic Earnings
- Value of a service-user's main residence
- War pension mobility supplement
- War Widows Pension (Pre-1973)
- Winter fuel payments

6.4. Allowable Expenses

Deductions will be made from an individual's assessed income for the following allowable expenses:

- Housing Costs - Rent/Mortgage Payments
- Discretionary Housing Payment
- Council Tax/Water Rates

- Mortgage Insurance
- Property Insurance – Buildings
- * DWP Personal Allowance
- DWP Pensioner Premium
- DWP Disability Premium
- Employment Support Allowance – Work Related Activity or Support Component
- Attendance Allowance – Night Element (If Applicable)
- DLA Care Component (Personal Independence Payment PIP) – Night Element (If Applicable)
- DLA Mobility(Personal Independence Payment PIP)
- % of War Pension
- War Widows Pension (Pre 1973)
- % of Income from Lodgers
- % of Earnings
- % of Student Loan
- % of Regular Charitable Payments
- Couples Income Adjustment

6.5. Personal Allowance

To ensure an individual is not forced below recognised subsistence levels, the Moray Council applies an income protection threshold. This threshold is set at a person's basic DWP benefit entitlement (such as Income Support/Pension Credit) plus a buffer of 16.5%.

6.6. Couples

The income and capital of both members of a couple will be considered as follows when assessing for a contribution towards Personal Care:

- a) Where the member of the couple receiving care has personal income and capital below the level of benefit entitlement to that of a single person, they will be assessed as if they were in

receipt of single person benefits

- b) If the person receiving care has personal income and capital above the level of benefit entitlement to that of a single person, their actual income will be taken into account

HOWEVER

If the calculation at b) leaves the member of the couple not requiring care with personal income below the level of benefit they would be entitled to receive as a single person, an adjustment will be made to account for the shortfall.

When assessing for a contribution towards Non Personal Care:

Joint income and capital will be taken into account and couple disregards applied. This is because both members of the couple would benefit from this service.

6.7. The final contribution

To determine the maximum amount an individual is financially assessed as being able to afford to contribute, a final disregard of 30% will be applied to the calculated total.

Therefore a person will be required to contribute to their individual budget 70 % of the income assessed as being available.

A copy of the guidance, reference and procedure notes which accompanies this policy is attached at Appendix 2.

7. Agreeing the contribution

Before arrangements are put in place for an individual budget to start, the individual will be asked to agree with the contribution they are asked to make.

If they do not agree they can ask for the financial assessment to be reviewed, explaining why they consider the original calculation is not valid.

If they remain dissatisfied with the outcome they will be referred to the Moray Council's Community Care Charging Appeals Group.

8. Appeals

The Charging Appeals Group will consider requests for additional disregards to be applied to the financial assessment. The appeals group will also consider requests to have charges waived or suspended.

The individual or their representative will be invited to write to the Community Care Finance Officer outlining why they wish to have the contribution waived, for example if they consider that making the payment will cause financial hardship.

Further information on the appeal procedure is available from Social Care staff.

9. Residential Care

There is a separate policy on contributing to the cost of residential care. This is available on the Moray Council website and on request from the Community Care Finance Team.

10. Equalities Statement

The Moray Council will not and does not discriminate on any grounds. The Council advocates and is committed to equalities and recognises its responsibilities in this connection. The Council will ensure the fair treatment of all individuals and where any individual feels that they have been unfairly discriminated relating to, that individuals shall have recourse against the Council in line with the Council's grievance and harassment procedures.

In relation to equality of information provision, the Council will ensure that all communications with individuals are in plain English, and shall publish all information and documentation in a variety of

formats and languages. Where required, the Council will use the services of its translation team to enable effective communication between the Council and the individual. Where an individual has sight, hearing or other difficulties, the Council will arrange for information to be provided in the most appropriate format to meet that individual's needs. The Council will also ensure that there are no physical barriers that could prohibit face to face communications.

If there is a complaint against discrimination, click on the link below for reporting form and procedure:
<http://www.moray.gov.uk/downloads/file62366.pdf>.

11. Data Protection

The Data Protection Act 1998 governs the way information is obtained, recorded, stored, used and destroyed. The MCHSCP complies with all the requirements of the Act and ensures that personal data is processed fairly and lawfully, that it is used for the purpose it was intended and that only relevant information is used. The MCHSCP will ensure that information held is accurate, and where necessary kept up to date and that appropriate measures are taken that would prevent the unauthorised or unlawful use of any "personal information".

12. Freedom of Information

The purpose of the Freedom of Information (Scotland) Act 2002 is to "provide a right of access by the public to information held by public authorities". In terms of section 1 of the Act, the general entitlement is that a "person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority". Information which a person is entitled to is the information held by the public authority at the time that the request is made. This is a complex area of the law that can overlap with the Data Protection Act and other legislation.

All Freedom of Information requests are to be sent to the Information Co-ordinator in the Chief Executives Department.

13. Human Rights Act

In October 2007 the three equalities commissions: Racial Equality, Disability Rights and Equal Opportunities were merged to form one Commission: **The Equality & Human Rights Commission (Scotland)**.

The main aspects covered in the **Human Rights Act 1998** are:

Right to life; protection from torture; protection from slavery and forced labour; right to liberty and security; right to a fair trial; no punishment without law; right to respect for private and family life; freedom of thought, belief and religion; freedom of expression; freedom of assembly and association; right to marry; protection from discrimination; protection of property; right to education and right to free elections.

The Human Rights Act can overlap with many areas of the Council's policies, any doubts or queries regarding its effect or implications must be referred to the Legal Services Manager (Litigation and Licensing).

14. Review and Feedback

This policy document will be reviewed initially one year from date of instigation and thereafter three yearly, specific costs for services documentation such as booklets/leaflets on fees and entitlements will be reviewed annually and changed as appropriate.

Feedback on this policy from service-users, carers, the public, nominated government officials and council staff will be considered at review and amendments, enhancements made to the policy as appropriate.

15. Appendix 1A – Financial Assessment Form

Appendix 1B – Contributing to the cost of adult Social Care and Support information sheet

Appendix 2 – Guidance, Reference and Procedures Notes