



Self Directed Support Contributions Policy

As approved by Cabinet 25 January 2011

Amended July 2013

1 General Principles

1.1 Self Directed Support gives people choice and control over how their needs are met by giving them control of a Personal Budget. The Council provides Personal Budgets to meet assessed eligible care and support needs. Eligible service users can choose a Direct Payment to arrange their own services or they can ask the Council to 'manage' their Personal Budget, where the Council will make arrangements for their care services from their Personal Budget. Under SDS, service users pay a single means-tested contribution towards the cost of their care and support (Personal Budget). The contribution is calculated according to a Financial Assessment.

1.2 The general principles underpinning the SDS Contributions Policy are as follows:

Fairness: the policy will be applied consistently to everyone, regardless of how they are getting their services, so that everyone is treated fairly and equitably

Ability to pay: everyone will be asked to contribute towards the cost of their social care based on their means. In support of this principle everyone will be offered a financial assessment of their individual circumstances and be left with a basic level of protected income.

Reasonableness: no one will be asked to pay more than is reasonable.

Maximising benefit entitlements: to ensure everyone is receiving all the welfare benefits to which they are entitled and are not missing out, everyone will be offered a welfare benefits check as part of their financial assessment.

Transparency and clarity: the policy will be set out in a clear and straightforward way so that everyone can understand how their contributions (if any) have been calculated, will know what their contributions might be at an early stage, and be able to judge whether or not the policy has been applied in accordance with its underpinning principles. This new system is intended for people to know up front what money they are entitled to from the Council for their support and how much they will have to contribute themselves.

Choice and Control: the policy will support the overarching aim of Self Directed Support which is to allow people to have more choice and control over their care and support arrangements. A single means tested contribution towards someone's Personal Budget, instead of individual service based charges, support this overall aim.

Compliance with statutory duties: the policy will be developed and applied in way that is fully consistent with legislation and the requirements set out in national guidance on fairer contributions.

1.3 Councils have discretionary power to charge adults who receive non-residential social care services under Section 17 of the Health and Social Services and Social Security Adjudication Act 1983. Section 7 of the Local Authority Social Services Act 1970 gives the Secretary of State the authority to issue guidance on how councils should exercise this power.

- 1.4 The Financial Assessment will be based on the Council's published SDS Contributions Policy set out in this document. The Financial Assessment is based on the Department of Health's Fairer Contributions Guidance and Fairer Charging Guidance. In specific cases where clarification is needed about capital and non-earnings income, the Council will follow guidance set out in the Department of Health's Charging for Residential Accommodation Guide (CRAG).
- 1.5 Where someone does not provide their financial details for the purposes of a financial assessment they will have to pay the full cost for their care services.
- 1.6 The Council will provide written information about the Contributions Policy to service users when they first contact the Council for an assessment of needs. From the initial contact assessment, where it is likely that someone will need ongoing care services, arrangements will be made for a financial assessment to be conducted in parallel with the needs assessment.
- 1.7 The Council will endeavour to notify service users of their likely contribution at an early stage while they are preparing their Support Plan. This will ensure that service users know their contribution before they agree to receive any care and support arrangements from the Council. Where someone is not entitled to financial support from the Council towards the cost of care and support, they will be usually be offered information and advice on how to arrange their own care.
- 1.8 Where there is a delay in completing a financial assessment, resulting from someone failing to provide complete and accurate information within 14 days of receipt of a request from the Council, the person will have to pay the full costs for their care services as from the date of notification of charges.
- 1.9 Service users choosing to take their Personal Budget as a cash equivalent (Direct Payment) will receive a payment less their assessed contribution.
- 1.10 Certain people are exempt from paying contributions towards their care. This mainly applies to the following:
 - People entitled to Continuing NHS healthcare
 - People receiving after care services under S117 of the Mental Health Act. Such people, however, may also be in receipt of other chargeable services
 - People suffering from Creutzfeldt–Jakob Disease (CJD)

2. How Contributions are calculated

- 2.1 Following the completion of the financial assessment form, an assessment of a person's financial circumstances is carried out to determine the level of contributions towards the cost of their care. This is also known as a person's **available income**.
- 2.2 The assessed contribution is the lower amount of either **available income** or someone's **Personal Budget**. **No one is asked to pay more than the**

amount or their Personal Budget or ‘available income’. The contributions are calculated as follows:

	Calculation	See Paragraph Below
A	Income	4
	Plus:	
B	Capital Tariff Income	5
	Minus:	
C	Housing Costs	6
D	Disability Related Costs	7
E	Personal Allowances	9
F	Available Income	
G	Personal Budget	
H	Contribution	

The elements of this calculation are explained in more detail below.

3. Capital Limit

- 3.1 There is a capital limit of £35,000 before full cost charges apply. Anyone with capital exceeding £35,000 will not be eligible for Council funding and will be usually offered information and advice to make their own care and support arrangements. Where someone lacks capacity to do this, the Council will arrange care and support and the service user will be required to pay the full cost of their care and support services.

4. Income

- 4.1 Income is money someone has coming in on a regular basis. Examples include the following:

- Welfare benefits
- Employment and Support Allowance
- State retirement pension
- Occupational and private pensions
- Industrial Injury Benefit
- Endowments from a life insurance policy
- Rental income from a property

- 4.2 Certain types of income are ignored when calculating the level of contributions as follows:

- Income (earnings) from employment
- Disability Living Allowance - Mobility Component
- War Pensioner’s Mobility supplement
- War Widow supplementary Pension
- Working Families Tax Credit
- Child Tax Credit
- Child Benefit
- Disabled Persons Tax Credit
- Winter fuel payments

- Social Fund Payments
- £10 per week of War Disability Pension
- £10 per week of War Widows Pension
- Christmas Bonus paid with Benefits
- Pension Credit Savings Credit
- Ex gratia payments made to former Far Eastern POWs and payments under the Vaccine Damage Payment scheme
- Partner's income, including earnings
- 50% of the occupational pension or private pension (couples only)
- Interest on savings
- Income from the Independent Living Fund (ILF)

5. Capital Tariff

- 5.1 Savings below £14,250 are not taken into account when assessing the level of contribution. A capital tariff of £1 is applied for every £250 held above the lower capital limit of £14,250. This means that someone with savings of £15,000 would have a capital tariff applied of £3 per week (i.e. £14,250 is ignored, £750 divided by £250 = £3 capital tariff)

Capital/Savings	
£0 - £14,250	This will not be taken into account in the financial assessment.
£14,250 - £35,000	This is taken into account in full to calculate tariff income. Tariff income is calculated at a rate of £1 for every £250 or part thereof on capital between £14,250 and £35,000
Over £35,000	Not eligible for funding from the Council and required to pay the maximum contribution towards the cost of care.

- 5.2 The following items are taken into account as capital:

- Savings held in a bank, building society, post office or other savings account
- Premium Bonds
- Bonds, stocks and shares
- property owned, excluding the main home where you live

- 5.3 The capital value of a person's home will not normally be taken into account in the financial assessment where they continue to occupy this as their home/dwelling. The capital value of any other property owned or part-owned will be regarded as capital. All decisions about the treatment of property will be made following the CRAG provisions, Section 7.

- 5.4 The above list is only a guide and it does not cover all the possible types of capital income.

6. Housing Costs

6.1 Certain housing costs (net of Housing Benefit or Council Tax Benefit) are taken into account when assessing someone's ability to pay, based on Fairer Contributions Guidance as follows:

- Rent (net of Housing Benefit)
- Mortgage Payments (net of income support or pension credit assistance)
- Service charges
- Council Tax (net of Council Tax Benefit)
- Careline Charges

7. Disability Related Costs

7.1 When carrying out a financial assessment, the Council will take into account income from disability-related benefits. In order to take account of someone's disability-related expenditure (DRE) needs, the financial assessment will disregard £20 per week from disability-related benefit income.

7.2 The disregard of disability benefits of £20 per week is intended to cover the following:

- Special dietary needs
- Wheelchair/electric scooter costs
- Laundry
- Special clothing

7.3 The following disability-related benefits will be taken into account in the financial assessment process

Severe Disability Premium of Income Support,
Severe Disability Premium of Pension Credit Guarantee Credit
Severe Disability Premium of Employment and Support Allowance
Attendance Allowance
Disability Living Allowance (care component)
Constant Attendance Allowance
Exceptionally Severe Disablement Allowance

7.4 Generally it is considered that other disability-related costs are likely to relate to care and support needs and therefore these will be met from the Personal Budget. In exceptional cases, where someone has DRE needs in excess of £20 per week, they can request an individual review of their circumstances. The Financial Assessment Review Process is set out below.

7.5 Treatment of Higher Rate Attendance Allowance and Disability Living Allowance in the Financial Assessment

7.6 If someone receives the higher rate of Disability Living Allowance (DLA) or Attendance Allowance (AA), then the Council will include the full amount of these benefits in the financial assessment if the person is also assessed by the Council as needing care at night.

7.7 Where someone is assessed as not being in need of care at night, then the financial assessment will exclude benefits relating to night time care. This will

be achieved by disregarding the difference between the higher and middle rates of AA/DLA (£77.45 - £51.85 = £25.60). This amount is assumed as the amount of benefit paid for night time care. In these cases, the Council's standard disregard of £20 will not apply, however an individual assessment of Disability Related Expenditure will be carried out to take individual circumstances and the Council's equality duties into account as part of the Financial Assessment and Review process.

Example:

Service User is in receipt of Higher Rate DLA/AA: £77.45 (Middle rate is £51.85)

Where they are assessed as not needing night time care, then the Council will disregard the difference between the higher and middle rate of DLA/AA

Income assessed = £77.45 less £25.60 = £51.85. In this case, no standard disregard applies for DRE, however individual DRE will be assessed.

Where they are assessed as needing night time care, then the Council includes the full amount of their DLA/AA in the assessment and offers the standard disregard of £20 per week.

Income assessed = £77.45 per week. Disregard of £20 per week allowed for DRE. Individual DRE also assessed on request as part of the review process.

7.8 Basis of Decision:

This decision is based on Fairer Charging Guidance (2003) paragraphs 35 to 39. Paragraph 38 states that it is unlawful and unfair for a council to treat as income available for day care sums of DLA paid for night care. In practice this means that someone receiving the higher rate of DLA/AA, but not actually needing night time care is allowed to keep some additional income.

8 Extra Care

8.1 The Extra Care service at Dean Road consists of two elements: supported housing and adult social care. The social care element is a domiciliary care service and is subject to the SDS Contributions Policy.

8.2 The cost of the service user's domiciliary care provided in the Extra Care setting should be included in the service user's Support Plan and Personal Budget at the contracted price.

8.3 Service users should be financially assessed based on the SDS Contributions Policy set out in this document. The assessed contribution will be the lower amount of the service user's calculated available income or their Personal Budget.

9. Financial Assessment Review Process

9.1 Service Users have the right to request a review of their contribution towards their Personal Budget, as determined by the Financial Assessment for the reasons set out below:

- incorrect dates or amounts have been used
- the contribution is incorrectly calculated
- there is additional income and/or expenditure which was not included in the financial circumstances form
- costs in respect of a service user's disability are higher than the disregard of disability benefit income given by the Council and are not being met from the Personal Budget
- there are exceptional personal circumstances concerning the service user's financial situation, which mean they believe it is unreasonable to pay the assessed contribution

9.2 The service user can make the request by telephone or in writing to the Adult and Community Services Assessments Team. The individual circumstances will be reviewed and a decision will be communicated in writing to the service user within 2 weeks.

9.3 If the request for review is in relation to Disability Related Expenditure, it should be made in writing to the Adult and Community Services Assessments Team. The Service User should give details of any exceptional costs relating to their disability.

9.4 If the service user remains dissatisfied with the outcome of the financial assessment review, they can use the Council's Adult Services Complaints Procedure.

10. Personal Allowances

10.1 When assessing someone's ability to contribute towards the cost of their care and support, the Council gives each person a personal allowance. This ensures that the person will always be left with enough money to pay for basic household expenditure items and general living expenses. Where someone receives Disability Benefits an additional allowance will be made (see paragraph 7 above).

10.2 The Government set the level of Personal Allowance, linked to state benefits, allowing a buffer of 25% more than the standard rate of Income Support or Pension Credit Guarantee Credit.

10.3 In 2012/13 these allowances are as follows:

- Pension Credit Guarantee Credit £178.37 per week for a single person
- Pension Credit Guarantee Credit £272.37 per week for a couple
- Income Support £126.69 per week for a single person

10.4 Different allowances will be calculated for families taking into account specific benefits and premium benefit payments, where applicable.

10.5 General living expenses are classed as every day costs which people are expected to pay for themselves or using their state benefits. Examples of this expenditure include:

- Food

- Water
- Heating and Lighting
- Telephone and Broadband
- TV Licence and TV Subscriptions
- Insurance
- Clothing
- Repairs and Maintenance
- Gardening
- Credit Card/Loan re-payments

10.6 Where a service user's income is below the current rate of Income Support plus 25% they will not be required to contribute towards their Personal Budget.

11. Personal Budget

11.1 Following an assessment of need or Self Directed Support assessment, if you have eligible care and support needs you will be allocated a Personal Budget. This represents the cost of meeting your care and support needs before your contribution. No one is asked to contribute more than the amount of their Personal Budget.

11.2 Contributions will be applied to 100% of the value of someone's Personal Budget. There will be no upper weekly limit on contributions.

11.3 Where an existing service user (at the date of this policy being approved) pays a contribution of £350, their contribution will be capped at £350 per week and the removal of the upper weekly limit on contributions will not apply to them, unless they experience a change in their assessed care needs, whereby they will also be subject a revised financial assessment.

11.4 Under Self Directed Support, the Council will set (usually on an annual basis) prices for its in-house care services. These prices will apply to people using their Personal Budget on Council run services e.g. intensive day care centres. The pricing mechanism is used to determine whether the Council seeks to provide an element of subsidy for specific services in line with its commissioning intentions.

12. Independent Living Fund (ILF)

12.1 The Council's SDS Contributions Policy will not apply to the proportion of care services funded by the Independent Living Fund (ILF). Where someone is entitled to claim ILF, the Council will take this into account when funding their care and support. The ILF has its own charging policy which will apply to their element of funding which generally takes into account 50% of the Higher Rate of Disability Living Allowance.

12.2 Where a service user is in receipt of Independent Living Fund (ILF) monies, income from disability-related benefits will be taken into account in the Council's financial assessment, however the proportion of benefit income deducted by the ILF under their own charging policy will be taken into account as an expense. This means that service users in receipt of ILF will not have benefits taken into account under two charging policies.

13. Couples

- 13.1 The financial assessment will aim to take into account people's circumstances and treat people fairly where they are married, have a partner or civil partner.
- 13.2 The Council will carry out a financial assessment which produces the most favourable result for the service user. Charges should not reduce a couple's joint income to less than the couple's Income Support rate, plus 25%. Financial assessments for couples take into account both persons savings, income and household expenses.
- 13.3 Where someone and their spouse, partner or civil partner have joint savings, only half will be taken into account in the financial assessment, unless evidence is available to the contrary.
- 13.4 50% of the occupational pension or private pension will be ignored when assessing income for couples.
- 13.5 A partner's income, including earnings, will be ignored in the financial assessment.

14. Non Residential Care Services

- 14.1 Service User contributions for all non-residential care services will be based on the Self Directed Support Contributions Policy except the following services:
- Home care reablement services (where there are no charges for up to 6 weeks)
 - Community Meals (including meals at home and day centre meals, where flat rate charges apply)
 - Services provided directly to carers e.g. Carers Direct Payments
 - Daily Living Equipment and Minor Adaptations
 - Telecare and Careline Services where separate flat rate charges apply
 - Housing rents for supported living services and the Adult Placement Scheme, where separate rent charges apply
 - Food/Utility charges for supported living services, where flat rate charges apply
 - Universal services provided free of charge which include information and advice, support planning and brokerage, employment advice and support services.
- 14.2 Previously the Council provided some people with specific services under the Chronically Sick and Disabled Persons Act e.g. payment of telephone rental costs. Under SDS, the Council assesses someone's eligible needs and provides a Personal Budget to meet those needs. Where someone is provided with telephone rental payments, this will form part of their Personal Budget and will be subject to personal contributions as part of the financial assessment.

15. Residential and Nursing Care

- 15.1 Contributions for residential or nursing care in a registered care home will be based on a financial assessment according to the Department of Health's

Charging for Residential Accommodation Guide (CRAG) rules. This policy does not cover the detailed elements of CRAG, however some aspects are included to clarify areas where Richmond has an agreed policy.

- 15.2 Where a service user owns or jointly owns a property and also meets the criteria for a Deferred Payment, they can request a Deferred Payment of care home fees from the Council. This means that the payment of care home fees can be delayed until the sale of the property. Where a request for a Deferred Payment is granted, the service user will enter into a Deferred Payment agreement with the Council and consent to the placing of a legal charge (mortgage) to be registered against the property until the payment of care home fees has been made. The Council can only agree a deferred payment in respect of a jointly owned property if all co- owners sign an agreement to a legal charge being placed on the property. Full details are contained in the Council's Deferred Payments Policy. The Council reserves the right to refuse a Deferred Payment where there are other means available to the service user to fund their own care home fees or where there is insufficient equity held in the property to cover the care home fees. Interest will be charged after 56 days when the Deferred Payment Agreement has ended at an annual rate of 6.5%.
- 15.3 The value of any property owned by someone in a care home would normally be taken into account in the calculation of how much they should pay towards the cost of their care, unless it is occupied by a spouse or partner or a relative who is under 18 or 60 or over years of age.
- 15.4 Contributions for short term/temporary admissions to care homes, excluding respite/short breaks for carers, will be based on a financial assessment using CRAG rules.
- 15.5 The Council will assess someone's eligible care needs and offer a Personal Budget to meet those needs. Where this assessed need is met by residential or nursing care in a registered care home, the maximum value of the Personal Budget will be based on the Council's **'usual rate'** for residential or nursing care. Where a service user chooses a more expensive care home, where their needs can also be met in another home at the Council rate, the Council will fund up to the value of its usual rate and enter into a third party top up agreement with family members for the shortfall in care home fees.
- 15.6 The Council has legal powers under Section 22 of the Health and Social Security and Social Services Adjudications Act 1983 to place a unilateral charge against property owned by someone placed in a care home. A unilateral charge will be placed on properties where the Council has not been able to obtain payment for care home fees. In these cases, interest will be charged at 6.5% above the Barclays Bank base rate after the date of the end of the care home placement.

16. Usual Rate for Care Homes

- 16.1 The Council's 'usual rate' for care homes fees is based on the following:
- Rates agreed annually with the Council's care home providers
 - The current rate applicable to the Council's Private Finance Initiative (PFI) care homes contract which is £700 per week in 2012/13

- The 'usual rate' paid by the host borough for care homes outside the Borough of Richmond Upon Thames

16.2 Charges will not apply to the first 6 weeks of intermediate care in a care home setting i.e. Intermediate care beds at Greville House. Charges will apply for the first 6 weeks of residential or nursing care in a care home.

16.3 Charges will not apply to after care services under S117 of the Mental Health Act. Care services that are not arranged under section 117 are chargeable.

17. Application to Court of Protection for immediate release of funds

17.1 Where someone has sufficient means to be self-funding, but does not have access to funds, the service user's next of kin or family members will need to initiate a request to the Court of Protection to grant a stand alone order to immediately release funds to settle care home fees. In order to arrange this, the Court will require the relevant application forms and fees (currently a fee of £400 and forms COP 1 and COP3). A full application to the Court of Protection will still need to be made to appoint a Deputy to manage the remainder of the person's affairs. This procedure should be used when a service user has a family member able and willing to act for them.

17.2 Where no suitable person can be identified, the Council will take up the role of Deputy, following a recommendation from the Care Management Team.

18. Deprivation of Capital

18.1 If a person has deprived himself of capital or an asset **in order to** reduce their personal contribution towards the cost of their care and support, this will be treated as if the person still possesses the asset. The question of deprivation of capital should only be considered when the person ceases to possess capital which would otherwise have been taken into account. If a person knowingly reduces their capital in order to reduce their contributions (for example by excessive spending or gifting), this will be taken into account in the assessment and the contribution may be calculated as if that person still holds the capital that has been disposed of.

18.2 **Ownership:** The Council will decide from available evidence whether the person owned the capital and if applicable the timing of a disposal prior to the provision of care services.

18.3 Has deprivation occurred?

It is up to the Individual to prove that they no longer have a resource. Failure to do so will result in the Council treating the person as if they still possess the actual capital. Examples of acceptable evidence of disposal of capital would include:

- A trust deed
- Deed of gift
- Receipts for expenditure
- Proof that all debts have been repaid.

19. Collection of Contributions

- 19.1 Where a person receives a Direct Payment to pay for their support any contribution payable will be deducted before payment is made i.e. they will receive a net payment.
- 19.2 Where services are arranged by the Council as part of a 'Council managed' Personal Budget, an invoice will be issued on a calendar month basis in arrears. Settlement terms for each invoice will be strictly 28 days from the date of the invoice. Payment should be made by Direct Debit, although alternative methods will be offered in exceptional circumstances.

20. Recovery action

- 20.1 Recovery action will be taken where non payment of contributions occurs. Follow up reminders and recovery action will be taken on all outstanding unpaid invoices. All cases requiring legal action will be presented to the Head of Finance (Adult and Community Services) for approval to proceed.
- 20.2 The Council will, at all times require users to pay the assessed charge. The overall approach will be to obtain current compliance while at the same time working with any individuals experiencing difficulty in making payment. While an individual's personal circumstances will be considered with sensitivity, in fairness to those people who pay their assessed contributions and to reduce the burden on local Council Tax payers, non-payment will need to be handled in a business like manner in line with the Council's overall debt recovery policy.
- 20.3 Where any person is found to be providing false information or providing incomplete details of their finances, action will be taken as set out in Richmond's Anti-Fraud Policy.

21. Variation to Planned Services and Contributions

- 21.1 The contribution will be assessed based on the agreed Personal Budget and Support Plan. Contributions will be calculated on the basis of planned service provision and applied on a weekly basis.
- 21.2 Variations to a planned service will occur from time to time for a variety of reasons. For example where a person is unwell or is away visiting relatives and does not require their care and support in a particular week. This does not automatically mean that the weekly service contribution will be reduced.
- 21.3 A reduction of the assessed weekly contribution will only be considered if:
- Someone has given reasonable notice of absence e.g. due to holidays, planned hospital stay, etc,
 - Someone has been admitted to hospital or short term care in an emergency.
- 21.4 Where a planned service is not delivered e.g. home care as it is not required on a particular day, in most cases the service user will be expected to pay their assessed weekly contribution. It may be possible to arrange with care providers for care to be provided at other times in lieu of missed visits. For day care services, service users are still charged for planned attendances even if they do not attend on particular days. Where someone cannot attend on their usual day due to a centre being closed, the attendance can be

changed to an alternative day, therefore the contribution will still be collected. In addition the contributions set out in this policy for day care services do not reflect the full cost of providing the services concerned which remain subsidised.

- 21.5 If an adjustment is required to contributions, service users will need to notify the Adult and Community Services Assessments Team to arrange the adjustment. The agreed amount of contribution will need to be paid and where appropriate, an adjustment will be made on the invoice for the following month.
- 21.6 Where someone receives residential respite care in a care home, this is charged in the same way as other non-residential services. The contribution will be based on the cost of the respite care service, divided over 52 weeks e.g. someone receiving 6 weeks of respite care during the year as part of their Personal Budget will make a small contribution each week towards this cost, instead of paying more in the weeks when they receive the respite care service.

22. Annual Revisions and Change of Circumstances

- 22.1 An annual revision will be undertaken to calculate a revised financial assessment and contribution taking into account changes in pensions and benefit rates as well as other changes in financial circumstances.
- 22.2 Service users remain responsible for notifying the Council of changes in their financial circumstances. Where changes in circumstances come to light retrospectively, the Council will request any backdated contributions to be made.