

## **Proposed Changes to Adult Social Care Contributions Policy by Oxfordshire County Council and Possible implications for people with a learning disability.**

Oxfordshire County Council are proposing to streamline the current policy for assessing financial contributions. [The consultation on this is open until April 3<sup>rd</sup> 2018](#)

**OxFSN believes that the council are genuinely seeking to simplify and speed up this process, and we understand why there is a particular focus on older people, as the largest group of people in receipt of social care services. However, we are deeply concerned that this is likely to have a much bigger impact on those with the most complex needs, as they will be in receipt of higher rates of benefits.**

We have looked into national guidance on Fairer Charging – the full guidance can be found here:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/208323/Fairer Charging Guidance final 2013-06-20 rc.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/208323/Fairer_Charging_Guidance_final_2013-06-20_rc.pdf)

The council have recently produced some further information, which includes a helpful flow chart showing how the current process will change and some frequently asked questions. They have also held a series of meetings where people can go along and hear what these proposals are. However, examples shown at these meetings do not include how these proposals could impact on a person with a learning disability, a question we are frequently being asked here at OXFSN.

One of the key changes that is proposed relates to the “**Disability Related Expenditure**”. At present every individual is assessed using national guidelines, in the new proposed process a standard rate of 25% of the total of someone's disability benefits will be assumed.

**As OCC have not provided any examples for people with learning disabilities we have worked up a few examples here, that may be of help.**

### **Example 1:**

An individual with no savings, in receipt of basic Employment and Support Allowance (ESA) at £109.65, plus lower rate DLA Care £22.10 = Total income £131.75. This matches exactly the Minimum Income Guarantee of £131.75, so even without the 25% disability related expenditure they won't be assessed as being able to make any contribution.

**Example 2:**

An individual with no savings, in receipt of basic ESA at £109.65, plus enhanced rate PIP of £83.10 = Total income £192.75, minus 25% £20.17 and £131.75 Minimum income guarantee = £151.92. They will have to pay £40.83 per week contribution.

**Example 3:**

An individual assessed under the current system in the last year, actually had 75% as Disability Related Expenditure, so currently contributes just under £8 per week, this person will be £32 per week worse off under the proposed new system.

Under the current system there is a reduction of £14.15 per week called Enhanced Disability Premium, which we suspect most individuals with complex needs will automatically get, this only leaves £6.00 per week for any additional disability related expenditure to reach the £20.17 (25% of the enhanced rate for PIP Care), which is what OCC are proposing.

While the proposal goes on to say that "If a person feels their expenses are greater than this they would be able to request an individual disability related expenditure assessment ", this will put the onus firmly on the individual or their family to do this, rather than as at present OCC carrying this out for everyone. Our concern is that some families will simply accept these changes and won't request an individual disability related expenditure assessment.

**Our advice to families is – "if it sounds wrong or unfair then please request an individual assessment"**

**The guidance states:**

*"The process of assessment and claiming for items of disability-related expenditure should not be made unduly complex, particularly for users without high care needs. The process should not be primarily paper-based, or carried out by post, as a full list of possible items without explanation could be confusing for users. The process should be flexible enough to deal with differences in the needs of individual users. Users will very often need personal help and advice on how to claim. Assessments involving disability-related expenditure should, therefore, normally be carried out by personal interview in the user's own home. The approach should support self-assessment by the user as much as possible, taking a holistic view of the user's finances and personal needs, both to support the user's own independence of living and to ensure that any charge assessed is reasonable. Benefits advice should normally be offered to the user as part of the assessment. Specialist assessment staff will need specific training in assessing claims for disability-related expenditure. The process should be simple and straightforward for the majority of users without high care needs, while at the same time ensuring that users with heavy disability-related expenditure can be fully supported to claim for this"*

**Families have asked us what 'Disability Related Expenditure' can be taken into account.**

**The guidance states:**

***"The list is not exhaustive; the overall aim should be to allow for reasonable expenditure needed for independent living by the user. Items where the user has little or no choice other than to incur the expenditure, in order to maintain independence or quality of life, should normally be allowed."***

*"For DLA, the Social Security Contributions and Benefits Act 1992, section 72, requires that a person should be, "so severely disabled physically or mentally that, at night, - (i) he requires from another person prolonged or repeated attention in connection with his bodily functions; or (ii) in order to avoid substantial danger to himself or others he requires another person to be awake for a prolonged period or at frequent intervals for the purpose of watching over him."*

**Some examples of 'disability related expenditure' quoted from national guidance:**

"In assessing disability-related expenditure, councils should include the following:

- Payment for any community alarm system [net of Housing Benefit or Supporting People grant].
- Costs of any privately arranged care services required, including respite care.
- Costs of any speciality items occasioned by disability – e.g.: - specialist washing powders or laundry –
- additional costs of special dietary needs due to illness or disability (the user may be asked for permission to approach their GP in cases of doubt) - 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 - additional costs of bedding, for example, because of incontinence
- Any heating costs, or metered costs of water, above the average levels for the area and housing type, occasioned by age, medical condition or disability.

Fairer Charging Policies for Home Care and other non-residential Social Services –

- reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by the individual's disability and not met by social services - 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 - personal assistance costs, including any household or other necessary costs arising for the user - 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, eg, council-provided transport to day centres is available, but has not been used –
- 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.

Although the user's care plan will normally be a guide to what is necessary for care and support, some discretion may be needed, eg, where needs for equipment are not detailed comprehensively, or where care and support was being purchased privately before the care plan was written.

Expenditure taken into account should not be limited to that on necessary care and support. So, for example, above average heating costs should be included, although they would not normally be covered by a care plan. Any additional expenses claimed in relation to a person's disability should be considered. Costs of infrequently purchased equipment will normally be annualised or amortised over a reasonable period for replacement and divided into a weekly equivalent.

To a limited degree, it may be possible for councils to set standard allowances for costs such as laundry, but councils will need to be able to justify the levels set and should explore with users at the initial assessment whether they may have higher costs.

Reasonable evidence of actual expenditure may be requested, at the council's discretion. Where receipts have not been kept, a council may request that this be done for future expenditure. It is legitimate for councils to verify that items claimed for have actually been purchased, particularly in cases of unusual items or heavy expenditure.

Councils will need to hold information, for example, about typical heating costs for types of property in their areas, in order to assess a claim for above average heating costs; or about local costs of domestic help."

*[Ref: Fairer Charging Policies for Home Care and other Non Residential services –Guidance for Councils with Social Services responsibilities, DOH 2013]*

**This information is being given in good faith and is correct to the best of our knowledge. We hope it helps to provide a little more clarity and we urge families to respond to the Consultation if they haven't already done so.**