

BRIGHTON AND HOVE CITY COUNCIL

CHARGING POLICY For Care Services – APRIL 2018 - 2019

Effective from 9th April, 2018

This charging policy will be updated for April 2019 to March 2020 after the 29th January 2019 Health and Wellbeing Board.

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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. It 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 in their own home or in a care home. Some of the 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. For the purposes of this policy, an adult is a service user aged 18 and over.

1.2 The services included for this financial assessment policy are:

Residential Care including Nursing Homes

Supported Accommodation*

Extra Care Housing care services

Shared Lives Schemes*

Home Care

Day Care, Day Activities

Community Support / outreach services

Money Advice and money management services

Direct Payments / Personal Budgets for any services

Tenancy Support (Supporting People) including Carelink alarm systems

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 the first 6 weeks

Any Care funded under Continuing Health Care by the Health Authority

Care and support provided to people with Creutzfeldt-Jacob Disease;

Assessment of needs and care planning

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1.4 **Care and Support for Carers**

There is no charge to carers for any services provided directly to them during 2018/2019. 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 2018 the maximum charges for non-residential services are:**

2.1 **Home Care provided by the council, including all forms of support at home £24 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 £24 per hour.

2.2 **Day Care / Day Activity provided by the council (for any time period) £38 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 charges**

Any meals provided at a Day Centre and any transport costs will not form part of the assessed charge as they substitute for ordinary daily living costs.

These charges are payable in addition to assessed contributions.

Meals at a day centre **£4.70 per meal**

Transport to day centres **£3.90 per return journey**

3 **The Financial Assessment Process**

3.1 The financial assessment follows on from the care needs assessment. When care needs have been assessed, details are passed 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 will be subject to full verification. Where a person lacks mental capacity to complete a financial assessment we will consult someone with Power of Attorney for Property and Affairs or a Deputy under the Court of Protection. If there is no person with a formal authority we can discuss with someone who has been given Appointeeship by the Department of Work and Pensions (DWP) or any other person who is dealing 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 assessments and any further financial enquiries and verification

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- (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 of the chargeable amount
- (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 (see "tariff income" at 4.1)

Then we take account of income

Then we make allowances for various types of expenditure

The difference between the income calculation and the expenditure allowances 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 capital and savings 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.

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 a person needs permanent care in a residential care home or nursing home, the net value of their former home, if owned by them, will be taken into account when calculating their level of savings and capital.

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 they are 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.

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The capital limits are currently £23,250 upper limit and £14,250 lower limit with effect from 09/04/2018. 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 £270 for the initial contract set-up fee and then £83 per year administration charge thereafter.

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 will usually be included in the financial assessment as though they remain in their own possession. This is called “notional capital” or “notional income”. 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 exceptional 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 to conduct an assessment as to whether deprivation has occurred. Where notional assets are included in the assessment and the person is unable to pay the charges, the council may charge the person who received the monies to pay for the costs of care services. Notional capital or income will also be taken into account if a person is not claiming monies to which they are entitled.

4.2 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.

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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.

4.3 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 reimbursement of expenses and any occupational pension)

DLA (Mobility Allowance)

PIP – Personal Independence Payments – 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

Pension Credit “**Savings 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.

£189 per week for single people

£145 per week for one person in a couple

5.2 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:

a) aged 18 or older but less than 25, the amount of £72.40;

b) aged 25 or older but less than pension credit age the amount of £91.40.

c) pension credit age, the amount of £189.00.

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 £71.80;

b) one or both have attained pension credit age, the amount of £144.30.

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Additional weekly allowances apply as follows:

1. For each dependent child living in the household an additional allowance of £83.65
2. For a single person with:
 - a) Disability premium, the amount of the additional allowance is £40.35;
 - b) Enhanced disability premium, the amount of the additional allowance is £19.70.

For one member of a couple in receipt of:

- a) Disability premium, the amount of the additional allowance is £28.75;
- b) Enhanced disability premium, the amount of the additional allowance is £14.15.
3. When in receipt of carer premium, the amount of the additional allowance is £43.25.

5.2 The Disability Related Expenditure assessment (DRE) for non-residential service users:

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 £189 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. No charge will be made once the cost of the adaptation has been repaid. For example, if the cost of the adaptation is £3000 and the person is assessed to pay £50 per week, charging will cease after 60 weeks as the full £3000 will have been repaid.

5.5 Assessing Couples

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When assessing one member of a couple, that person will be assessed on their own 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' 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 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 allowable
- Eligible Disability Related Expenditure for the service user will be allowed

A further general living allowance will be given in line with statutory regulations but rounded up to the nearest pound (£145 per week) and applicable to all age groups.

Regulations: MIG Allowance (minimum income guarantee)

- 7(4) Where the adult concerned is a member of a couple and— a...
b) one or both have attained pension credit age, the amount of £144.30.

6. Residential Care: Charging for care homes for permanent residents

6.1 Where a person has been assessed as eligible for care to be provided in a Care Home a financial assessment will be necessary to determine whether or not they must pay the full fees.

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

6.3 Property will usually be taken into account for charging purposes unless the resident is taking steps to occupy that home. In this case the value will be disregarded for a maximum of 26 weeks. Property is disregarded where it is occupied by a spouse or partner or another relative aged over 60 or disabled.

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

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6.5 The Assessment will allow the prescribed minimum personal allowance known as the 'Personal Expenditure Allowance' (PEA). This is £24.90 per week from April 2018.. Some people may also qualify for an additional Savings Credit Disregard depending upon the level of their income and state benefits.

6.6 Where someone chooses to live in a care home with fees above the council's set 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. Details of this scheme can be found in the council's separate Deferred Payment Agreement information sheet.

7. Charging for Residential and Nursing Home care on a TEMPORARY basis

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 charge on the basis of a temporary stay but this may depend upon the length of time the fp

7.4 The financial assessment for temporary stays will disregard the person's main or only home where the resident intends to return to that home.

7.5 The financial assessment for a temporary stay will treat income and capital in the same way as for permanent residential care with the following exceptions:

- 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.

7.6 Liabilities for rent, mortgage interest and water rates are taken into account.

8. Financial re-assessment reviews for all Services

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. 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

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- d) Where there is a significant change to Government regulations, state benefit entitlements or charging policy revisions
- e) Benefit Uprates for residential care 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.

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 production of evidence of income, capital, costs of disability, or awaiting the outcome of additional benefit claims. If all 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 of all care services, **they will pay the agency direct**, upon receipt of an invoice from the care agency or by standing order. If the service user fails to pay the provider, further action will be taken.

Where the service is provided by an independent care agency and the person does not have to pay the full cost but does have to pay a contribution towards the home care fees, **the council** will invoice the service user, monthly in arrears.

11.2 Council Services:

Where the service is provided directly by the Council the service user will receive an invoice, monthly in arrears, from the Council's Central Collections Team.

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

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charge applies, 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.

12. Recovery of Debt

- a. Where a person fails to pay the amount they have been assessed to pay for arranging care and support, the Care Act 2014 provides the council with powers to recover money owed
- b. 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.
- c. The council will only proceed with Court action where alternatives have been exhausted. Any proceedings will go through the County Court.
- d. 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 one 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.

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

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APPENDIX A - Assessing the costs of disability for non-residential care

“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”

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 have actually been purchased, particularly for unusual items or heavy expenditure.

Generally the items allowed for should be based on actual past expenditure; though in some cases estimates of annual spending based on available evidence will need to be made. Spending not yet incurred should not be allowed. It is not practicable for assessments to take account of expenditure users would incur if they had more income.

If, despite a request to keep future receipts, users fail to do so, it may be reasonable for Councils not to include this in the assessment.

The following allowances may be agreed but 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. These allowances should align with information gathered during the care assessment and should be identified in the Care Plan.

The council would not expect to allow costs that should otherwise be met by other agencies, such as the NHS. This includes therapies, such as physiotherapy, and to chiropody and continence pads

DISABILITY RELATED EXPENDITURE ALLOWANCES 2018-2019

Additional fuel allowances where costs exceed the average as set out below:

2018/2019	Standard Inc. South		
Single person - Flat/Terrace	£1206.07		
Couple – Flat/Terrace	£1591.21		
Single person – Semi Detached	£1280.99		
Couples – Semi Detached	£1688.29		
Single – Detached	£1558.51		
Couples – Detached	£2054.45		

Notes - consideration will be made for additional householders contributing to household costs.

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- if bills not retained, copies to be provided within 28 days. If not provided within this timescale the allowance will apply from the date that the evidence is provided.
- Winter Fuel and Cold Weather Payments are disregarded.

ITEM	AMOUNT	EVIDENCE
Community Alarm System	Actual cost to service user	Bills from provider
Private care and domestic help	Where part of Care Plan and Council funded care reduced accordingly.(does not usually allow payment to close family members)	Signed receipts for at least 4 weeks Maximum £12 per week if no receipts
Laundry/Washing Powder	£3.75 per week	Care Plan identifies continence problem. Allowance applies where more than 4 loads per week
Dietary	Discretionary as special dietary needs may not be more expensive than normal	Details of special purchases – Maximum £6 per week
Gardening	Discretionary based on individual costs of garden maintenance	Signed receipts for at least 4 weeks using a proper receipt book Maximum £12 per week
Wheelchair	£3.91 per week manual £9.49 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 £4.32 per week	Evidence of purchase if available
Turning bed	Actual cost divided by 500 up to a maximum of £7.57 per week	Evidence of purchase if available
Powered reclining chair	Actual cost divided by 500 up to a maximum of £3.43 per week	Evidence of purchase if available
Stair-lift	Actual cost divided by 500 up to a maximum of £6.12 per week	Evidence of purchase without DFG input
Hoist	Actual cost divided by 500 up to a maximum of £2.99 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 £12 per week

Note: - Mobility Allowance cannot be included in the normal financial assessment as an income but the statutory guidance states that transport costs should be allowed where necessitated by illness or disability,

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over and above the mobility component of DLA if in payment. Therefore no further transport costs are allowed if Mobility Allowance covers them.