

Reviews and appeals

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Introduction

This document outlines the process and procedures to be followed in the event that an assessed contribution to a Personal Budget, designed to help people manage their social care needs, is challenged by a service user or their representative. It should be used when a service user or their representative believes that the financial assessment is incorrect or that they cannot afford in full or in part the payments requested.

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1: Review requested by service user

1.1 A request for a review shall be taken to be made where the service user expresses dissatisfaction with an assessment of their contribution to a Personal Budget for social care services.

The review request should be in writing within 28 days of notification of the assessment outcome and identify the following information:

- The service user's name
- The service user's contact details
- The date from which the review is requested
- The reasons why the service user believes the decision to be wrong including any further or amended information.

The request should be addressed to the Social Care Benefits Team Manager and can be submitted using the form "Request for a Financial Assessment Review" which is available by request from the Social Care Benefits Team. Contact details will be included with the first invoice for care contributions. Independent advice is available from agencies and advocacy services throughout the town and details of advice centres are available on request from Customer First or online at www.fyidirectory.com

1.2 The review will be undertaken by a different assessing officer who will take into account any new information and review the assessment in line with the council's current Charging Policy and any published national guidance. They will then issue a written decision as soon as practicable, but in any event within 28 days of the date that the request was received. The service user will also be sent a statement of their financial assessment including details of their income and expenditure as notified and incorporating any new or amended information. Where there is doubt regarding the stated expenditure or expenses appear higher than expected then the

reviewing officer may request supporting evidence from the service user. If the individual does not co-operate with the review process then the debt recovery process will commence.

1.3 There can be only two outcomes from this review stage.

The reviewer will either:

Change the decision of the original assessor

or

Confirm the decision of the original assessor

1.4 While the review is being undertaken, the individual is expected to continue to pay their assessed contribution until the outcome of the review is known. In cases where it appears that the individual cannot reasonably be expected to pay the assessed contribution, the reviewing officer can defer contributions until the review is completed.

1.5 If the review finds that there was an error in the original assessment, any reduction in the contribution will apply from the date the charges commenced. If the review finds that as a result of new information, there is a reduction due in the assessed contribution, this will be applied from the relevant date indicated by the new information.

1.7 If the outcome of the review is that the original assessor's decision is confirmed then the individual has the right to appeal.

2: Appeals

2.1 If the service user is not happy with the decision following the review, the service user should contact the Social Care Benefits Team within 28 days of receiving the outcome of the review and lodge an appeal.

The appeal should be in writing and identify the following information:

- The service user's name
- The service user's contact details
- The date from which the appeal is requested
- The reasons why the service user believes the decision to be wrong including any further information in support of their appeal.

The request should be addressed to the Social Care Benefits Team Manager. There is no requirement to use a prescribed form. Independent advice is available from agencies throughout the town and details of advice centres are available on request from any council office or online at www.fyidirectory.com

3: The appeal panel

3.1 An Appeal Panel will be convened when a service user appeals a review decision.

3.2 The Panel will be convened by the Head of Adult Social Care and comprise of at least three members, no more than one of each category.

1. An Independent Person (not employed by the Council)
2. The Head of Adult Social Care
3. A Social Care Benefits Team Manager or senior member of staff
4. The Director of Adult Services

3.3 The Panel will be convened as soon as practicable and in any event within one calendar month of the appeal being received by the Social Care Benefit Team. The Panel can and will, where appropriate, consider more than one case during the same meeting in order to support a timely response to service users.

The Head of Adult Social Care will be responsible for gathering appropriate information about the support commissioned with the Personal Budget before the meeting, and considering whether there is relevant information held by Adult Social Care which should be shared with the Panel.

3.4 It is for the Panel to decide whether a service user is in a position to be able to pay the assessed contribution towards their Personal Budget for social care services, using all the evidence available to them at the time of the hearing.

In deciding this, the Panel will consider the following:

- Whether the service user is in arrears with contribution payments

- Whether the service user has priority debts (e.g. Mortgage/rent, Council Tax, Court Fines)
- Whether a referral to the Advice Team is required
- Whether the need for support is long or short term
- Whether there is any other income to which the service user is entitled
- Whether the Panel issued the service user with a prior decision
- Whether there has been a recent change in circumstances that may affect the service user's ability to pay charges for care services in the short, medium or long term
- Whether the expenditure figure used by the assessor accurately reflects disability related expenditure.

3.5 The Panel can uphold the decision of the assessing officer, in that the Council's Charging Policy and related national guidance has been applied appropriately to the individual case and the assessed contribution is correct and therefore payable.

3.6 Alternatively, the Panel can support the decision of the assessing officer, in that the Charging Policy and national guidance has been applied appropriately to the individual case, but still advise that the contribution be reduced in part or in whole for a specified period of time in line with the Waiver Procedure, see section 4.

3.7 The Panel also has the power to change the decision of the assessing officer based on the information and evidence provided by the service user.

3.8 The service user will be notified of the Panel's decision in writing as soon as practicable, and in any event within 14 days of the Panel making a decision.

3.9 The Panel's decision is discretionary and there is no general right of appeal against it. If, however, the service user is still unhappy with the way that their appeal has been handled they can make a complaint under the Adult Social Care Complaints Procedure and have their complaint addressed.

3.10 If the Panel upholds the decision of the Social Care Benefits Team and the Service User does not pay their assessed contribution, then appropriate debt recovery action will be pursued.

3.11 The Panel may also adjourn the appeal for additional information to be provided.

4: Waivers

4.1 Blackpool Council financially assesses the ability of service users to contribute towards the cost of their care and support as set out in their personal budget. This assessment considers the income, savings and expenses of the individual and determines the amount that they can reasonably be expected to pay towards the cost of their care.

4.2 However, Blackpool Council recognises that there are service users whose particular financial circumstances may be such that even though the assessment of their finances has been undertaken accurately, they may have difficulty in contributing to their Personal Budget and that this difficulty may result in a limitation of the service user's ability to take care of him or herself, or to protect him or herself against significant harm or exploitation.

4.3 Blackpool Council will waive part or all of an assessed contribution to a Personal Budget where to apply the contribution in full would result in:-

- Significant harm to that service user
- The significant impairment of, or significant avoidable deterioration in, physical or mental health
- The significant impairment of physical, intellectual, emotional, social or behavioural development or well-being
- A significant risk to the service user's long term independence

4.4 Decisions to waive charges will be considered and agreed by the Panel. The waiver will typically be for a fixed period up to a maximum of twelve months after which time it will be reviewed. Waivers up to £5,000 in total can be approved by the Panel. Waivers over this amount must be approved by the Executive Committee.

4.5 If the Panel believes that the service user is not able to pay the contribution in full or in part and there are some prospects of a change in circumstance then the Panel may decide to reduce the level of charges in full or in part for a specified time typically up to a maximum period of twelve months but subject to individual circumstances. The Panel may attach a condition e.g. that the service user seeks advice about debt or income maximisation.

4.7 If the Panel believes that the service user is not able to pay the contribution in full or in part and there are no known prospects of a change in circumstance then the Panel may decide to reduce or remove the level of contribution typically for a maximum period of twelve months.

4.8 If the circumstances of the service user do not change during the specified period, and they would like to apply for a further waiver, they will need to apply again to the Panel for a review of the decision. This application may be supported by an appropriate professional.

4.9 The Panel will not fetter its discretion in any way, and will take a holistic approach to determining the impact of care charges on the individual service user's daily life, and any unique pressure or hardships that this may bring about. Each case will be considered on an individual basis.

5: Non-compliance and recovery action

5.1 If a review of the financial assessment is not requested, there will be an assumption that the service user is satisfied that the assessment is accurate and that they accept their responsibility to pay. Invoices will be sent every four weeks. Recovery action will be taken where non-payment occurs. Follow-up reminders and recovery action will be taken on all unpaid outstanding invoices. All cases requiring legal action will be presented to the Debt Decision Panel for approval to proceed.

5.2 The Council will at all times require service users to pay their assessed charge.

5.3 The overall approach will be to obtain current compliance while at the same time working with any individuals experiencing difficulty in making payment. While individual personal circumstances will be considered with sensitivity, in fairness to those people who pay their assessed contributions, non-payment will be handled in line with the Council's overall policy on unpaid invoices.

5.5 Any person refusing to provide information will be required to contribute the full cost of any services provided in line with the current Charging Policy. Any individual failing to pay or refusing to pay an assessed contribution who is unable to come to a payment arrangement will be subject to the Council's overall policy on debt recovery.

6: Complaints

6.1 If a person is unhappy with the way their case has been handled, a formal complaint can be made using the Complaints Procedure. The complaints procedure cannot investigate the assessed contribution for services or complaints about general policy. It can however investigate concerns about the process by which the assessment has been made. For more information about the Complaints Procedure or if you wish to complain about the financial assessment process then you can contact the Customer Relations Team on 01253 477700 or by email at customerrelations@blackpool.gov.uk or you can write to the Customer Relations Team, Blackpool Council, PO Box 4, Blackpool, FY1 1NA.

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