



Appeals Panel (Community Services)

Time and Date

10.30 am on Wednesday, 12th September, 2012

Place

Diamond Room 1 - Council House

Public Business

1. **Appointment of Chair**
2. **Apologies**
3. **Declarations of Interests**
4. **Exclusion of Press and Public**

To consider whether to exclude the press and public for the item of private business below on the grounds of the likely disclosure of exempt information as defined in the Local Government Act 1972, in particular paragraph 1 of Part 1 of Schedule 12A of that Act.

5. **Any other items of public business which the Chair decides to take as matters of urgency because of the special circumstances involved**

Private Business

6. **Appeals - Community Services - Care Service Contributions** (Pages 1 - 6)
To hear a number of appeals against Care Service Contributions. A procedure for the appeal and the cases of the Council and appellant is attached.
7. **Any other items of private business which the Chair decides to take as matters of urgency because of the special circumstances involved.**

Bev Messinger, Director of Customer and Workforce Services, Council House Coventry

Tuesday, 4 September 2012

Note: The person to contact about the agenda and documents for this meeting is Su Symonds

Membership: Councillors D Chater, J Clifford and A Heath

By invitation Councillors

Please note: a hearing loop is available in the committee rooms

If you require a British Sign Language interpreter for this meeting
OR if you would like this information in another format or
language please contact us.

Su Symonds

Minicon: (024) 7683 3029

Fax: (024) 7683 3266

APPEALS COMMITTEE (COMMUNITY SERVICES)

Procedure for Appeals against Charges for Home Care Services

NOTE: *The procedure for each appeal will be as informal as possible to allow the Service User, or their Representative to put forward their case as to why they feel it is not reasonably practical for them to pay the assessed charge. The stages set out below in the procedure for the hearing are designed to make sure that the Appeal Committee have an opportunity to hear information from everyone fairly.*

The Appeal Committee may allow changes to the procedure where they feel this will assist natural justice and fairness.

There are no strict rules of evidence but the Appeal Committee will make their decisions on what they believe to be the 'balance of probability' and what they consider to be reasonable.

The appeal is to consider the assessed charge and whether it is reasonably practical for the service user to pay, based on their means. Issues which relate to the Home Care Service provided may be referred to the Social Services Department.

Before the Hearing:

- (1) The Appeals Committee Members will be sent copies of the information provided by the Financial Assessments Officer about the Assessed Charge, and the Appeal Form and any supporting documents submitted by the Service User, or their Representative.
- (2) If the Service User, or their Representative brings any other bills / invoices etc to the hearing, these will be copied for the Appeal Committee.
- (3) The Financial Services Officer will have checked the calculations of the charge are correct, according to Social Services records, and may already have spoken to Service User, or their Representative.

At the start of the Hearing(s):

The Appeal Committee will deal with the formal business of the Appeals Committee such as appointing the Chair, dealing with any apologies or Declarations of Interest and agreeing that the hearing will be in Private.

Because Several Appeals may be heard by the Appeals Committee on one day, this may be done before the Service User, or their Representative, is present.

The Service User, or their Representative, may be asked to wait a short time to allow another Appeal to be concluded.

Procedure for the Appeal Hearing:

- (1) The Chair will introduce the Appeals Committee and those present. The Chair or the Clerk/Legal Advisor will check that all those present understand the procedure to be followed.
- (2) The Community Services Representative / Financial Assessments Officer will briefly set out how the Service User's charge has been assessed.

- (4) The Service User, or their Representative will be able to ask any questions about the assessment.
- (5) The Appeals Committee may ask the Community Services Representative / Financial Assessments Officer any questions about the assessment.
- (6) The Service User or their Representative will be invited to explain why they wish to appeal. (including any issues with means or outgoings / why they feel charge is too high / why they feel it is not reasonably practical for them to pay etc)
- (7) The Community Services Representative / Financial Assessments Officer may ask any questions.
- (8) The Appeal Committee may ask any questions.
- (9) Where the Service User or their representative refers to relevant matters about their assessment for Home Care Services or the service provided the Appeals Committee may:-
 - (a) Allow the Community Services Officer / Financial Assessments Officer present to ask any questions.
 - (b) Allow the Community Services Officer / Financial Assessments Officer present to make any comments.
 - (c) Allow the Service User or their representative to ask questions of the Community Services Officer / Financial Assessments Officer present.
- (10) The Legal Advisor may ask questions, at any stage, where they consider an issue of relevance may be missed or needs to be clarified to help the Appeal Committee make their decision.
- (11) The Community Services Officer / Financial Assessments Officer and the Service User or their Representative will be invited to 'sum up', if they wish.
- (12) The Parties will be asked to leave, and the Appeals Committee will make their decision in private. The Clerk / Legal Advisor will remain with the Appeals Committee to give advice and to record the decision only.
- (13) The Clerk / Legal Advisor will be asked to write to the Service User or their Representative to confirm the Appeal Committee's decision. This should be completed within 7 working days.

CHARGING FOR HOME CARE SERVICES

What the Law says:

The City Council can only charge you what it considers is reasonable for you to pay.

The power for a Local Authority to charge for its services is set out in the Health and Social Services and Social Security Act 1983.

Section 17 of that Act says 'if a person's means are insufficient for it to be reasonably practical for him to pay for the service ...the Local Authority shall not require him to pay more for it than it appears to be reasonably practical for him to pay'.

What are the Grounds of Appeal?

If you (or your representative) feel that the charge they have been asked to pay is unreasonable in view of your means, you are entitled to appeal.

You should ask to appeal as soon as you feel it is not reasonable for you to pay the charge we have asked for.

How do I appeal?

If you feel you are unable to afford the charge you have been asked to pay, you should first contact the Financial Assessment Team.

They will check that the information we have on your financial circumstances is up to date and that the charge has been correctly calculated.

They will, also, be able to explain some aspect of the charging scheme that you may have not understood.

If you still feel you are unable to afford the requested charge you should appeal to the Appeals Committee.

A request for an appeal needs to be in writing showing why you think it is unreasonable for you to pay the assessed charge. Assistance with this will be provided if you need it.

An appeal form has been prepared to assist you in making your appeal. Appeal forms are available on request from the Financial Assessments Section (contact details are found on page 4, at the end of this note)

What is the Appeals Committee?

The Appeals Committee is made up of three members. Two are Coventry City Councilors who are chosen from a list of those who are available to hear Community Services Appeals. The third member of the Committee is an Independent Person.

They will not previously have been involved in any decisions in your case.

What happens at the Appeals Committee?

Before the Hearing members of the Appeals Committee will be given details of the assessment of your charges and your appeal form and any supporting details, so they will have some information about your circumstances before the hearing.

You can attend the hearing and bring someone to support you and speak on your behalf.

The Appeal Committee will wish to see copies of any high bills / invoices or outgoings you have, you will be asked if you can send copies in with your appeal form. Please don't send in original bills. We will ask you to bring the original copies to the Appeal Hearing with you. Don't worry if you can't get copies, please contact Democratic Services on the number shown on the Agenda to ensure any additional documents can be made available at least 48 hours prior to the Hearing.

The Appeals Committee will hear from the representative of Community Services about the assessment of your charge and from you or your representative. They may also ask questions about what has been said.

Because we will try and hear several appeals on the same day, you may be asked to wait for a short time, whilst another case is heard.

Do I need to attend the hearing?

No. You can ask the Appeals Committee to just look at your appeal form, or ask someone to attend for you.

It is helpful if you do attend, as the Appeal Committee will have the chance to hear about your circumstances directly from you, or your representative and to ask you questions.

When will I have an Appeal Hearing?

When you appeal we will acknowledge receipt and ask you to let us know of any dates when you are not available to attend or any special requirements you have.

We should normally be able to let you know of a date within 2 weeks and have a hearing within 6 weeks.

Sometimes it is difficult to set up appeals if we have a lot of cases so there may be an occasional delay, but we will keep you Informed.

How does the Appeals Committee make their decision?

The Appeals Committee will hear all the information about the Community Services financial assessment and from you, or your representative. They will then decide what they think it is reasonable for you to pay based on your means and your personal circumstances.

The Committee will keep a record of the facts for each appeal they hear and the decision they made, to ensure they are dealing with people fairly.

When will I know the results of the Appeal?

If there are several people who want to appeal, the Appeal Committee may hear several appeals in one day. It won't be possible to let you know straight away.

The decisions will be made that day and the Clerk / Legal Advisor will be asked to write to you or your representative giving the Appeal Committee's reasons and decision. We aim to do this within 7 days.

A copy of the letter will be given to the Financial Assessments Section who arranges to send out the charges.

If my appeal is successful what charge will I have to pay?

You will be asked to pay what the Appeals Committee decide is reasonable for you to pay

If my appeal is not successful will I have a further right of appeal?

There is no further right to appeal.

BUT, If you are not happy with the way your appeal was dealt with or if you feel the Appeal Committee did not take the matters you raised into account properly you will be entitled to ask the Local Government Ombudsman to consider whether we have acted reasonably. You may also be entitled to apply to the High Court for Judicial Review. We will give you further information if your appeal is not successful.

What if my circumstances change?

If there is a change in your circumstances and you think it is no longer reasonable to expect you to pay the assessed charge you will have a further right of appeal.

Will the information I provide be kept confidential?

The information you send in will be kept on the Community Services file held in the Financial Assessment Section. A copy will also be given to the officers giving advice and the members of the Appeal Committee - they will treat this as private and confidential.

We will monitor the decisions of the Appeal Committee and will keep records of the facts, reasons and the decisions made. As other persons may check these Records we will take steps to ensure you will not be identified from these records.

Where can I find out more?

If you want more information on our Financial Assessments you can contact Alun Mitchell in the Financial Assessments Section, Room 201, Civic Centre 2, Little Park Street, Coventry, CV1 5RS. Telephone 024 7683 3455

If you want information on the Appeal and the Appeal arrangements, please contact Janice White, Senior Solicitor, Finance and Legal Services Directorate, 4th Floor, Christchurch House, Greyfriars Lane, Coventry, CV1 2QL. Telephone 024 7683 2467. Email janice.white@coventry.gov.uk

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