

Derbyshire County Council Adult Social Care Charging Contribution Policy for People receiving Adult Social Care Support in the Community

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1. Legal Framework

- 1.1 Under the Care Act 2014, Local Authorities have discretion to choose whether to charge for Adult Social Care community support provided for people to meet eligible needs, except where it is required to arrange care and support

free of charge (such as certain types of community equipment, short term reablement support or if the care is to be provided free under other legislation for example section 117 of the Mental Health Act which entitles people to receive free aftercare following compulsory detention in hospital).

- 1.2 The Council will, also, apply the principles set out in the Mental Capacity Act 2005 concerning people who lack capacity to manage their finances. Where someone lacks capacity to make decisions about their finances, the Council will try to identify whether they have appointed an attorney under a lasting power of attorney for finances or whether an order has been made by the Court of Protection appointing a deputy for their finances. The attorney or deputy is a lawfully appointed representative.
- 1.3 Where a person has no lawfully appointed representative, the Council will communicate with family members to obtain financial information and encourage family members where appropriate to apply to the Court of Protection to be appointed as deputy of the person's finances. Only where there are no family members or friends, will the Council consider applying to be appointed as the person's appointee for benefits or deputy for their finances.

2. Policy Aims and Objectives

- 2.1 The Council's Adult Social Care charging contribution policy for people receiving Adult Social Care support in the community has been written to comply with the Care and Support (Charging and Assessment of Resources) Regulations 2014 and has regard to the national guidelines.
- 2.2 The aim of the policy is to provide a transparent and fair charging framework for people who are receiving Adult Social Care support in the community.

3. Principles of the Policy

- 3.1 Any charging contribution for Adult Social Care support in the community requested will be in line with the current Care and Support (Charging and Assessment of Resources) Regulations 2014, which includes the following principles:
 - Applying the national Minimum Income Guarantees for people, which are dependent on age, disability or other living circumstances as defined by the department of Health and Social Care
 - If the person has a dependent child, the appropriate additional allowance will be added on top of the person's Minimum Income Guarantee
 - Giving the person an applicable allowance in respect of savings credit (this

is extra money paid each week for people who have above a certain threshold)

- Disregarding the whole value or proportion of the value (if co-owned) of the main, owned residence of the person.
- Assessing the person's capital assets and savings in line with the charging regulations and the statutory guidance
- Not including the earnings of people who work in the calculation of household income
- Disregarding the person's partners' income and savings (unless received as part of a joint entitlement)
- The relevant allowances will be made for people in relation to unmet housing costs
- Disregard of any income assessed as being used by the person to meet additional daily living costs incurred due to the person's disability or long-term health condition. The Council will also disregard the difference between the middle and higher rate of Attendance Allowance and Person Independent Payments.

All the principles above are explained more fully in later sections of this policy

- 3.2 Charging contributions will be determined against the person's confirmed personal budget. The contribution charged will not exceed the personal budget or the cost of support commissioned.
- 3.3 People (or their legally appointed representative(s)) will be asked to visit www.derbyshire.gov.uk/betteroff where they should submit their financial information for review by the Finance Team who will confirm the contribution charge due. Relevant supporting evidence must be provided.
- 3.4 Alternatively, should a person, who does not have a legally appointed representative, prefer the Council to liaise with a named relative or friend to act as their representative they will be required to provide consent to ensure this can take place. The person's representative will be expected to provide full and accurate financial information with supporting evidence and to be willing to sign a financial declaration to that effect.
- 3.5 Where it is not possible for the person to use www.derbyshire.gov.uk/betteroff and they are without either formal or informal support to submit their financial information online, the person will be supported by telephone to give a full declaration of their financial circumstances, including submission of supporting evidence to allow the determination of the correct contribution level.
- 3.6 The Council will access data provided by the Department for Work and Pensions and other agencies for details of benefits, allowances and occupational pensions to verify financial assessments. The Council is entitled

to undertake these checks in line with the data sharing agreements between the Department for Work and Pensions and Local Authorities, following the introduction of the Welfare Reform Act 2012.

- 3.7 Charging contributions, for those people who receive support through a direct payment or commissioned on their behalf, will be collected by the Council usually by direct debit every 4 weeks. Charging for Adult Social Care support occurs in arrears.
- 3.8 The non-payment of charging contributions could lead to the instigation of debt recovery procedures which may include formal legal action.
- 3.9 Following the completion of the financial assessment people or their representative(s) will be able to request their financial assessment to be reviewed and if the issues remain unresolved, they will have recourse through the Complaints Procedure.

4. Reviews of the Policy

- 4.1 Guidance recommends local authorities should review their charging contribution policy annually, in consultation with stakeholders.
- 4.2 Any adjustments necessary after attaining state pension age will be applied from the beginning of the next financial year unless the person requests an earlier assessment.

5. Financial Contribution Procedures

- 5.1 People who receive the following community support, as set out in the national guidelines, will not be required to make a charging contribution:
- short term services/interim reablement support services fully funded by the NHS under the continuing health care (CHC) provisions
 - after care support provided under Section 117 of the Mental Health Act
 - community equipment (aids and minor adaptations costing £1,000 or less)
 - advice or assessment and review support
 - any service provided to a person with Creutzfeldt Jakob Disease (CJD)
- 5.2 People who receive the following long term community support as set out in the national guidelines will be required to make a charging contribution:
- Short Breaks in a respite care in a registered care home setting
 - Short Breaks: provided through Direct Payments or Shared Lives
 - Direct Payments

- Long Term Homecare
- Day Care
- Supported Living
- Other community-based care provision

- 5.3 Where a personal care budget is made available or support is provided for carers support following a “carers assessment,” the Council does not request a financial contribution from the carer.
- 5.4 For those people who have financial resources under the capital limits or income thresholds the Council will use its discretion to not request a financial contribution from those people who are terminally ill. Terminal illness is defined as arising where a person has received a prognosis of less than twelve months life expectancy. Confirmation of this is required from a relevant health professional or by the completion of a SR-1 form designed for the purposes of claiming benefit payments under the special rules provisions.
- 5.5 Where this discretion has been applied and, due to terminal illness, a person has not been required to make a financial contribution, this decision will be reviewed after 12 months of the original decision where the person is still receiving Adult Social Care support in the community. The care co-ordinator will make a formal approach, involving relevant health care professionals, to seek their current opinion of the person’s condition and prognosis. At this 12 month review, for the nil contribution to continue, a health professional will need to formally confirm that in their professional opinion, the person has a terminal illness with a prognosis of less than 12 months life expectancy. This includes those people who were awarded benefits under the special rules provisions.
- 5.6 Where the prognosis has changed from the previous decision, and the person no longer meets the requirements of 5.5 above or the criteria for special rules, the person will be financially assessed in accordance with this policy. Any contribution will be due from the completion date of the financial assessment.
- 5.7 The Care Act 2014 and Care Act Statutory Guidance enables a person who has been assessed as having to pay for their own care and support in full to ask the local authority to arrange their care on their behalf.

6. Income Maximisation

- 6.1 For people approaching the Council for a care needs assessment, a referral will be offered for people to receive an income maximisation check.

- 6.2 For the income maximisation check to be carried out, people will be asked to visit where they can complete a benefits check to assess their income and identify any benefits or allowances they may be entitled to.
- 6.3 Where it is not possible for the person or their representative to undertake the income maximisation and/or contribution determination in BetterOff, they will be signposted to a colleague in the Welfare Rights Team.
- 6.4 The person, or their representative, may be requested, and supported, to supply relevant documentary evidence to ensure that correct applications can be made for relevant benefits /allowances not currently being received.
- 6.5 Where it would appear the outcome of this income maximisation exercise may change any previous contribution, the Welfare Rights Team will make the person aware of this information and that the outcome of the benefit claim will be notified to the Finance Team.
- 6.6 Notification of the result of the income maximisation exercise will be passed to the Finance Team who will then verify the contribution; formally notify the person or their representative(s) of the weekly charging contribution due, how this has been calculated and of the arrangements for payment. This information will be provided as promptly as possible, once a person's needs have been assessed and a decision has been made about the care to be provided, or after any increase in charging contribution.
- 6.7 Under this Adult Social Care Charging Contribution policy, there is an expectation that people or their representative(s) will claim/apply for any additional income that the income maximisation exercise identifies.
- 6.8 The Council fully supports a person's right to seek independent advice on benefits, allowances and income issues, and that in these circumstances they may decline an income maximisation check. However, they, or their representative will be required to declare their income and capital in full and evidence that all relevant benefits/allowances have been claimed.
- 6.9 Any refusal by the person or their representative(s), to apply for any benefits/allowances that income maximisation or independent advice identifies as likely to be due, will result in any charging contribution being determined as though the relevant benefits /allowances are being received.
- 6.10 Charging contributions will reflect the identified increased benefit/allowances income during the period the claim is being made. However, any additional amount may not be charged until such time as the additional income has or would have been received by the person, at which point any outstanding contribution will be required to be paid.

7. Treatment of Income

- 7.1 This policy has regard to the treatment of income in line with the Care and Support Statutory Guidance
- 7.2 All forms of income, except for earnings, will be considered in the financial assessment.
- 7.3 An amount equal to 10% of weekly income will be disregarded from the amount considered to be disposable income in the person's financial assessment. Disposable income is the amount of income which may be taken into account for charging purposes after deduction of the Minimum Income Guarantee, appropriate allowances for housing costs, dependent children and Disability Related Expenditure.
- 7.4 The level of Minimum Income Guarantee is set nationally annually and is dependent on age, disability or other living circumstances as defined by the Department of Health and Social Care.

8. Treatment of Capital

- 8.1 This policy has regard for to the treatment of capital in line with the Care and Support Statutory Guidance
- 8.2 The value of a person's property which is owned, or part owned, and which is their main residence is not treated as a capital asset for the purposes of Adult Social Care charging contribution policy for people receiving Adult Social Care support in the community.
- 8.3 The value of any property owned (or share of) which is not the main residence of the person, will be treated as a capital asset for the purpose of the financial declaration. This will also apply to the value of any second and subsequent properties and land owned both in the United Kingdom and abroad.
- 8.4 Any capital held by the person which has been acquired through equity release will be treated as available capital for the purpose of this policy.
- 8.5 There may be instances where a person's capital is not held as available assets (for example a second property). In these circumstances it is likely that the person would be liable for the full cost of their care. Where it is not possible for the capital element of the contribution to be made available from other resources, the Council will consider accruing this proportion of the contribution for a limited time (up to six months) whilst alternative arrangements for funding, such as from equity release, are explored. If it

considers it necessary, the Council may require the person or their representative(s) to enter into a formal agreement to secure the debt and ensure any monies due are ultimately repaid.

9. Disability Related Expenditure (DRE)

- 9.1 Disability Related Expenditure describes the additional money a person may need to spend due to their disability or long term health condition. This expenditure must be taken into account in the financial assessment to make sure people who pay towards their care and support have enough money to meet those additional needs. Full guidance on Disability Related Expenditure is at Appendix 2.
- 9.2 The Council uses two mechanisms to support people who incur additional costs as a result of their disability or long-term health condition.
- The Council will apply a standard £20 per week disregard in respect of disability related expenditure for all people without the need for receipts or explanations of that expenditure.
 - If a person is in receipt of the higher rate of either Attendance Allowance, Personal Independence Payment (Daily Living) or Disability Living Allowance (Care), an amount equivalent to the low rate of both Attendance Allowance and Personal Independent Payment and the mid-rate of Disability Living Allowance will be used in the financial assessment. The remaining balance is then available as disposable income which could be used to meet costs associated with disability but not deemed as eligible needs.
- 9.3 Where a person feels they have additional costs related to their disability or long term health condition, over and above the standard £20 (or where relevant, the standard £20 plus the additional allowance as per the above bullet point), they are entitled to request an individual assessment of their disability related expenditure which may result in a further reduction of their assessed contribution

10. Basic Income Levels

- 10.1 In determining the basic income levels and Minimum Income Guarantee the Council will comply with the Care and Support (Charging and Assessment of Resources) Regulations 2014 and have regard to the Care and Support Statutory Guidance.

- 10.2 Where a person has an eligible dependent child in their household an allowance for each eligible child will be given when calculating the Minimum Income Guarantee in compliance of the Care and Support (Charging and Assessment of Resources) Regulations 2014.
- 10.3 In addition to ensuring a person's income is protected at the relevant Minimum Income Guarantee level (Appendix 1), the Council will protect a further 10% of the income eligible for charging purposes, after any allowances or deductions in respect of either housing costs or disability related expenditure.
- 10.4 Tariff income from capital will be determined in accordance with the upper and lower thresholds in the Care and Support Statutory Guidance.
- 10.5 Any calculated tariff income will be included in the determination of a person's eligible income for charging purposes. This will be reviewed annually, or more frequently should the council become aware of a material change to a person's capital or receive a request to conduct a review based on such a change, and adjustments made accordingly.
- 10.6 The current values of the Minimum Income Guarantee can be found in Appendix 1.

11. Unmet Housing Needs

- 11.1 The Council, in line with treatment of income in the Care and Support Statutory Guidance, will have regard to unmet housing costs in the determination of charging contributions. For the purposes of this policy unmet housing costs are defined as:
- mortgage payments net of any benefits provided to support these costs
 - rent net of any benefits provided to support these costs
 - Council tax net of any benefits provided to support these costs
 - service charges (net of utilities)
 - ground rent
- 11.2 For an allowance of unmet housing costs to be made, the person must provide evidence of their formal occupancy status along with details of the formal rent agreement with their landlord or housing association or the liability for mortgage payments.
- 11.3 Unmet housing costs do not include non-commercial "sublet" tenancies or non-commercial "board and lodging" payments made to the tenant/owner of the property in which the person may reside.

- 11.4 For board and lodging payments or subletting rental payments to be classed as a housing cost, it must be paid on a commercial basis and must not be provided by a close relative or family member (as defined in the guidance) of the person. Relevant evidence of the commercial arrangement will need to be supplied for consideration if the appropriate allowance to be made.
- 11.5 For any allowance for unmet housing costs to be given, evidence of both the cost and the shortfall will need to be provided. Where no evidence is provided, then no allowance(s) will be given.
- 11.6 Where an income maximisation check or independent advice identifies benefits that are due in relation to housing costs it is expected that the person or their representative will, with or without support, make the appropriate application(s) for those benefits.
- 11.7 Where a person or their representative declines to make an application for assistance with housing costs, the Council will calculate their charging contribution as if those benefits /allowances were in payment.
- 11.8 Where there is a change in the person's financial circumstances which affects the level of unmet housing costs then the Council should be notified, and where requested, and relevant supporting evidence provided.
- 11.9 Failure to promptly notify the Council of any increase in unmet housing costs will result in any assessed increase in the allowance only being given from the date of the notification and supporting evidence.
- 11.10 Failure to promptly notify the Council of any decrease in the amount of unmet housing costs will result in a reassessment of the charging contribution from the day it is considered the reduction in unmet housing allowance would have been applied. If this reassessment results in arrears of charging contributions being due, then these must be paid in full.

12. Treatment of Couples (Including Civil Partners)

- 12.1 When completing a financial assessment for a person in a couple or civil partnership, the Council will have regard for the treatment of income and assets in line with treatment of capital and treatment of income within the Care and Support Statutory Guidance.
- 12.2 The Council will only have regard to a person's means and not their partner's means when assessing their ability to make a charging contribution.

- 12.3 Each person of a couple will be deemed to hold equal shares of capital held together unless evidence is provided to the contrary.
- 12.4 Where means tested benefits are assessed/received jointly, for example employment support allowance, pension credit, universal credit or income support, each person will be deemed to have a right to 50% of that income for the purposes of determining their minimum income level.
- 12.5 Where allowances or disregards are applied, for example. for unmet housing, it is assumed that each person within a partnership has equal liability for such costs and any allowance will be made on that basis.

13. Dependent Children

- 13.1 A dependent child allowance can be applied to a financial assessment, subject to eligibility and satisfactory supporting evidence. For this policy the definition of a dependent child is as follows:
- a. The child can be up to 18 years of age (or 19 years of age, if they started non-advanced education or training as defined in 13.8 and 13.9 prior to their 19th birthday); and
 - b. Must be either:
 - Of pre-school age; or
 - In full time non advanced education, see 13.8 below; or
 - Attending approved unwaged training, see 13.9 below; and
 - c. The child lives in the same household as the person; and
 - d. The person receives child benefit and/or child tax credits or universal credit for the child, or they are not in receipt of child benefit and/or child tax credits as they have income above the upper earnings threshold but would be entitled to those benefits were their income to reduce.
 - e. Where the person requesting a “dependent child allowance” satisfies points a-c but is not the recipient of the relevant qualifying benefits (point d) but is the spouse, civil partner or unmarried partner (as defined for state benefit purposes) of the qualifying benefit recipient, the allowance will be given.
- 13.2 The Council will consider on an individual basis the continuation of a dependent child allowance when the child is over the age of 18 years where points b to e still apply.

- 13.3 Where all the above criteria are not met, or the required evidence to confirm eligibility to the dependent child allowance not provided, then no allowance for that child will be made when determining the charging contribution.
- 13.4 The Council reserves the right to only include any dependent child allowance in the calculation of the charging contribution from the date that all relevant information and evidence is provided to the Council.
- 13.5 The person must promptly notify the Council if they believe their entitlement to a dependent child allowance has changed. Reasons to notify may include, but are not limited to, the child attaining 16 years of age:
- is not in full time non advanced education
 - no longer attends approved unwaged training
 - no longer lives in the person's household
 - the person ceases to receive child benefit/child tax credit/universal credit payments in respect of the child
- 13.6 Failure to notify the Council of any increase in the number of dependent children resident in their household will result in any requests for additional allowances only being given from the date the request and revised evidence is provided to the Council.
- 13.7 Failure to notify the Council of any reduction in the number of dependent children in the household will result in a reassessment of the charging contribution from the day the reduction should have been applied following notification. If this reassessment results in arrears of charging contributions being due, then these must be paid in full.
- 13.8 Non advanced education is defined as more than 12 hours per week at school or college (university education is not included in this description as it is deemed to be advanced education). Homework, private study, unsupervised study or meal breaks cannot count towards the 12 hours and the education can only be up to and including A-level, NVQ Level 3 or equivalent. Traineeships as part of the 16 –19 study programmes are deemed to be full-time non-advanced education. 19 year-olds can only be included if they started such before their 19th birthday
- 13.9 Approved Unwaged Training must not be provided under a contract of employment; 19-year-olds can only be included if they started such education or approved training before their 19th birthday.

14. Maximum and Minimum Contributions

- 14.1 The maximum charging contribution will not exceed the cost of the care provided.
- 14.2 Where a person's charging contribution is determined at less than £5.00 per week this will not be deemed financially viable to collect.

15. Notification of Contributions

- 15.1 All people or their representative(s) will be provided with a breakdown of how their charging contribution has been determined, either via the BetterOff portal or by the Finance Team.
- 15.2 Any charging contribution will be payable from the date the chargeable commissioned support / direct payment is first received by the person. Notification of the contribution will be provided as promptly as possible after a person's needs have been assessed and a decision has been made about the care to be provided. This will also apply where there is an increase or decrease in contribution due to a change in a person's personal budget.
- 15.3 This notification will also provide details of the initial process to follow should a person (or their representative) considers that either:
- an error has been made in the calculation of the charging contribution; or
 - they are unable to pay their assessed charging contribution; or
 - it is not reasonably practicable for them to pay their assessed charging contribution based on their financial circumstances.
- 15.4 Prompt payment of invoices will be expected. Consistent refusal to pay, cancellation of service or declining of service due to payment will lead to a risk assessment being undertaken to establish any safeguarding issues to identify any appropriate and proportionate actions necessitated.

16. Financial Declarations

- 16.1 People or their representative(s) will only be asked to disclose information that will enable an accurate income maximisation check and financial assessment to be undertaken.
- 16.2 People, or their representative(s), who refuse to submit sufficient information and appropriate evidence to enable a full financial assessment to be completed, may be assumed to be able to meet the full cost of their support

and could be advised to purchase support independently. Details of current contribution levels and capital bandings are at [Appendix 1](#). A risk assessment will be undertaken to establish any safeguarding issues to identify any appropriate and proportionate actions necessitated.

- 16.3 Any person or their representative(s) found to have given an inaccurate declaration of their financial circumstances, either knowingly or unwittingly, will be subject to a revised charging contribution determination. This determination will be undertaken irrespective as to whether they are still receiving any adult social care support in the community.
- 16.4 Any revised charging contribution, either by revised formal financial determination or default maximum cost, will be applied from the date the revised contribution should have applied. If the backdating of this charging contribution results in arrears of contributions being due, then these will be required to be promptly paid in full. Failure to make payment of any arrears of contribution will result in the instigation of debt recovery procedures which may include formal legal action.

17. Deprivation of Assets

- 17.1 When consideration is given as to whether a deprivation of assets has occurred, the Council will have regard to [Deprivation of Assets](#) - Annex E of the Care and Support Statutory Guidance.
- 17.2 In deciding whether a person has deprived themselves of income and/or capital for the purposes of reducing any contribution liability, the Council will have due regard to the timing and reason for the disposal.
- 17.3 Where the Council considers that such deprivation of assets has occurred, any contribution deemed to be due will be determined as though the person continues to receive or hold those assets.
- 17.4 Where the person has transferred an asset to a third party in an attempt to reduce their liability to contributions, the third party will be liable to pay the Council the difference between what would have been charged and the charging contribution being made by the person.
- 17.5 Where assets have been transferred to more than one third party, each of the third-parties will be liable to pay the Council the difference between what would have been charged and the contribution being made by the person in proportion to the amount they received.
- 17.6 The maximum liability of a third party will be limited to the benefit they received from the transfer.

- 17.7 People, their representative(s) and/or relevant third parties have recourse through the Complaints Procedure should they disagree with the Council's deprivation of assets decision.
- 17.8 Failure by the person or the third-party/ parties who has received the asset to make payment of the contributions will result in the instigation of debt recovery procedures which may include formal legal action.

18. Changes in Circumstances

- 18.1 People will still be required to continue to pay their assessed weekly charging contribution in periods where they do not receive support. This will include unforeseen/unplanned circumstances, for a maximum of four weeks within any financial year, providing the total charging contributions collected during the financial year will not exceed the person's annual care package costs.
- 18.2 Where the total of charging contributions made during a financial year from April to March, is found retrospectively to be higher than the value of the actual cost of care, arrangements will be made to credit the person with the amount of any overpayment.
- 18.3 People making a charging contribution from capital assets, for example, people with assets above the capital threshold when the Council has agreed to commission the support on their behalf will be liable for all costs incurred by the Council until those services are cancelled.
- 18.4 If, following a reassessment of needs, a person's personal budget is increased or reduced, any necessary adjustments will be made to the charging contribution.
- 18.5 People will still be required to continue to make payment of their charging contribution for up to four weeks after any hospital admission unless the support is cancelled sooner, in which case their contribution will cease from the date of that decision.
- 18.6 Anyone discharged from hospital who receives short-term adult social care support in the community will not be required to make any charging contribution during the reablement period. However, any outstanding contributions due prior to the period of short-term support will still have to be paid.

- 18.7 Following a period of a short-term service, unless the person's financial circumstances have changed, any previously assessed charging contribution will be re-instated. This will be from the date the Adult Social Care support in the community recommences.
- 18.8 People who enter a residential setting for a period of planned respite care (Short Break) will continue to pay their assessed charge as per normal arrangements. However, if the person's preferred choice of residential care home incurs a higher rate than the Councils agreed contracting rate and there is availability at the Council's rate, the additional cost must be paid by a third party.
- 18.9 Where there is a change in a person's financial circumstances, the person or their representative(s), must notify the Council promptly as this will result in a review of their contribution.
- 18.10 Where a person or their representative notifies the Council of a reduction in their income or capital, any subsequent assessed reduction in contribution will only apply from the date a new formal financial declaration, with appropriate evidence, is given.
- 18.11 Increases in income and/or capital may result in an increase in contribution, for example, a successful claim/or backdating of benefits. Non-notification of a change in financial circumstances will result in the backdating of the increased contribution to the date of the change and arrears being due.
- 18.12 Where a person becomes aware they are the beneficiary under the terms of a last will and testament, they are required they notify the Council.
- 18.13 The Council will deem a decision to reassign or refuse to accept a legacy as deprivation of assets and reserves the right to financially assess the person as though they were in possession of those assets when determining any charging contribution.
- 18.14 In the event someone does reassign or give away a legacy but does not pay the increased charging contribution from a resulting reassessment, the Council will consider terminating any contractual agreement to purchase support on behalf of the person, subject to section 15. The Council will also consider transferring liability for any additional charging contribution to the person(s) receiving the person's share of the legacy assets (limited to the value of the legacy asset received by the person).
- 18.15 It is expected people or their representative(s), will take proactive steps to receive any legacy by doing one or more of the following:
- if the person is the executor of the estate that they take steps to administer

the estate personally, including applying for probate if necessary, or appointing an appropriate person, for example, a solicitor to do so

- if the deceased has made a will but the person is not the executor of the estate, they should make representation to the executors to ensure that legacies are made in an appropriate timeframe
- if there is no will, but the person is an entitled relative, make application for letters of administration or appoint someone to do it upon their behalf

- 18.16 If the relevant application/representations are not made within a timely manner of the deceased's demise, and without good reason, the Council reserves the right to deem the to be in possession of the legacy and may recalculate any charging contribution on their assumed revised assets.
- 18.17 All financial assessments will be reviewed annually, or more frequently should the council become aware of a material change to a person's capital or income and receive a request to conduct a review based on such a change, and adjustments made accordingly.
- 18.18 Where support ends, the charging contribution will be collected up to the day the person ceased to receive the support or the person passed away.

19. Compensation for Personal Injury

- 19.1 Compensation paid for personal injury is dealt with in different ways. This may be awarded by the Court or by an agreed settlement. The capital awarded may be paid directly to the Claimant or may be held in trust or administered by a deputy or the Court (Paid into Court Funds). Regardless of the final arrangements the person will be required to provide the Council with copies of settlement terms and/or agreements, trust documents and any court orders in relation to the compensation award including any court order appointing a deputy as part of the financial assessment process.
- 19.2 The Council will have regard to the Care and Support Statutory Guidance when considering any relevant personal injury compensation awards as part of the financial assessment process.

20. Performance Standards

- 20.1 People who come into contact with the Finance Team and the Welfare Rights Team can expect:
- To be treated with dignity and respect and in a courteous manner
 - All colleagues to have received training and be competent in their particular role
 - For the Council to only ask for information that is needed for the Care and

Support (Charging and Assessment of Resources) Regulations 2014 and the Care and Support Statutory Guidance, October 2014 or as further amended

- For all information, both personal and financial, to be treated in the strictest of confidence and not divulged without that person's consent (or where they lack capacity to consent, their representative's consent) except in cases:
- Where information is required to be shared to prevent fraud, crime and disorder,
- To prevent significant harm to adults or children as required by safeguarding children and vulnerable adult policy and procedures
- For people, or their representative, to be made aware their rights including how to contact the Finance Team to discuss or challenge a financial assessment and how to make use of the Complaints Procedure if necessary.

20.2 What we expect from people and/or their representatives:

- To treat Council colleagues with the same dignity and respect that they would expect to receive
- For representatives to show proof that they have been lawfully appointed as representatives, such as giving a copy of the Court of Protection order or the Lasting Power of Attorney for finances document to the Council
- For all questions will be fully and accurately answered
- For the contribution levied to be paid promptly by the agreed method.
- For people or their representative will raise any concerns or issues with the Council in a timely manner thereby allowing the Council the opportunity to resolve these as soon as possible
- For all additional information and documents requested will be supplied in a timely manner

21. Quality Monitoring and Evaluation

21.1 The Finance Team and Welfare Rights Team are subject to regular reviews to ensure compliance, accuracy and consistency.

21.2 People or their representatives, will be offered the opportunity to be selected to take part in surveys and reviews to monitor the finance assessment process

21.3 People's experience of process will include questions on:

- Interaction with employees of the department
- Accuracy of the information requested and gathered
- Accuracy of the contributions calculated
- The standard of correspondence and information provided

Appendix 1 – Current Minimum Income Guarantee, Benefit Levels and Capital Bandings

Minimum Income Guarantee (MIG) Levels

People receiving local authority arranged care and support other than in a care home need to retain a certain level of income to cover their living costs. Under the Care Act 2014, charges must not reduce people's income below a certain amount, but local authorities can allow people to keep more of their income if they wish. This is a weekly amount and is known as the MIG. For the next financial year (April 2023 to March 2024), the rates of the Minimum Income Guarantee where the adult concerned are:

Situation	Weekly rate
Is responsible for, and a member of, the same household as a dependent child, the amount in respect of each dependent child	£94.90
Is a single person and is aged 18 or older but less than 25	£82.15
Is a single person and is aged 25 or older but less than pension credit age	£103.65
Has attained pension credit age	£214.35
Is a lone parent aged 18 or over	£103.65
Is a member of a couple and one or both are aged 18 or over	£81.40
Is a member of a couple and one or both have attained pension credit age	£163.65
Is a single person who is in receipt of, or the local authority considers would, if in receipt of income support, be in receipt of disability premium	£45.75
Is a single person who is in receipt of, or the local authority considers would, if in receipt of income support, be in receipt of enhanced disability premium	£22.35

Is a member of a couple and one member of that couple is in receipt of, or the local authority considers would, if in receipt of income support, be in receipt of disability premium	£32.60
Is a member of a couple and one member of that couple is in receipt of, or the local authority considers would, if in receipt of income support, be in receipt of enhanced disability premium	£16.05
Is in receipt of, or the local authority considers would, if in receipt of income support be in receipt of, carer premium,	£49.05

Attendance Allowance, Disability Living Allowance (Care) and Personal Independence Payment (PIP) – April 2023

Payment	Weekly Rate
Attendance Allowance (Low rate)	£68.10
Attendance Allowance (High rate)	£101.75
Disability Living Allowance Care (Low rate)	£26.90
Disability Living Allowance Care (Middle rate)	£68.10
Disability Living Allowance Care (High rate)	£101.75
Personal Independence Payment (Low rate)	£68.10
Personal Independence Payment (High rate)	£101.75

The difference of £33.75 per week between high and low/mid rates is disregarded for financial assessment purposes.

Capital Thresholds (For funding purposes)

Capital level above which funding is not provided	£23,250
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Capital Bandings (For tariff income)

Lower Threshold	£14,250
Upper threshold	£23,250

Tariff income is calculated based on capital between the lower and upper thresholds at £1.00 in every £250 of capital.

Maximum Weekly Contributions

Maximum chargeable 100% of Care Costs

No one will be asked to contribute more than the actual costs of services received during the financial year.

Appendix 2 – Disability Related Expenditure

What is Disability Related Expenditure?

Disability Related Expenditure is additional money people may need to spend due to their disability or long term health condition. This expenditure is taken into consideration in financial assessments to make sure people who pay towards their care and support can do so whilst also meeting needs which might not be covered in their individual care and support plan.

In recognition of increased costs associated with disability or a long term health condition, the Council has adopted a number of measures to ensure people are left with sufficient income to meet those expenses, the first two of which will happen automatically:

- Apply a standard £20 per week disregard in respect of Disability Related Expenditure for all people without the need for receipts or explanations of that expenditure.
- Disregard the remaining balance of which may then form part of a person's disposable income to be used to help meet any additional costs associated with their disability but which are not assessed as eligible needs.
- Enable people to request an application of Disability Related Expenditure of which they incur over and above the standard £20 allowance for consideration within the financial assessment which may result in a further reduction of their contribution.

If a person wants us to consider a further Disability Related Expenditure allowance, they must tell us within 10 days of the notification of their contribution.

All applications for an additional Disability Related Expenditure allowance require supporting evidence to be provided of costs claimed as incurred relating to disability or a long term health condition. Costs incurred simply as a matter of personal choice, or where a reasonable alternative is available at a lesser charge will not be allowed.

If a person submits an application for additional Disability Related Expenditure later than 10 days after the notification of their charging contribution, any additional Disability Related Expenditure will only be applied from the date the application and evidence was received. In the meantime, people must pay the contribution they have been asked to pay and if any waiver is applied to the contribution a refund of any overpaid charges will be made

In all cases people seeking a further disregard for Disability Related Expenditure in their financial assessment must have made a full declaration of their resources,

have been formally notified of the amount they have been asked to contribute and have had an Income Maximisation check within the previous six months to ensure all appropriate benefits/ allowances are in payment.

Where a person chooses not to undertake an Income Maximisation check and it is identified that they may be entitled to a benefit that they have not claimed, their assessment may be adjusted to take this benefit into account as though they were in receipt of it. However, advice and support will be offered to help people claim their full entitlement.

Expenses that could be considered

It is not possible to provide a comprehensive list of expenses that might be considered as these are unique to each person's particular circumstances.

The below is examples of what may be included:

- Extra heating costs above the average levels for the area and housing type
- Community alarm system
- Special dietary needs (we may ask you to let us talk to your doctor about this)
- Extra laundry costs including specialist cleaning products
- Additional costs of bedding, for example, because of incontinence
- Incontinence aids
- Day or night care to meet eligible needs which is not being funded by the Council
- Additional costs of special clothing or footwear, for example, where this needs to be specially made, or there is additional wear and tear to clothing and footwear caused by your disability
- Prescription Charges
- Chiropody
- Purchase, hire, maintenance, and repair of disability related equipment, including equipment or transport needed to enter or remain in work. This may include IT costs, where this is necessary because of your disability. Reasonable hire costs of equipment may also be included, if due to waiting for supply of equipment from the Council
- Court of Protection Deputyship costs
- Reasonable costs of basic garden maintenance, cleaning, or domestic help, where this is necessary because of your disability and not met by the Council

In meeting needs, the most cost-effective option should usually be utilised, for example using the NHS prescription prepayment scheme

In deciding if a cost can be allowed in a person's financial assessment as Disability Related Expenditure the Council will first consider what is included in the agreed care and support plan, although allowable costs are not necessarily restricted to

what is stated in the support plan.

To be included as Disability Related Expenditure, the cost must be higher than normal household living expenses.

It is the additional cost above normal household costs that can be considered as additional expense. For example, a person may have more laundry than someone without a disability would have, say five loads per week per person rather than just two. The costs of the additional three loads could be considered as a Disability Related Expenditure.

All allowable costs will be divided by the number of adults living in the household who receive a benefit from the purchased item or service.

Exceptional circumstances will be considered on their merits.

The Council reserves the right to verify that items claimed for have been purchased, particularly for unusual or high-cost expenditure.

Appendix 3 provides guidance on specific disability expenses relating to heating costs.

Appendix 3 – Heating Allowances

Annual inflationary update based on RPI Fuel index at November 2022. At this date fuel prices had **increased** by 92% in the last 12 months.

The figures are obtained from the Consumer price inflation tables - Office for National Statistics. The figures are found in Table 41 detailed reference tables - percentage change over 12 months.

Figures for 2023/2024	Standard	N East / E Midlands	N West / W Midlands
Single person - Flat/Terrace	£2,761.73	£2,993.70	£3,344.04
Couple – Flat/Terrace	£3,643.68	£3,945.69	£4,407.21
Single person – Semi Detached	£2,933.32	£3,179.73	£3,551.87
Couples – Semi Detached	£3,872.45	£4,187.41	£4,677.83
Single – Detached	£3,568.76	£3,865.99	£4,325.05
Couples – Detached	£4,704.40	£5,097.22	£5,695.07