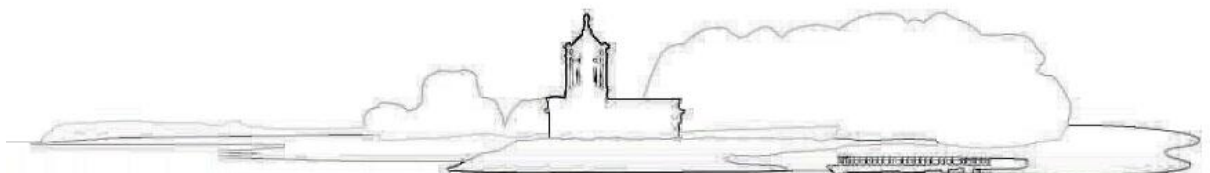


Rutland County Council

CHARGING FOR CARE AND SUPPORT POLICY

Version & Policy Number	V1.1
Guardian	Andrea Grinney, Revenues & Benefits Manager, 01572 758227
Date Produced	22.07.2016
Next Review Date	

Approved by Scrutiny	
Approved by Cabinet	Report 117/2016 21 st June 2016 Decision 64
Approved by Full Council	Report 117/2016 11 th July 2016 Item 135 (3)



Summary of document

This policy details how the Council will undertake charging and financial assessments for people receiving adult social care services.

Contents

		<i>Page</i>
1.0	Principles	4
2.0	Legislation	5
3.0	Services provided free of charge	5
4.0	Capital limits	6
5.0	Carrying out a financial assessment	6
6.0	'Light-touch' financial assessments	7
7.0	Deprivation of assets and debts	8
8.0	Charging for care and support in a care home	8
9.0	Choice of accommodation	9
10.0	Deferred Payment Agreements	9
11.0	Charging for care and support in other settings	10
12.0	Charging for support to carers	11
13.0	Requesting council support to meet eligible needs	11
13.0	Welfare benefits check	11
14.0	Completion of the financial assessment	11
15.0	Reviews, revisions and reassessments	12
16.0	Appeals and complaints	13
17.0	Data Protection and Security	13

1.0 PRINCIPLES

- 1.1 The Care Act 2014 provides a single legal framework for charging for care and support. It enables a local authority to charge a person when it is arranging to meet a person's care and support needs or a carer's support needs.
- 1.2 The overarching principle is that people should only be required to pay what they can afford. People will be entitled to financial support based on a means-test and some will be entitled to free care.
- 1.3 The Council's approach to charging for care and support takes into account the following principles:
 - a) Ensure that people are not charged more than it is reasonable and practicable for them to pay;
 - b) Be comprehensive, to reduce the variation in the way people are assessed and charged;
 - c) Be clear and transparent, so people know what they will be charged and why;
 - d) Promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control;
 - e) Support carers to look after their own health and well-being and to care effectively and safely;
 - f) Be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs;
 - g) Apply the charging rules equally so those with similar needs or services are treated the same to minimise anomalies between different care settings;
 - h) Encourage and enable those who wish to stay in or take up employment, education or training or plan for future costs of meeting their care needs or to do so; and
 - i) Be sustainable for the Council in the long term.
- 1.4 The Council will ensure that there is sufficient information and advice available in suitable formats for the person's needs and will make the person aware of the availability of independent financial information and advice.

2.0 LEGISLATION

- 2.1 The Care Act 2014 consolidates previous legislation and allows the Council to charge for care and support under Part 1 Sections 14,17 and 69-70 of the Care Act 2014, the Care and Support (Charging and Assessment of Resources) Regulations 2014 SI 2672/2014 and the Care and Support and Aftercare (Choice of Accommodation) Regulations 2014 SI 2670/2014.
- 2.2 The Department of Health has issued 'Care and Support Statutory guidance' to support the Act; Chapter 8 refers to charging and financial assessment.
- 2.3 The Council will have regard to changes in regulations, statutory guidance and best practice when charging and undertaking financial assessments.

3.0 SERVICES PROVIDED FREE OF CHARGE

- 3.1 The Council must not charge for certain type of care and support which must be arranged for free. These are:
 - a) Intermediate care, including reablement, which must be provided free of charge for up to six weeks;
 - b) Community equipment (aids and minor adaptations) must be provided free of charge whether provided to meet or prevent/delay needs. A minor adaptation is one costing £1,000 or less;
 - c) Care and support provided to people with Creutzfeldt-Jacob Disease;
 - d) After-care services/support provided under section 117 of the Mental Health Act 1983;
 - e) Any service or part service which the NHS is under a duty to provide. This includes Continuing Healthcare and the NHS contribution to Registered Nursing Care;
 - f) Assessment of needs and care planning cannot be charged for, since these processes do not constitute 'meeting needs'; and
 - g) Broadly, any services which the Council is under a duty to provide through other legislation may not be charged for under the Care Act 2014.

4.0 CAPITAL LIMITS

- 4.1 The financial limit, known as the 'upper capital limit' exists for the purpose of the financial assessment. This limit sets out at what point a person is entitled to access Council support to meet their eligible needs. Treatment of capital is detailed in the Care and Support Statutory guidance.
- 4.2 The 'upper capital limit' is currently set by government. Below this level, a person can seek means-tested support from the Council. This means that the Council will undertake a financial assessment of the person's assets and will make a charge based on what the person can afford to pay. In the financial assessment, capital below the 'lower capital limit, also set by government, is disregarded.

5.0 CARRYING OUT A FINANCIAL ASSESSMENT

- 5.1 The Council must carry out a financial assessment of what the person can afford to pay and, once completed, give a copy of the assessment to the person, in a format that is accessible to them.
- 5.2 The Council will have regard to the detailed guidance provided by the Department of Health.
- 5.3 The financial assessment will be reviewed annually in most cases and revised if there is a change in circumstances or if the person asks for a review.
- 5.4 At the time of the assessment, officers will establish if the person has capacity to take part in the assessment. If the person lacks capacity, the Council will find out if the person has any of the following as the appropriate person who needs to be involved:
 - a) Enduring Power of Attorney (EPA);
 - b) Lasting Power of Attorney (LPA);
 - c) Deputyship under the Court of Protection;
 - d) Any other person assisting or dealing with that person's affairs i.e. appointee-ship by the Department for Work and Pensions.
- 5.5 People who lack capacity and who do not have any of the above people with authority to be involved in their affairs, may require the appointment of a Deputy. This can take some time to resolve. Officers will have regard to this when undertaking the financial assessment as details regarding the person's income and capital may not be readily accessible.

- 5.6 In the financial assessment a person's capital is taken into account, having regard to the lower capital limit. A tariff income of £1 per week for every £250 in capital is derived for capital between the lower and upper capital limits as set by government. The tariff income is included as income in the financial assessment. For example, savings of £17,250 results in a weekly tariff of £12.00 per week.
- 5.7 In assessing what a person can afford to pay, the Council must take into account their income. However, earnings from current employment are disregarded. This is detailed further in Care and Support Statutory guidance.

6.0 'LIGHT TOUCH' FINANCIAL ASSESSMENTS

- 6.1 In some circumstances the Council may undertake a 'light-touch' financial assessment, the main circumstances in which the Council may consider carrying out a 'light-touch financial assessment are:
- a) Where a person has significant financial resources, and does not wish to undergo a full financial assessment for personal reasons, but still wishes to access The Council's support in meeting their needs. Officers will ask the person to sign a declaration to endorse this;
 - b) Where the Council charges a small or nominal amount for a particular service which a person is clearly able to meet and would have the relevant minimum income left and undertaking a financial assessment would be disproportionate;
 - c) When a person is in receipt of benefits which demonstrates that they would not be able to contribute towards their care and support costs.
- 6.2 Where a light-touch financial assessment is undertaken, officers will confirm that the person understands the charges that are due and that these will be paid. Where a person indicates that they can't afford to pay the charges due, a full financial assessment will be required.
- 6.3 Officers will seek to view appropriate supporting evidence when deciding whether or not to undertake a light-touch financial assessment. People will also be advised of their right to have a full financial assessment and the option of seeking independent financial information and advice.

7.0 DEPRIVATION OF ASSETS AND DEBTS

- 7.1 There may be some cases where a person may have tried to deliberately avoid paying for care and support costs through depriving themselves of assets – either capital or income. Where the Council believes they have evidence to support this, the Council can either charge the person as if they still possess the asset or, if the asset has been transferred to someone else, seek to recover the lost income from charging that person. This is detailed further in the Care and Support Statutory guidance.
- 7.2 Where a person has accrued a debt, the Council will use its powers under the Care Act to recover the debt. Officers will consider the circumstances of the case before deciding a course of action.
- 7.3 The Council may take County Court proceeding to recover the debt, having exhausted other reasonable alternatives for recovering the debt. Further details are set out in the Care and Support Statutory guidance.

8.0 CHARGING FOR CARE AND SUPPORT IN A CARE HOME

- 8.1 Where the Council is meeting the needs of a person by arranging a care home placement, it is responsible for contracting with the provider. The Council is responsible for paying the full amount including any top-up.
- 8.2 A person may wish to pay the top-up directly to the care home themselves. This can be agreed, however multiple contracts can cause some confusion and may not be in the person's best interests, these factors should be considered by all parties prior to contractual agreements being signed.
- 8.3 Where a person is a temporary or short-term resident in a care home for a period of up to the first 8 weeks, the Council will charge under its policy of charging for care and support in other care settings including home care – section 10.0.
- 8.4 People resident in a care home will contribute most of their income, towards the cost of their care and support. However, the Council must leave the person with a specified amount of their own income for personal items. This is known as the personal expenses allowance (PEA). This amount changes annually and is set by central government.
- 8.5 The Council will also refer to the Care and Support Statutory guidance, when undertaking a financial assessment.

9.0 CHOICE OF ACCOMMODATION

- 9.1 Where the care planning process has determined that a person's needs are best met in a care home, the Council must provide for the person's preferred choice of accommodation, subject to certain conditions. This extends to shared lives, supported accommodation and other care settings. The appropriate type of accommodation will be determined with the person as part of the care and support planning process. Therefore this choice only applies between providers of the same type.
- 9.2 The Council will ensure that the person has a genuine choice and will ensure that at least one option is available and affordable within a person's personal budget. However, a person also has the right to choose alternative options including a more expensive setting where an additional payment is required to top-up to the care home fees being charged. Detailed guidance is set out in the Care and Support Statutory guidance.

10.0 DEFERRED PAYMENT AGREEMENTS

- 10.1 The Council supports the principle that people should not be forced to sell their home in their lifetime to pay for their care. By taking out a deferred payment agreement a person can defer or delay paying the cost of their care and support until a later date.
- 10.2 In order to be eligible to receive a deferred payment the following criteria must be met:
- a) Anyone whose needs are being met by the provision of residential care. This is determined when someone is assessed as having eligible needs which the local authority decides should be met through residential care. Reasonable steps will be taken at the assessment stage to take account of a person's preferences;
 - b) Who has less than the 'upper capital limit' (set by government), in assets excluding the value of their home;
 - c) Whose home is not occupied by a spouse or dependent relative as defined in regulations on charging for care and support.
 - d) The Council may use its discretion to offer deferred payment agreements to people in residential care who do not meet the above criteria. In such cases officers will consider the circumstances of each case on its own merits having regard to the principles of the Act.

- 10.3 As deferred payment agreement can take some time to set up and agree. It is important that both the Council and the individual consider any potential issues around loss of capacity. If, at the point a person applies for a deferred payment agreement, the Council has concerns that a person either lacks or will soon come to lack capacity, the Council may offer to provide the person with information and advice on options for deputyship, legal power of attorney and advocacy. Officers will confirm what would happen were the person to lose capacity and not have made their own arrangements.
- 10.4 The Council may refuse to enter into a deferred payment agreement in circumstances set out in regulations. This provides local authorities with a reasonable safeguard against default or non-payment of debt.
- 10.5 In principle, a person eligible for a deferred payment should be able to defer the entirety of their care home costs; subject to any contribution the Council requires from the person's income. Officers will consider whether a person can provide adequate security for the deferred payment agreement, and whether the amount or size of the weekly deferral requested is sustainable given the equity obtained from their chosen form of security.
- 10.6 The Council will secure a first legal charge against a property on the Land Register. In cases of joint ownership, both owners must consent to a charge being obtained. The Council reserves the right to refuse a deferred payment agreement if it is not satisfied that adequate security can be put in place.
- 10.7 The Council will charge a one-off administration fee to cover the costs associated with setting up the deferred payment agreement. The Council will also apply interest charges set nationally by central government.
- 10.8 The deferred payment agreement will form a legal contract between the Council and the person. The agreement will set out the terms, conditions, information regarding the interest to be charged, the administration fee, termination of the agreement, the equity limit to be used and the arrangements for termination of the agreement.

11.0 CHARGING FOR CARE AND SUPPORT IN OTHER CARE SETTINGS INCLUDING HOME CARE

- 11.1 A person who receives care and support outside a care home will need to pay their daily living costs such as rent, food and utilities; the Council's will ensure that people have enough money left to meet these costs.

- 11.2 A person will be left with the minimum income guarantee (MIG), equivalent to Income Support plus a buffer of 25%.
- 11.3 The Council will also ensure that the person keeps enough money to cover the cost of meeting their disability related expenditure. This is detailed further in Care and Support Statutory guidance
- 11.4 The financial assessment will exclude the capital value of the property which a person occupies as their main or only home.
- 11.5 The Council will apply the same rules on capital and income as apply for charging for care and support in a care home.

12.0 CHARGING FOR SUPPORT TO CARERS

- 12.1 Where a carer has eligible support needs of their own, the council has a duty to arrange support to meet their needs.
- 12.2 The Council has decided not to charge carers, having considered the significant contribution carers make to the care economy.

13.0 REQUESTING COUNCIL SUPPORT TO MEET ELIGIBLE NEEDS

- 13.1 People with eligible needs and financial assets above the upper capital limit may ask the Council to meet their needs. Where a person asks the Council to meet their eligible needs, and it is anticipated that their needs will be met by a care home placement, then the council may choose to meet their needs, but is not required to do so.
- 13.2 The Council will ensure that people are aware of the right to request the Council to meet their needs even when they have the financial resources above the financial limits. The Council will provide information and advice about this.
- 13.3 The Council will charge an arrangement fee for providing this service.
- 13.4 The Council will require the person to sign a written document to secure a person's agreement to pay the care and support costs due.

14.0 WELFARE BENEFITS CHECK

- 14.1 A welfare benefit check will be made available to all people. This will automatically be available as part of the financial assessment process unless the person declines. The aim is to help people to maximise their income. This will include information and advice about entitlement; help

with completion of forms and referrals to the Department for Work and Pensions.

15.0 COMPLETION OF THE FINANCIAL ASSESSMENT

- 15.1 A home visit will be offered to assist with the completion of the financial assessment form and a welfare benefit check.
- 15.2 The financial assessment will be assessed within 7 days of the home visit and receipt of any supporting documentation.
- 15.3 Evidence will be required to support any expenditure claims, income, savings and capital held.
- 15.4 Charges will be applied from the first date the person receives the care service. An early indication will be given of the likelihood of the person having to pay or not when the care package is arranged.
- 15.5 Invoices will be issued monthly in arrears and people will be offered a range of payment methods to enable prompt settlement.

16.0 REVIEWS, REVISIONS AND REASSESSMENTS

- 16.1 Reviews will be undertaken annually to take into account any uprating of benefits. Written notification will be provided.
- 16.2 Reassessments will take place annually when possible to ensure that the financial assessment takes into account any change in circumstances.
- 16.3 Revisions will be made when the person has notified us of a change on their circumstances, this can include:
 - a) A change in their income, capital, savings or expenditure
 - b) A change to the household occupants
 - c) A change in benefit entitlement
 - d) An omission in the original assessment
 - e) A Direct Payment instead of a commissioned service.
- 16.4 Changes in circumstances should be reported to the Council within 21 days of the change occurring. The change should be supported with evidence.
- 16.5 If a person has a break in service, the same financial assessment will be applied as previously, unless the break is for a period exceeding 6 months.

17.0 APPEALS AND COMPLAINTS

- 17.1 If a person is dissatisfied with the outcome of their financial assessment, they can ask for a review. The person should put their request for a review in writing and provide any additional evidence which they deem appropriate to support their request.
- 17.2 A request for a review will be undertaken by a senior officer. The outcome of the review will be notified to the person, in writing, within 10 days of receipt of the review request.
- 17.3 If a person is still dissatisfied, they have the right to appeal. An appeal should be made within 28 days of the review notification letter's date. A manager will review the appeal and notify the person of the outcome within 10 days.
- 17.4 People are also able to make a complaint via the Council's formal complaints, compliments and comments policy.

18.0 DATA PROTECTION AND SECURITY

- 18.1 Any information gathered in the course of financial assessments will be handled and processed in accordance with the Data Protection Act 1998.
- 18.2 The Council has a Service Level Agreement with the DWP to enable the Council to share information with them. This exchange of information is also handled and processed in accordance with the Data Protection Act 1998.
- 18.3 A person has the right to request to view their personal information held by the Council. The Council charges a fee for the provision of this information.

A large print version of this document is available on request



Rutland
County Council

Rutland County Council
Catmose, Oakham, Rutland LE15 6HP

01572 722 577
enquiries@rutland.gov.uk
www.rutland.gov.uk