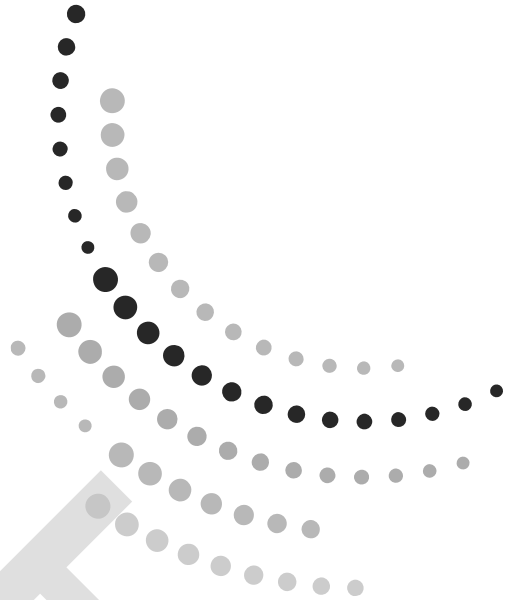




**Rutland**  
County Council



# Charging for Care and Support Policy

DRAFT

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## **Summary of document**

This policy details how the council will undertake financial assessments for adults receiving care and support.

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## **1.0 INTRODUCTION**

- 1.1 Rutland County Council (the Council) charges a contribution for care and support services provided to adults. The Charging for Care and Support Policy (the Policy) sets out a fair and consistent approach to ensure that the council complies with legislation, regulations, and guidance.
- 1.2 The Policy provides information about how we will undertake financial assessments for people living in the community and sets out how we will administer financial assessments for people living in care homes.
- 1.3 The Policy also explains how specific matters will be dealt with e.g., respite care, delays in completing financial assessments and how to make an appeal.

## **2.0 KEY PRINCIPLES**

- 2.1 The Council's Corporate Strategy has the following aims:
  - 2.1.1 Promoting health, happiness, and wellbeing for people of all ages and backgrounds.
  - 2.1.2 Help people to remain independent and in their own home or with their family and friends.
  - 2.1.3 People who do receive care have control over their daily life.
  - 2.1.4 There is timely and effective action which ensures adults at risk are safe from neglect and abuse.
  - 2.1.5 Take action to ensure the Council lives within its financial means.
  - 2.1.6 Develop our digital approach and improve customer experience.

## **3.0 LEGISLATION**

- 3.1 The Care Act 2014 provides the legal framework for charging for care and support in Sections 14,17 and 69-70.
- 3.2 The Care and Support Statutory Guidance (the Guidance) issued by the Department of Health sets out how the Council should undertake financial assessments in Chapter 8 and addresses Deferred Payment Agreements in Chapter 9.
- 3.3 The Guidance has several annexes as follows which are relevant to charging:
  - 3.3.1 Annex A – Choice of accommodation and additional payments
  - 3.3.2 Annex B – Treatment of capital
  - 3.3.3. ~~Obj~~ Annex C – Treatment of income
  - 3.3.4 Annex D - Recovery of debts
  - 3.3.5 Annex E – Deprivation of assets
  - 3.3.6 Annex F – Temporary and short-term residents in care homes

- 3.4. The legal framework provides a relatively uniform approach for charging people who live in a care home. The council has more discretion about charging for other settings which is set out in this Policy.
- 3.5 Any aspect of charging for care which is not explicitly detailed within this policy will be dealt with according to the Care Act 2014 and the Care and Support Statutory Guidance.

## **4.0 SERVICES WHICH ARE FREE OF CHARGE**

- 4.1 The Care Act has several exemptions which means that these services are provided free of charge. They are:
- 4.1.1 Intermediate care, including reablement for up to six weeks.
  - 4.1.2 Community equipment (aids and minor adaptations) costing less than £1,000 for meeting, preventing, or delaying a need.
  - 4.1.3 People with Creutzfeldt-Jacob Disease.
  - 4.1.4 After care services provided under Section 117 of the Mental Health Act 1983, unless the needs do not arise from, or are not related to their mental disorder, and fall outside the scope of Section 117.
  - 4.1.5 Any service or part service which the NHS is under a duty to provide. This includes Continuing Health Care (CHC) and NHS contribution to Registered Nursing Care.
  - 4.1.6 Assessment of needs and care planning.
  - 4.1.7 Any service which the Council is under a duty to provide through other legislation, cannot be charged under the Care Act 2014.

## **5.0 SERVICES FOR WHICH A CHARGE IS MADE**

- 5.1 The following care and support services are chargeable:
- 5.1.1 Permanent residential care in a care home or a nursing home.
  - 5.1.2 Respite care in a care home or a nursing home.
  - 5.1.3 Temporary stays and short term stays in a care home or a nursing home.
  - 5.1.3 Home care.
  - 5.1.4 Day care, day activities and day opportunities.
  - 5.1.5 Direct Payments.
  - 5.1.6 Care services delivered to people in prison.
- 5.2 A person over the age of 18 years of age who has been assessed as having eligible care and support needs, either in the community or in a care home, will need a financial assessment to determine how much their contribution will be.

## **6.0 GENERAL CHARGING PRINCIPLES**

- 6.1 The Council's charging principles are as follows:

- 6.1.1 Ensure that people are charged in accordance with legislation, regulations, guidance and in line with the Policy and that the charge is reasonable for a person to pay.
- 6.1.2 Promote wellbeing, social inclusion, supporting person centred care, independence, and choice.
- 6.1.3 Apply charging fairly so those with similar care and support needs and services are treated the same to reduce anomalies.
- 6.1.4 For the administration to be cost effective and sustainable for the Council so it can continue to provide services for people needing care and support in the future.
- 6.1.5 Be clear, transparent, and comprehensive so people know what they need to pay.
- 6.1.6 Support carers to look after their own wellbeing and recognise their valuable contribution.
- 6.1.7 Encourage and enable people to stay in or take up employment, education, or training if they can do so.

## **7.0 HOW TO APPLY FOR A FINANCIAL ASSESSMENT**

- 7.1 People can complete an online form. This is the preferred option as it enables people to get an idea of how much their charge might be promptly. The application can be undertaken before a care and support plan is put in place, during or afterwards.
- 7.2 A paper form can also be downloaded, completed, and sent back to us. This option will take longer as the data provided will need to be entered into the system by an officer.
- 7.3 Alternatively, you can make an appointment to see an officer at the Council offices if you need help completing the form and do not have anyone who can help.
- 7.4 In exceptional circumstances, we can arrange to undertake a home visit. This service is reserved for people who do not have anyone to help them and are immobile.

## **8.0 LIGHT TOUCH AND SELF-ASSESSMENTS**

- 8.1 A 'Light Touch' financial assessment is suitable for people who have the following circumstances:
  - 8.1.1 A person has significant financial resources which are well above the upper capital limit and does not wish to complete a full financial

assessment. In this case the person would pay the full cost of any service provided.

8.1.2 A person is receiving a small service which they can easily afford to pay for and carrying out a financial assessment would be disproportionate.

8.1.3 A person is in receipt of benefits which demonstrates that they would not be able to afford to pay a charge towards their care and support.

8.2 The Council reserves the right to undertake a full financial assessment if there is uncertainty about a person's financial circumstances or it is not clear that a light touch or self-assessment is suitable.

8.3 A self-assessment can be chosen if a person has disability related expenditure and is willing to accept a set rate for their expenses. The advantage of this is that the person would not need to provide us with as much evidence, and it will be quicker to find out the charge payable.

## **9.0 DELAYS IN COMPLETING A FINANCIAL ASSESSMENT**

9.1 A financial assessment form should be completed within 2 weeks of being contacted by the Council. If evidence is requested, this should be provided within 2 weeks of the request.

9.2 If a person or their representative is unable to comply with this time the Council should be advised and a short extension of up to a further 2 weeks may be agreed. Extensions will be determined on a case-by-case basis having regard to the cause of the delay and the likely time for final completion.

9.3 If there is an unreasonable delay the Council will charge the full cost of the care and support service. Once the financial assessment is completed, if this results in a lower charge, a refund of an overpayment can be requested. A refund will only be made if the account is in credit and regular payments are being maintained, otherwise the credit will be retained to offset future care and support charges.

## **10.0 CHARGING FOR PEOPLE LIVING IN THE COMMUNITY**

10.0.1 This refers to care and support received in a person's home and other care services provided in the community. This includes;

- Home care
- Day opportunities
- Community support
- Supported living
- Shared lives
- Day care
- Services purchased directly e.g. Personal Assistant



10.0.2 The Council uses the Minimum Income Guarantee (MIG) in accordance with statutory regulations to ensure that a person is left with sufficient funds to cover living costs. This is set by the Department of Health annually. The amount of MIG a person needs to retain is affected by several factors e.g.. age. This is detailed further in Appendix 4.

10.0.3 The Council will apply an additional percentage to the MIG to allow people with a severe physical and/or mental disability to retain more of their income to reflect higher expenditure for daily living costs. This is detailed further in Appendix 4.

## **10.1 PERSONAL BUDGETS**

10.1.1 A person will be allocated a Personal Budget if a needs assessment identifies eligible needs for care and support. This is the total amount of your care package for the year. A Personal Budget is made up of money from the Council plus the person's assessed contribution, if any.

10.1.2 A person can use their Personal budget to buy care and support needed by any of the following ways:

- Services commissioned or arranged by the Council
- A Direct Payment
- A combination of commissioned services and a Direct Payment

10.1.3 The Personal Budget amount can change during the year if your needs change and your support plan changes or your financial assessment review results in your contribution increasing or decreasing. The person will be notified in writing.

## **10.2 SELF-FUNDERS**

10.2.1 If a person has capital above the upper capital limit, they will be required to pay the full cost of their care. This person is referred to as a self-funder.

10.2.2 A person may be treated as a self-funder if they:

- Choose not to disclose financial information to enable a financial assessment to be undertaken.
- Fail to co-operate or delay in completing a financial assessment
- Are not eligible for financial support as a result of a financial assessment

10.2.3 Self-funders are eligible for a free needs assessment. If a self-funder requires the Council to arrange their care and support services, rather than making their own arrangements, a one-off arrangement fee will be charged. Details of the cost are available in the fees and charges annual report.

10.2.4 Self-funders should monitor their funds regularly. When their funds are falling and nearing the upper capital limit, they should contact the Council to see whether the Council are required to meet their needs. A needs assessment may be undertaken. If the Council determines that you have eligible needs, a date will be agreed for when the person's funds will or have dropped below the upper capital limit.

10.2.5 If capital increases and exceeds the upper capital limit for longer than 2 months, and this is likely to continue based on projections, then the person will be treated as self-funding again.

## 10.3 CAPITAL

10.3.1 A person is required to detail all their capital in the financial assessment. This includes:

- Bank accounts
- Savings accounts
- Premium bonds or other bonds
- Stocks and shares
- Life assurance policies or trust funds
- Property or land owned in the UK and abroad
- Capital in business
- Any other assets held or entitlement of an asset or beneficial ownership

10.3.2 The value and treatment of capital is set out in the regulations, statutory guidance, and Annex B.

10.3.3 Where capital is jointly owned, the beneficial owner is treated as owning an equal share of the capital asset unless there is evidence that the person owns a different share.

10.3.4 An asset will be valued at the current market value e.g. the price a willing buyer would pay a willing seller. If there is an expense in selling the asset, the value of the asset will be reduced by 10%.

10.3.5 Property or land is valued in accordance with its current market value less:

- 10% of the value to cover sale expenses and fees
- Any outstanding debts on the property such as a mortgage

10.3.6 You will be required to obtain a valuation. If this is unrealistic or lower than expected the Council may engage the Valuation Office to undertake an independent valuation. This valuation figure will then be used.

10.3.7 If an asset is sold, the capital amount realised will be taken into account from the date of the sale, less any actual expenses.

10.3.8 In some cases a person may be treated as having capital that they do not have. This is known as notional capital. Notional capital may be money that:

- Would be available if a person had applied for it
- Is paid to a third party in respect of the person
- A person has deprived themselves of in order to reduce the amount of their contribution

The value of notional capital will be reduced over time by the difference between the weekly rate payable and the weekly rate payable if the notional capital did not apply.

## 10.4 INCOME

10.4.1 A person is required to detail all their income in the financial assessment. This includes:

- Pensions
- State benefits
- Earnings
- Other regular income

10.4.2 The treatment of income is set out in the regulations, statutory guidance, and Annex C.

10.4.3 Some income is disregarded. If this is the case this will be detailed in the financial assessment.

10.4.4 In some cases a person may be treated as having income that they do not have. This is known as notional income. Notional income may be money that:

- Would be available if a person had applied for it
- A person is eligible for via a pension, but they have not arranged to draw down the maximum annuity
- Is due but has not yet been received
- Is paid to a third party in respect of the person
- A person has deprived themselves of in order to reduce the amount of their contribution

## 10.5 JOINT ACCOUNTS

10.5.1 A person must also provide details of all joint bank accounts, savings accounts, assets, and investments held with other people e.g. spouse, partner, sibling, son, daughter, business partner.

10.5.2 Joint accounts will be divided equally, unless you are able to provide evidence to the contrary, in which case a different percentage may be used. This

evidence must be compelling and genuine, otherwise an equal division will apply.

10.5.3 Consideration will be given to deprivation of assets or income as detailed in Appendix 7.

## 10.6 DISABILITY RELATED EXPENDITURE

10.6.1 Allowances are made for Disability Related Expenditure (DRE) that a person may incur due to their disability, which is not being met within the care and support plan.

10.6.2 A person may choose to self-assess their DRE. This uses a banding system to determine a set amount of DRE depending on the disability benefits claimed. Allowances for each band are set annually and are published in Appendix 4.

10.6.3 The current bands are:

<b>Band</b>	<b>Benefits claimed</b>
Band 1	Disability Living Allowance: care component-lower rate
Band 2	Disability Living Allowance: care component-middle rate Personal Independence Payment: daily living component-standard rate Attendance Allowance: lower rate
Band 3	Disability Living Allowance: care component-higher rate Personal Independence Payment: daily living component-enhanced rate Attendance Allowance: higher rate

10.6.4 If a person has more DRE than the banded rates allow for, then a full financial assessment can be requested. Receipts for all expenses being claimed will be requested for the last 3 months.

10.6.5 A request for a full financial assessment may result in a DRE amount of lower than the banded rate, if this is the case the lower amount will be used in place of the banded rate.

10.6.6 Please refer to Appendix 5 for DRE procedures and amounts.

## 10.7 NIGHT CARE SERVICES

10.7.1 The Council does not provide night care services. The night care or enhanced element of Attendance Allowance, Personal Independence Payment or Disability Living Allowance is disregarded except where a person lives in supported accommodation. This enables people to fund their own night care service if needed.

## 10.8 COUPLES OR JOINT OCCUPIERS

10.8.1 Everyone is treated as an individual for the purposes of undertaking a financial assessment. This means that we will assess only the income and capital of the person who is undergoing the financial assessment even if they are part of a couple.

10.8.2 Jointly owned assets, income and expenses will be divided equally, unless you are able to provide evidence to the contrary, in which case a different percentage may be used. This evidence must be compelling, genuine and the reason, motivation and background should be explained.

10.8.3 Where there is more than one person living at an address, expenses will be split between the number of adults resident. For example, an individual living at home with their partner and adult son will have council tax expenses divided 3 ways, to take into account that there are 3 people resident at the address and contributing towards the household. Alternatively, an individual living at home with their partner will have cleaning fees divided 2 ways if the cleaning is for the benefit of both members of a couple and not just the person receiving care.

Where the individual being assessed for care is disregarded for council tax purposes and other members of the household are still liable, for example, where a person is disregarded because of a severe mental impairment, no allowance for council tax will be made in the financial assessment.

10.8.4 Consideration will be given to deprivation of assets or income as detailed in Appendix 7.

## **11.0 CHARGING FOR PEOPLE LIVING IN CARE HOMES**

11.0.1 People in care homes will contribute most of their income towards the cost of their care. The regulations allow a person to retain a set amount to spend on personal items called the Personal Expenses Allowance (PEA).

11.0.2 The treatment of capital and income is defined in the statutory guidance set out in Annex B and C.

11.0.3 A person with capital (savings and investments) that is below the upper capital limit will be eligible for council funded support and the Council will pay the care home directly. The Council will invoice the person for their contribution.

11.0.4 A person with capital above the upper capital limit will not be eligible for council funded support and will need to pay for their care directly to the care home. This person is referred to as a self-funder.

11.0.5 If a person needs nursing care, the NHS will carry out a nursing care assessment and contribute to some of the cost of the care. This is called Registered Nursing Care.

## **11.1 CARE HOME COSTS**

- 11.1.1 Weekly care home rates vary from home to home. The Council uses a local authority rate, that it is prepared to pay, for a suitable placement in Rutland. This is referred to as a 'bed rate.' This is reviewed annually. If a care home is chosen which is out of county, then the bed rate set by that local authority will be used.
- 11.1.2 If a person chooses a care home with a higher weekly rate than the Council's bed rate, a top-up payment may be required to make up the difference. Please refer to section 11.3 for more details about top-ups.

## **11.2 CHOICE OF ACCOMMODATION**

- 11.2.1 If the Council is meeting eligible needs by arranging care and support in a care home, at least one option will be available and affordable within a person's personal budget.
- 11.2.2 Details are set out in Annex A – Choice of accommodation and additional payments of the statutory guidance.

## **11.3 TOP-UPS**

- 11.3.1 There are 2 top-up options. A person can pay their own top up in some circumstances, this is known as a first party top-up. In all other circumstances the top-up must be paid by a third party, known as a third party, top up.
- 11.3.2 A first party top up can be paid in the following circumstances only:
- a) During a 12-week property disregard period
  - b) As part of a Deferred Payment Agreement, whereby the top-up is also deferred (please see section 11.7 for more details)
  - c) If a person is assessed under Section 117 of the Mental Health Act
- 11.3.2 A third party top up can be paid by anyone who is willing to enter into the agreement. This tends to be a family member. The Council must be made aware of the arrangement and any other additional costs, so they are included in the Council's contract with the care home. The top-up payments must be sustainable, as the Council is not able to pay the top-up if the third party is not able to do so. This could mean that the person needs to move to a less expensive care home which accepts the Council's bed rate.
- 11.3.3 The third party can make their own arrangements to pay the care home directly, or the Council can pay the care home and invoice the third party for their contribution.

## **11.4 FINANCIAL ASSESSMENT CALCULATION**

11.4.1 Self-funders are required to pay the full cost of their care.

11.4.2 A person with capital below the upper limit will receive a financial assessment to determine their contribution. This is calculated by deducting disregards and allowances from your income and tariff income and retention of your Personal Expenses Allowance set annually by government. This is to cover incidentals like toiletries, clothing, confectionary, newspapers etc.

## **11.5 SELF-FUNDERS**

11.5.1 A person with capital above the upper capital limit will not be eligible for council funded support and will need to pay their care home directly. This person is referred to as a self-funder.

11.5.2 A person may be treated as a self-funder if they:

- Choose not to disclose financial information to enable a financial assessment to be undertaken.
- Fail to co-operate or delay in completing a financial assessment
- Are not eligible for financial support because of a financial assessment

11.5.3 Self-funders can ask the Council to arrange their care and support in a care home, rather than making their own arrangements. A one-off arrangement fee will be charged. Details of the cost are available in the fees and charges annual report.

11.5.4 Self-funders should monitor their funds regularly. When their funds are falling and nearing the upper capital limit, they should contact the Council to see whether the Council are required to meet their needs. A needs assessment may be undertaken. If the Council determines that you have eligible needs, a date will be agreed for when the person's funds will or have dropped below the upper capital limit.

11.5.5 If capital increases and exceeds the upper capital limit for longer than 2 months, and this is likely to continue based on projections, then the person will be treated as self-funding again.

## **11.6 PROPERTY**

11.6.1 The Council will include the value of property owned by the person as capital. This includes property owned outright, partly owned or where a beneficial interest is held.

11.6.2 The Council can disregard a property if one of the following apply:

- It is occupied by their partner
- It is occupied by a relative who is over 60 years of age or is disabled
- It is occupied by a child under 18 for whom they are responsible

and providing the property has been continuously occupied by any of the people listed above before the person moved to the care home.

11.6.3 Annex B of the Statutory Guidance provides further details.

11.6.4 The Council has discretion to exclude the value of a person's home in some other circumstances. Consideration will be given to this on a case-by-case basis. The Council will take a balanced decision given the need to ensure that it does not fund residents with assets at public expense.

11.6.5 The Council will disregard the value of the property for up to 12 weeks when a person first becomes a permanent resident in a care home. The property must have been their main home before moving into a care home. This is called a 12-week property disregard. This will not apply where a person has been permanently resident and self-funding their stay in a care home for more than 12 weeks before they become entitled to local authority assistance with their care funding.

11.6.6 If the Council is meeting eligible needs by arranging care and support in a care home, the Council will pay the weekly care home fees and send an invoice to the person for their contribution.

11.6.7 The person may ask the Council for a Deferred Payment Agreement during the 12-week property disregard. This allows a person to delay paying the full care home costs if they do not want to sell their home in their lifetime.

11.6.8 When the 12-week property disregard ends, unless a Deferred Payment Agreement has been applied for and agreed, the person will be responsible for paying their own care fees directly to the care home.

11.6.9 If the property is sold during the 12-week property disregard period, the person will be responsible for paying their own fees directly to the care home from the date of the sale completion as it is likely that upon sale completion, capital more than the upper capital limit will have been received.

## **11.7 DEFERRED PAYMENT AGREEMENT**

11.7.1 A Deferred Payment Agreement (DPA) allows a person who is living in residential care to delay selling their home in their lifetime. Instead, the Council funds their care fees on a loan basis, which must be repaid once the property sells or upon death. The Council can offer a DPA if a person's savings are less than the upper capital limit and they do not have sufficient income to pay all the fees.



11.7.2 There are several important considerations to assess before entering into a DPA. People are strongly urged to seek independent legal advice and financial advice before considering this option.

11.7.3 The Council will require the person or their representative to complete a DPA form and consent to a legal charge being placed on the property. The Council reserve the right to refuse a DPA if a legal charge cannot be obtained e.g. the property is not listed on the land registry.

11.7.4 Appendix 6 sets out more details about DPAs.

## **11.8 PERSONAL EXPENSES ALLOWANCE**

11.8.1 The Personal Expenses Allowance (PEA) is set annually by government. This allowance is to cover incidentals like toiletries, clothing, confectionary, newspapers etc. It is up to each person to decide how they spend their PEA.

11.8.2 The PEA is set at a higher amount for people who have a DPA to enable them to continue to maintain their home and pay associated household bills.

## **12.0 ADMINISTRATION FEES**

12.1 The Council charges a one-off administration fee to cover the costs associated with setting up, managing, and closing a DPA. This is set annually by the Council. The fee is charged up front but can be added to the DPA upon request.

12.2 The Council charges a one-off fee for self-funders who ask the Council to help them arrange care and support. This is set annually by the Council.

## **13.0 RESPITE**

13.1 Respite is a short stay in a care home to allow your carer to take a break. People in receipt of a respite care package will be assessed so that they are left with sufficient income to pay their share of household bills for the first 4 weeks of their continuous stay.

13.2 During the first 4 weeks of a respite stay, we will include allowances for the following household bills: rent/mortgage, service charges, buildings insurance, council tax, gas/electricity or other fuel and water. We will also include any eligible Disability Related Expenditure which must continue to be paid for whilst the person is receiving respite care e.g. a lifeline.

13.3 If any stay exceeds 4 weeks in duration, the charge will be assessed under residential care charges.

## **14.0 SHORT TERM OR TEMPORARY STAYS IN A CARE HOME**

- 14.1 A short term stay, or temporary stay may be arranged if a person has for example been discharged from hospital but is not well enough to return home yet, or a trial stay in a care home has been organised to see if it is suitable but the stay is not permanent yet. People in receipt of a short term or temporary care package will be assessed so that they are left with sufficient income to pay their share of household bills for the first 8 weeks of their continuous stay.
- 14.2 During the first 8 weeks of a short term or temporary stay, we will include allowances for the following household bills: rent/mortgage, service charges, buildings insurance, council tax, gas/electricity or other fuel and water. We will also include any eligible Disability Related Expenditure which must continue to be paid for whilst the person is receiving short term care e.g. a lifeline.
- 14.3 If a short term or temporary placement becomes permanent the person will be financially assessed as a permanent resident from the date this is confirmed, and the care and support plan is amended.
- 14.4 If any stay exceeds 8 weeks in duration, the charge will be assessed under residential care charges.

## **15.0 WHERE A PERSON LACKS CAPACITY**

- 15.1 The Council will establish if a person has capacity to take part in a needs assessment and a financial assessment.
- 15.2 If a person lacks capacity, the Council will establish if the person has any of the following as the appropriate person/s to be involved in the financial assessment:
- Enduring Power of Attorney (EPA)
  - Lasting Power of Attorney (LPA) for Property and Affairs
  - Deputyship made by the Court of Protection
  - Any other person dealing with the person's affairs e.g. appointee granted by The Department of Work and Pensions (DWP), third party access to bank accounts has been given.
- 15.3 If no formal arrangements are in place, family members should apply for Deputyship without delay.
- 15.4 If the person has no family or they are unsuitable to undertake the role, the Council will consider asking a panel deputy to apply. As a last resort, the Council will apply for deputyship.

## **16.0 CONTINUING HEALTHCARE**

- 16.1 NHS Continuing Healthcare (CHC) is a package of ongoing health, care and support that is arranged and funded by the NHS. The details are set out in the national framework for NHS CHC and NHS-funded Nursing care guidance.

- 16.2 The law states that councils cannot commission services that are the responsibility of the NHS.
- 16.3 If a person is assessed as eligible for CHC funding by an Integrated Care Board (ICB) they must provide that funding. In some cases, funding is 100% or a lower percentage, in which case the Council and the NHS fund jointly. The person would be subject to a financial assessment on the percentage paid by the Council.
- 16.4 The process of obtaining and retaining CHC funding is complex. An organisation called Beacon gives free advice. Their website is <https://beaconchc.co.uk>

## **17.0 CHARGING CARERS**

- 17.1 The Council does not charge carers for services provided directly to the carer. This is in recognition of the significant contribution carers make to help to maintain the health and wellbeing of the person they care for.

## **18.0 REVIEWS**

- 18.1 A review can be requested at any time.
- 18.2 There is an automatic review of every financial assessment annually when state pensions, benefits and allowances change in April. The new charges will be confirmed in writing.
- 18.3 The Council will undertake a review annually. This will usually occur a year after the initial financial assessment was undertaken.
- 18.4 A review may change the amount a person must pay. This will be confirmed in writing.
- 18.5 The points in section 9.0 regarding delays in completing a financial assessment, also apply to reviews.

## **19.0 DUTY TO NOTIFY CHANGES IN CIRCUMSTANCES**

- 19.1 A change in circumstances must be reported to the Council within 21 days of the change.
- 19.2 This includes, but is not limited to, the following:
- A change to private pensions e.g. an increase in the amount received
  - A change to state benefits e.g. Attendance Allowance is awarded
  - A change to savings e.g. savings have increased or decreased
  - An expense included in the financial assessment has changed e.g. a gardener is no longer needed

19.3 Any changes that have not previously been reported to us, will be taken into account from the date of the change. This means that backdated payments will be included. The same will apply to changes in income or capital e.g. private pension increases. This ensures that people who do not tell us about a change when it happens, are not treated more favourably than those who do.

19.4 A change to the amount charged will be confirmed in writing.

## **20.0 CANCELLATION OF SERVICES**

20.1 If a person's care is arranged or commissioned by the Council and they need to cancel one or more services/visits, they should contact us giving 3 days' notice. This will count as a cancelled visit and the person will not be charged.

20.2 If this is not possible, give as much notice as possible in order that the service provider can be notified. This may not be counted as a cancelled visit so a charge may still be applied.

20.3 In the event of an emergency, notice is not necessary. e.g. a person is admitted to hospital for urgent medical treatment.

20.4 All services will remain chargeable whilst in place. If a person decides to cancel part or all their service, 3 days' notice will be required.

20.5 When a person dies their service and charge will end on the date of death. For care home residents, the Council will pay the care home for an additional 3 days to allow for relatives to retrieve personal effects and cleaning.

## **21.0 INFORMATION AND ADVICE**

21.1 The Council will provide information to help a person understand paying for care and support services. This will be provided in a way that is most suitable for the person. This can include information on the Council's website, leaflets, verbally, emails or letters.

21.2 The Council will also make people aware of independent financial advice that is available and how to access this. This includes regulated advice from an organisation regulated by the Financial Conduct Authority (FCA).

21.3 The Council will also signpost to free impartial advice services such as Citizens Advice Bureau, Age UK.

## **22.0 ERROR AND FRAUD**

22.1 The financial assessment requires a person to declare their true financial circumstances and all assets, property savings and investments. Failure to do so or giving false details could result in the person or their representative being liable to prosecution.

22.2 If a person or their representative fails to disclose any material fact, the Care Act 2014 gives the Council the power to recover a debt or any sums it would have recovered but for the misrepresentation or failure.

22.3 This includes:

- Failure to cooperate with undertaking a financial assessment
- Not complying with reasonable requests for evidence or information
- Not providing evidence of income, capital or expenditure requested
- Prolonged delays

22.4 If the Council finds an error in a financial assessment, the correction of which results in an increased charge, the change will only apply from the date the error is found (not backdated) and the person will be advised in writing.

## **23.0 DATA PROTECTION**

23.1 The Council will use information about people to process their financial assessments. Relevant information may also be obtained from the Department for Work and Pensions and His Majesty's Revenue and Customs.

23.2 Information about how the Council complies with the General Data Protection Regulations are on the Council's website.

## **24.0 COMPLAINTS AND APPEALS**

24.1 A person can make a complaint if they are not happy with the service they have received. Details of how to make a complaint are on the Council's website.

24.2 A person can also appeal any aspect of their financial assessment if they are dissatisfied with the outcome of the financial assessment. The appeal process is detailed below:

### **Stage 1 - Review**

The person, or their representative, should apply in writing for a review of the decision. They should state the reason for the review, providing as much information and evidence as possible and if known, detail their required outcome.

A senior officer, independently of the initial decision, will undertake a review of the initial decision. The Council will undertake this review within 28 working days of the request. The person will be advised in writing of the outcome of the stage 1 review.

The Council is under no obligation to backdate the outcome of the Stage 1 review.

If the person is still aggrieved the person or their representative can request to progress to a Stage 2 - Appeal.

## **Stage 2 - Appeal**

The person, or their representative should state the reason for the appeal, providing as much information and evidence as possible and if known, detail their required outcome. An appeal must be made in writing and made within two months of the outcome of the Stage 1 Review decision.

A manager or director, independently of the Stage 1 review, will consider the appeal. The Council will consider the appeal within 28 working days of the request. If the appeal is complex, more time may be required to consider the appeal. If this is the case a final response date will be provided to the appellant. The Stage 2 decision will be provided in writing.

## **25.0 PAYING THE CHARGES**

- 25.1 The purpose of the financial assessment is to assess what a person can afford to pay for their care charges. A person will always be left with the guaranteed minimum income level set by government (MIG), and we will consider reasonable disability related expenditure and household expenditure as set out in Appendix 5.
- 25.2 If a person considers that a financial assessment results in a charge that is not affordable, information will be requested to complete a more detailed income and expenditure analysis to further consider affordability of the charge.
- 25.3 Invoices will be issued 4-weekly in arrears. People are encouraged to set up a Direct Debit to ensure the charges are paid efficiently and promptly. Other methods of payment are available if Direct Debit is not suitable.
- 25.4 Recovery action will be taken if payments are not made promptly. Please refer to section 27.

## **26.0 WAIVERS**

- 26.1 A person or their representative can ask the Council to waive the charges if they are experiencing severe financial hardship and cannot afford to pay the charges. The person should have a genuine reason and be taking steps to remedy the situation. A request must be made in writing.
- 26.2 The Council may ask people to complete a form detailing their income and expenditure. The requestor must be willing to provide supporting evidence and information for a waiver to be considered.
- 26.3 A senior officer will consider the request within 28 working days of it being made. The person will be advised in writing of the decision.

26.4 Waivers are discretionary and can only be made in exceptional circumstances after careful consideration of the facts. The Council must consider the overall cost to the Council in waiving charges.

26.5 If charges are waived, it may be for a set period only and kept under review. There may also be conditions attached to the waiver such as seeking advice or support.

## 27.0 RECOVERY OF DEBT

27.1 The law allows recovery action to be taken when charges are not paid in accordance with the terms set out in the invoice.

27.2 The Council's Corporate Debt Policy details the steps that can be taken to enforce payment.

## 28.0 DEFINITIONS OF TERMS USED IN THIS POLICY

Policy	A document that explains how Rutland County Council will make decisions about a particular area. Policies are used to make it clear what people can expect from the Council
The Care Act 2014	The law that sets out how the Council must deliver care and support services. The charging for care and support policy has been developed to comply with the Care Act 2014, regulations, and statutory guidance
Wellbeing	This concept is central to the Care Act and must inform all a Local Authority's activities. There is no one definition of wellbeing and it is a broad concept. Considerations of wellbeing will take the following into account: <ul style="list-style-type: none"> <li>•Personal dignity</li> <li>•Physical and mental health and emotional well-being</li> <li>•Protection from abuse</li> <li>•Control by the adult over day-to-day life</li> <li>•Participation in work, education, training, or recreation</li> <li>•Social and economic well-being</li> <li>•Domestic, family, and personal</li> <li>•Suitability of living accommodation</li> <li>•The adult's contribution to society</li> </ul>
Carer	A carer is someone (aged 18 or over) who helps another person in their daily life, usually a relative or friend, who could not manage without that support. This is not the same as someone who provides care professionally or through a voluntary organisation.
Eligible Needs	Needs that meet the criteria set out in the Care Act and as such must be met by the Council based on your financial situation.
Information	Communication of relevant knowledge and facts regarding care and support.

Advice	Helping you to identify choices and/or providing an opinion or recommendation regarding a course of action in relation to care and support.
Duty	What the Council or a person is legally required to do.
Discretionary	Powers the council can exercise but are not legally required to do so.
Attorney	Enduring Power of Attorney or Lasting Power of Attorney. A legal process that lets a person appoint one or more people (known as attorneys) to help them make decisions or make decisions on their behalf
Deferred Payment Agreement	The formal mechanism where the Council and a person agree to the deferral of the difference between the personal budget amount and the assessed contribution against the value of the person's property
Deputy	A person authorised by the Court of Protection to manage the affairs of someone who lacks the mental capacity to manage their own affairs
Legal Charge	A legal document held by the Land Registry showing that the Council has a claim on a person's property
Personal Budget	Money that is allocated to a Person or Carer by the Council to pay for care or support to meet their eligible needs.
Representative	Person nominated by a person to assist them with the financial assessment process.
Reasonable cost	Are amounts that do not exceed that which would be incurred by a prudent person under the circumstances existing at the time the decision was made to incur the cost
Essential equipment	An item purchased due to disability/condition to support independent living at home (if not supplied free of charge, through Adult Social Care, NHS, or a Disabled Facilities Grant).
People/Person	Person receiving care services provided under the Care Act 2014
Supported Living	An alternative to residential care or living with family that enables adults with disabilities to live in their own home, with the help they need to be independent.
The Council	Rutland County Council District Council
Top-up	The difference between the actual costs of the preferred care home and the amount that the Council has set in a Personal Budget to meet the person's eligible needs.



## APPENDIX 1 FEES AND CHARGES

The Council sets its fees and charges annually. A link to the most recent fees and charges report approved by Council is here [Agenda for Council on Monday, 26th February, 2024, 7.00 pm | Rutland County Council \(moderngov.co.uk\)](#)

**All rates apply from 1 April 2024**

<b>Standard rates for residential care</b>	<b>Weekly amount</b>
Residential care bed rate	£tbc
Nursing care bed rate	£tbc
Dementia care bed rate	£tbc

Self-funders – administration fees

<b>Administration fee- one-off</b>	<b>amount</b>
Arranging care and support	£tbc
Deferred Payment Agreement scheme	£tbc

Home care charges

<b>Service provided</b>	<b>Charge</b>
Half hour call	£tbc
1 hour call	£tbc

## APPENDIX 2 CAPITAL LIMITS

The current capital limits are:

	<b>From 1 April 2022</b>	<b>From 1 April 2023</b>	<b>From 1 April 2024</b>	<b>Decision maker</b>
Upper capital limit	£23,250	£23,250	£23,250	Department of Health
Lower capital limit	£14,250	£14,250	£14,250	Department of Health

## **APPENDIX 3 TARIFF INCOME**

Capital between £14,250 and £23,250 attracts a tariff of £1 for every £250 or part of £250 above £14,250.

Capital under £14,250 is disregarded in the financial assessment.

Example – If a person has capital of £14,750, they are treated as having £2 a week tariff income (2 lots of £250).

## APPENDIX 4 ASSESSMENT ALLOWANCES (MIG)

Care and support in a care home

Type of allowance	Weekly amount
Personal Expenses Allowance (PEA) 2023 to 2024	£28.25
Savings Disregard – if pension age and qualifies for pension credit savings element- individuals	£6.50
Savings Disregard – if pension age and qualifies for pension credit savings element -couples	£9.75
Disposable Income Allowance (DPA)	Up to a maximum of £144.00

Care and Support in the community e.g. home care

Circumstances where the adult is:	Level of 'minimum income guarantee' (MIG)
<b>Single person</b>	
Responsible for, and a member of, the same household as a child, the amount in respect of each child	£94.90
aged 18 or older but less than 25	£82.15
aged 25 or older but less than pension credit age	£103.65
attained pension credit age	£214.35
a lone parent aged over 18	£103.40
<b>Couples</b>	

One or both are aged over 18	£81.40
One or both have attained pension credit age	£163.65
<b>Disability premiums</b>	
Single disability premium	£45.75
Single enhanced disability premium	£22.35
Couple disability premium	£32.60
Couple enhanced disability premium	£16.05
Carer premium	£49.05

### **Additional MIG allowance**

The Council has set a local variation to allow certain working age people to retain an extra 10% on top of their standard MIG allowance.

This will apply to people who fulfil all the following criteria:

- Working age adults from the age of 18 or older but who are less than pension credit age.
- Who are in receipt of the highest rate of either the daily living component of Personal Independence Payment or care component of Disability Living Allowance.
- Who are unable to undertake any kind of paid employment because of a severe physical and/or mental disability.
- Who are unable to manage their own finances and need support from an attorney, deputy, or appointee.
- Whose care and support plan clearly demonstrates that the person needs help with all day-to-day activities e.g. personal care and hygiene, food preparation, accessing the community.

For example, a severely disabled single person, aged 33, in receipt of the disability and enhanced disability premium would receive a MIG of £171.75 plus 10%:  $£171.75 + £17.18 = £188.93$ .

Eligible individuals will be identified and considered by financial assessment officers through consultation with Adult Social Care.

## APPENDIX 5 DISABILITY RELATED EXPENDITURE

### Self-assessment rates

Band 1	£10	Disability Living Allowance: care component-lower rate
Band 2	£15	Disability Living Allowance: care component-middle rate Personal Independence Payment: daily living component-standard rate Attendance Allowance: lower rate
Band 3	£20	Disability Living Allowance: care component-higher rate Personal Independence Payment: daily living component-enhanced rate Attendance Allowance: higher rate

People that do not have a light touch financial assessment or self-assessment of their DRE can provide details of their Disability Related Expenditure (DRE) for consideration. If an expense is allowed as DRE, the cost will be deducted from the person's charge.

DRE is additional costs a person incurs due to their disability or illness. These expenses must be directly and solely attributable to the person's disability or illness.

#### 1. The following is taken into account when deciding if an expense is a DRE:

- The person must be in receipt of a disability related benefit e.g. Attendance Allowance, Disability Living Allowance, Personal Independence Payment.
- Only costs incurred by the person will be considered.
- The council reserves the right not to allow costs that should be met by other agencies, such as the NHS. This applies to therapies such as physiotherapy, chiropody, and incontinence pads.

- The Council will apply rates set by NAFAO (National Association of Financial Assessments Officers) to standard DRE items. These are detailed below.
- The council expects the person to provide receipts or bills for the expenditure.
- The council may consider using a lower figure if alternative and suitable DRE is available at a lower cost.
- If more than one person lives in the household and benefits from a DRE, the expense will be divided between the number of adults in the household.
- DRE paid to family members will not be included.
- The Council will use a person's care and support plan as a starting point when considering DRE. However, allowable DRE will not be limited to what is necessary for care and support, e.g. above average heating costs will be considered.
- DRE will not be considered if it is included in a person's Personal Budget, to avoid duplication.

## 2. Costs which are not treated as DRE

Everyday living costs are those costs a person pays for regardless of their disability or illness. Although not exhaustive, the following items are general living costs for which no DRE allowance will be made:

- Routine property maintenance
- Routine replacement of household fixtures, fittings, and furniture
- Spectacles, contact lenses, visual aids
- Dental costs
- Privately purchased surgery
- Household appliances and insurance
- Television costs - including license fees, cable, satellite TV or subscription services
- Telephone, including mobile phones
- Food
- Clothing and footwear
- Heating bills (unless they are above the average cost)
- Water charges (unless they are above the average cost)
- Contents insurance
- Board if living with family
- Care provided by a family member
- Travel to hospital which is covered by the Healthcare Travel Costs Scheme
- General items or services required for daily living, which can be used or accessed by the general public such as:
  - Social activities
  - Cost relating to hobbies
  - Leisure activities
  - Entertainment
- Personal loans
- Legal costs such as divorce
- Debt repayment and debt repayment plans
- Items or services provided for by a Grant or funded from another source

- The difference between the actual cost and the lower cost alternative where it is reasonable for a lower cost alternative to be purchased, or the purchase cost of a service or equipment that has no evidence of need in the care and support plan carried out by a social care professional.
- Pets and their associated upkeep

### **3. Household related costs which the person is liable for in respect of their main or only home.**

The following will be allowed for as household related:

- Council Tax – the amount payable
- Rent – the amount payable
- Mortgage repayments
- Ground rent or service charges (unless these are for utilities)
- Buildings insurance

### **4. DRE Guide for 2024/25**

This guide explains what ‘reasonable costs’ the council will use when working out a person’s DRE.

Some of the items have reasonable amounts, some have standard amounts, and in some cases, the actual amount may be used if the cost is a ‘reasonable’ cost. The term ‘reasonable’ is described in the definitions of terms used at section 28.

Some large items of DRE will be averaged out over one or more years, to reflect the expected life span of specialist equipment that is essential to the person.

*Examples of DRE for large items:*

*A wheeled walker for £50. We divide £50 by 52 weeks and arrive at an allowance of £0.96 per week. We would allow this in your financial assessment for 1 year.*

*A motorised scooter costing £3,600.00. The lifespan of this item is 10 years. We divide £3,600.00 by 520 and arrive at an allowance of £6.92 per week. We would allow this in your financial assessment as a DRE for 10 years.*

### **5. Where we will use discretion**

The council recognises that people are finding and benefiting from modern technologies in assisting them to manage complex health and well-being needs. Where specialist equipment or programs are required to monitor or control a complex condition (e.g. epilepsy and Alzheimer’s monitoring systems, challenging behaviour strategies, high internet usage for essential mobile apps or involving various devices and pieces of equipment, IT equipment, sensory support devices, specialist door entry systems etc.) often these incur increased costs to meet the unique needs of the person.



Where a particular item of expenditure combines more than one item or service but only partly meets specific needs due to disability or medical condition, we will consider only those parts of the expense that are meeting the specific needs. For example, a person purchases a computer or tablet and specialist software that will help meet their needs, only the cost of the software will be considered but not the cost of the computer or tablet. In cases of doubt, a social care worker or occupational therapist will be required to confirm the purchase is an essential requirement.

## 6. Sharing costs

If you share a household with other adults, and the additional disability-related expense item relates to a service that supports the household, the amount of that expense item that is allowed for in your financial assessment will be on the basis that the costs are shared evenly by the number of adults in residence.

*For example, the cost of disability related services that support the whole household (like a cleaner) will be shared equally between all adults in the household.*

## 7. Evidence of expenses

For most items, people will be expected to keep receipts as proof of purchase, or bills for services such as utilities (e.g. water meter, gas, electricity, oil).

Evidence of actual expenditure is needed. Where receipts have not been kept, future receipts must be kept for subsequent /future financial assessment reviews.

If bills or receipts are not produced at the time of the financial assessment, copies will need to be provided within 28 days. If they are not provided within this timescale, the allowance will apply from the date that the evidence is supplied.

The council will usually allow the actual amount you spend up to the reasonable amount indicated. We will only consider a higher allowance in exceptional circumstances.

## 8. Excessive fuel costs

Fuel includes coal, wood, gas, electric, oil, paraffin, and solar heating. Additional fuel costs are calculated by comparing the person's actual costs over a 12-month period with the average costs for a similar household for the East Midlands area. The difference (calculated in a weekly amount) is taken into account as DRE.

The East Midlands average for the financial year 2022/23 are shown below:

Occupant and property type	Standard weekly cost	Standard annual costs	Guidance/evidence
1 person/ flat or terraced house	£57.57	£2,993.70	Annual heating bills below the amount stated will not receive a DRE.
2 people/ flat or terrace house	£75.87	£3,945.69	

1 person/ semi-detached house	£61.14	£3,179.73	Bills must show <u>actual</u> usage over 12 months period from utilities supplier.
2 people/ semi-detached house	£80.52	£4,187.41	
1 person/detached house	£74.34	£3,865.99	Direct Debit payments will not be used as this often fluctuates and may include payments of arrears.
2 people/ detached house	£98.02	£5,097.22	

Source: National Association of Financial Assessment Officers (NAFAO) guideline figures 2023/2024. NAFAO use the fuel prices index tables each year. The guidance is reasonably calculated and is accepted as nationally recognised guidance.

*Example - A person living on their own in a flat, has utility bills that show over the last year they have used £1,950.88 in gas and electricity. Using the table above for 1 person in a flat/terraced property the standard cost is £1,741.69 per annum. We would calculate the excess cost as follows; £1,950.80 - £1,741.69 = £209.11 (£209.11/52 = £4.02) so an allowance for £4.02 per week is treated as DRE.*

Winter Fuel and Cold Weather Payments will be taken into account if excessive fuel costs are applied for. Allowable expenditure will be reduced by any concessionary fuel or other allowance.

## 9. Excessive water and sewerage costs (metered water only)

Item	Standard cost weekly	Standard cost year	Evidence
1 person living in a property	£6.26	£326	Water and sewerage bills I over the last 12-month period
2 people living in a property	£9.17	£477	
Each additional person living in a property	£2.71	£141	

Source: [www.anglianwater.co.uk](http://www.anglianwater.co.uk)

WaterSure is a national scheme which helps some people with their water bills. To apply for the scheme, a person must be on benefits and need to use a lot of water either for medical reasons or because the household has a certain number of school-age children. The household will need to be on a water meter or be waiting to have one installed. If a household gets help through the WaterSure scheme, the water bill is capped. More details are here [Water - Citizens Advice](#)

The minimum income guarantee (MIG) allows for day-to-day costs such as paying your water rates. If you use a water meter and these costs are higher than average because you have a disability or medical condition, we can allow for any expenses above the standard costs shown above. We can also consider an allowance where the water provider has been unable to fit a water meter.

## 10. Household related costs

Item	Guidance	Amount	Evidence required
<b>Domestic Help</b> e.g. cleaning	Where this is essential to your health and wellbeing. Privately arranged cleaning only. Cleaning by family members or those who live in the household will not be allowed.	Actual cost of a reasonable amount based on 2 hours per week	Evidence of payments by providing receipts or invoices. Evidence that the provider pays HMRC Tax and National Insurance or is sole trader under HMRC will be required if the provider is not able to provide satisfactory receipts or invoices for the services.
<b>Window cleaning</b>		Actual cost of 1 clean per month	Evidence of payments by providing receipts or invoices. Evidence that the provider pays HMRC Tax and National Insurance or is sole trader under HMRC will be required if the provider is not able to provide satisfactory receipts or invoices for the services.
<b>Gardening</b>	Basic lawn cutting pruning and path clearance if the person is unable perform this task due to disability, and no one else in the household can do so. Limited to reasonable costs of basic garden maintenance and if necessitated by the individual's disability e.g. front and back entrance to ensure safe access or unless there is a specific legal requirement setting out responsibilities for garden maintenance in the tenancy agreement.	Actual cost of a reasonable amount based on hours per week, during the growing season (35 weeks)	Evidence of payments by providing receipts or invoices. Evidence that the provider pays HMRC Tax and National Insurance or is sole trader under HMRC will be required if the provider is not able to provide satisfactory receipts or invoices for the services.
<b>Community Alarm System</b>	E.g. Telecare Care line etc. (unless costs are included in Housing Benefit or Universal	Actual cost	Invoices from provider. Shown as direct debit on bank statement.

	Credit Housing Allowance). People are eligible for VAT relief on Telecare and personal alarms in the UK.		
<b>Wear and tear on fixtures and fittings</b>	<b>Discretionary-</b> Requirement identified in care plan and must be caused by the direct consequence of a disability or illness	Actual cost	Receipts or estimates for replacements. Evidence that damage is not covered by any household insurance policy.

## 11. Personal care

<b>Item</b>	<b>Guidance</b>	<b>Amount</b>	<b>Evidence</b>
<b>Chiropody</b>	If a person has a foot condition that limits movement, they could qualify for free podiatry service through the NHS.	Actual cost up to a reasonable amount for the treatment needed	Receipts, invoices or shown as Direct Debit payments on bank statement. Will need to evidence frequency of treatments
<b>Dietary</b>	<b>Discretionary</b> - special dietary needs may not be more expensive than normal. Special dietary needs should be considered where they are likely to improve/maintain a person's health. I.e. due to specific illness, condition, or food allergy. No allowances will be made for lifestyle choices. Advice from Health Authority dieticians suggest that most medical conditions can be dealt with through a healthy diet which does not necessarily involve additional or exceptional costs. These include diabetes, weight reduction or low-fat diets.	Actual additional cost above weekly allowable expenditure on food according to ONS (Office for National Statistics).	The need for a specialist diet should be therapeutically recognised for the management of the specific medically diagnosed condition. This will need to be supported in writing from a suitably qualified medical practitioner. Receipts or proof of purchase of specialist dietary purchases. All dietary costs will need to be fully evidenced

<b>Bedding</b>	The care assessment should be used as a guide to identify individual circumstances. Kylie Sheets, waterproof protector, items related to incontinence not provided by the NHS. An allowance may be considered for reasonable expenditure over and above an expected regular replacement cycle for bedding (twice a year). For example, because of incontinence, skin or other relevant health condition through exceptional disability related wear and tear	Actual reasonable costs	Receipts or proof of purchase
<b>Incontinence pads</b>	The care assessment should be used as a guide to identify individual circumstances. Incontinence items are provided free of charge by the NHS. Any additional expenditure will be considered depending upon individual circumstances and assessed on individual need.	Actual costs- using 1 month's receipts averaged	Receipts or proof of purchase
<b>Laundry &amp; washing powder</b>	Amount covers household washing machine, launderette or if laundry is carried out by a third party or carer, away from the person's home. Amount covers all loads above 4 per week.	5+ loads £4.56	Requirement identified in care plan e.g. incontinence of need of more than 4 loads per week
<b>Other medical items</b>	The care assessment should be used as a guide to identify individual circumstances and if a person must pay for chemist items which are needed due to a disability or the extra cost above 'normal' use due to a disability. This may include gloves (latex for personal care) wet wipes and specialist creams. Allowed when recommended by a GP or medical specialist assessed on individual need and not covered by the NHS.	Actual costs	Receipts or proof of purchase

<p><b>Privately arranged care</b></p>	<p>Identified in Care Plan. Any additional support to meet needs that the person pays for (not funded by the Council).</p>	<p>Actual costs apportioned between adults in household to whom care is provided</p>	<p>Evidence of payments by providing receipts or invoices. Evidence that the provider pays HMRC Tax and National Insurance or is sole trader under HMRC will be required if the provider is not able to provide satisfactory receipts or invoices for the services.</p>
<p><b>Clothing &amp; Footwear</b></p>	<p>The care assessment should be used as a guide to identify the need. The cost of special or additional clothing or shoes may be allowed where this has been shown to be necessary by a health professional such as occupational therapist or district nurse. Where there is eligibility for items available from NHS such as Orthotic shoes these items will not be allowed as DRE. Cost of getting clothes adapted such as Velcro instead of buttons. Reasonable costs to replacing clothing due to medical condition or damage caused by behaviours, if supported as reasonable needs. Reasonable costs could include purchasing practicable replacement items</p>	<p>Actual costs averaged over a 12-month period.</p>	<p>Receipts or proof of purchase.</p>
<p><b>Telephone</b> <b>Mobile phone</b> <b>Internet access</b></p>	<p>The care assessment should be used as a guide to identify the need. A person may be unable to leave their home or have sensory or mental health issues which mean that they or their carer must manage a person's affairs by use of a computer. A person may need</p>	<p>Actual costs</p>	<p>Receipts or proof of purchase</p>

	to have constant contact with family or support workers due to their disability (for example because of OCD or mental health issues) or to access Mobile apps to assist managing day to day tasks (for example, because of OCD or Dementia)		
<b>Prescription charges</b>	For people not eligible for free prescriptions. Cost of an annual Prescription Prepayment Certificate (PPC).	£111.60 per annum	Receipt or proof of purchase
<b>Travel and transport costs</b>	The care assessment and care plan should be used as a guide to identify individual circumstances and costs if specialist transport is required. Usual transport costs should be met through your Disability Living Allowance/Personal Independence Payment mobility component and through any travel concessions, such as a bus or train pass or where support with lower or subsidised services such as community subsidised schemes, hospital transport are available. If these meet the person's needs but have not been used, this can be taken into account in considering reasonableness of costs included	Actual costs averaged over a 12-month period	Evidence of payments / receipts for purchase
<b>Court of Protection fees</b>	Incurred by the person for submitting a return to the Court for Deputyship or Attorney	Actual costs	Letter requiring payment and proof payment has been made
<b>Holidays</b>	This is allowable if taken with a carer in specialist accommodation or accommodation adapted for disability needs. Only care costs, not hotel costs will be allowed. The holiday should be taken with a carer not a close family member e.g. mother, father etc. Costs can include hiring of equipment	Actual costs averaged over a 12-month period for carers costs	Receipt or proof of purchase

	and travel costs for carer or if a specially adapted vehicle is required.		
<b>Service animals</b>  <b>e.g. guide dog</b>	<p>The care assessment and care plan will be used as a guide to identify individual circumstances and a need for a service animal.</p> <p>Discretionary and assessed on individual need. In cases of doubt, a Social Worker or Occupational Therapist will be required to confirm the animal is an essential requirement to your physical or mental wellbeing.</p>	Actual costs averaged over a 12-month period for medical and insurance costs	The need for the service animal should be recognised for the support of the specific medically diagnosed condition. This will need to be supported in writing from a suitably qualified medical practitioner. Receipt, invoices or proof of payments.
<b>Therapies and Holistic treatments</b>	<p>The care assessment and care plan should be used as a guide to identify individual circumstances.</p> <p>Discretionary and assessed on individual need. In cases of doubt, a Social Worker or Occupational Therapist will be required to confirm the therapy or treatment is an essential requirement to your physical or mental wellbeing (e.g. sensory pool or room, reflexology, massage, music therapy, natural remedies, therapeutic activities)</p>	Actual costs if reasonable and comparable with other similar service providers averaged over a 12-month period	The need for the specialist treatment should be therapeutically recognised for the management of the specific medically diagnosed condition. This will need to be supported in writing from a suitably qualified medical practitioner. Receipt, invoices, or proof of payments by person detailing frequency of services or treatments required and received.
<b>Respite-arranged privately</b>	Identified in Care Plan	Actual costs	Receipt, invoices or proof of payments by person.



<b>Other disability related expenses</b>	Identified in case assessment or care plan. Discretionary and assessed on individual need. In cases of doubt, social care worker or occupational therapist or suitably qualified medical practitioner will be required to confirm purchase is an essential requirement	Costs up to a reasonable amount	Receipts or proof of purchase and ongoing costs.
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## 12. Special Equipment

<b>Item</b>	<b>Guidance</b>	<b>Amount</b>	<b>Evidence</b>
<b>Wheelchair</b> <b>Motorised scooter</b>	A social worker or Occupational Therapist may be required to confirm use of specialist equipment is an essential requirement to meet needs	Purchase cost of a reasonable amount, averaged over 520 weeks (10-year life span)  Manual – up to £4.75 per week Power- up to £11.55 per week	Receipts or proof of purchase
<b>Powered bed</b> <b>Turning bed</b>	A social worker or Occupational Therapist may be required to confirm use of specialist equipment is an essential requirement to meet needs	Purchase cost of a reasonable amount, averaged over 520 weeks (10-year life span)  Up to £5.25 per week (power bed)  Up to £9.19 (turning bed)	Receipts or proof of purchase
<b>Powered reclining chair</b>	A social worker or Occupational Therapist may be required to confirm use of specialist equipment is an essential	Purchase cost of a reasonable amount, averaged over 520 weeks (10-year life span)	Receipts or proof of purchase

	requirement to meet needs	Up to £4.16 per week	
<b>Stair lift</b>	A social worker or Occupational Therapist may be required to confirm use of specialist equipment is an essential requirement to meet needs	Purchase cost of a reasonable amount, averaged over 520 weeks (10-year life span)  Up to £7.42 per week	Receipts or proof of purchase
<b>Hoist</b>	A social worker or Occupational Therapist may be required to confirm use of specialist equipment is an essential requirement to meet needs	Purchase cost of a reasonable amount, averaged over 520 weeks (10-year life span)  Up to £3.64	Receipts or proof of purchase
<b>Rental items (no DRE will be allowed for items provided through a grant or provided free of charge)</b>	A social worker or Occupational Therapist may be required to confirm use of specialist equipment is an essential requirement to meet needs	Purchase cost of a reasonable amount, averaged over 520 weeks (10-year life span)	Receipts or proof of purchase
<b>Insurance, services, and repairs of owned special equipment</b>	Only the insurance relating to the specific item will be allowed if the item is part of another insurance policy	Actual cost, reasonable amount in comparison with other service providers	Evidence of payments/annual policy letter/ service or repairs invoice

Source: National Association of Financial Assessment Officers (NAFAO) guideline figures 2023/2024. NAFAO use the fuel prices index tables each year. The guidance is reasonably calculated and is accepted as nationally recognised guidance.

## **APPENDIX 6 DEFERRED PAYMENT AGREEMENT SCHEME**

Local authorities operate a Deferred Payment Agreement (DPA) scheme for individuals who own their own home and live in permanent residential care. This document sets out who is eligible to apply to the scheme and the actions that will be taken following acceptance onto the scheme.

The Council will carry out a financial assessment to determine the amount that the person should contribute towards the cost of their care charges. The amount that is then deferred is the difference between their contribution and the full cost of their care fees.

The scheme 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 DPA a person can defer or delay paying the cost of their care and support until a later date. Deferring payment can help people to delay the need to sell their home and provide peace of mind during a time that can be challenging for them and their loved ones as they make the transition into residential care.

### **1.0 Legislation**

- 1.1 The Care Act 2014 directs local authorities to offer Deferred Payment agreements under Part 1 Sections 34, 35 and 36 and The Care and Support (Deferred Payment Agreements) Regulations SI 2671/2014.
- 1.2 The Department of Health has issued 'Care and Support Statutory Guidance' to support the Act, Chapter 9 refers to Deferred Payment Agreements.
- 1.3 The council will have regard to changes in regulation, statutory guidance and best practice when operating the Scheme.

### **2.0 Eligibility criteria**

- 2.1 In order to be eligible to receive a deferred payment the following criteria must be met. This applies to people who have local authority arranged care and people who have arranged their own care:
  - 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.

- b) has less than the 'upper capital limit,' in assets excluding the value of their home;
- c) whose home is not occupied by a spouse or dependent relative as defined in regulations;
- 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.

2.2 DPAs 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 DPA, 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 and advocacy. Officers will confirm what would happen were the person to lose capacity and not have made their own arrangements.

### **3.0 Refusal of a DPA**

3.1 The Council may refuse to enter into a DPA in circumstances set out in regulations. This provides the Council with a reasonable safeguard against default or non-payment of debt. These are detailed as follows:

- a) where the council is unable to secure a first charge on the property;
- b) where someone wishes to defer a larger amount than they can provide security for (the Council can still defer a lesser amount and offer this to the person who may choose to accept);
- c) where a person's property is uninsurable or poorly maintained or the homeowner is not willing to insure and maintain the property.

3.2 There may be circumstances during the life of an active DPA that the Council is not able to defer any more charges. In such cases the Council will provide 30 days' written notice and will also provide an indication of how their care costs will be met in the future. Circumstances in which this may apply include:

- a) when a person has reached the equity limit that they are allowed to defer and become eligible for local authority support;
- b) the equity limit has been reached sooner than expected;
- c) where a spouse or dependent relative has moved into the property after the deferred payment agreement was made in circumstances which mean that the person is eligible for local authority support and the Council agrees that they no longer require a deferred payment agreement;

- d) where a relative who was living in the property at the time of the agreement becomes a dependent relative;
- e) where the person breaches the predefined terms of the contract.

#### **4.0 Information and advice**

- 4.1 To be able to make well-informed choices, it is essential that people access appropriate information and advice before taking out a DPA. The Council will also keep people informed about their DPA throughout the course of the agreement and ensure that they (and their estate where appropriate) receive the necessary information upon termination of the agreement.
- 4.2 The Council will undertake to provide information about the DPA scheme and how it works and will explain as a minimum:
  - a) The fees that are to be deferred and must be paid back later;
  - b) The types of security that the Council is prepared to accept
  - c) That if a home is used as security that it may need to be sold later to repay the amount due;
  - d) How the interest rate will be charged on any amount deferred;
  - e) The administrative charge they may be liable for;
  - f) What happens on termination of the agreement, how the loan becomes due and their options for repayment;
  - g) What happens if they do not repay the amount due;
  - h) The criteria governing eligibility for a DPA;
  - i) The implications that a DPA may have on their income, benefit entitlements and charging;
  - j) An overview of the potential advantages and disadvantages of taking out a DPA and explain other options they may wish to consider;
  - k) Information about the 12-week disregard;
  - l) The expectations and conditions that the Council may require regarding how the person plans to use, maintain, and insure their property;
  - m) The expectations and conditions if the person wants to consider renting out the property, prepare it for sale or leave it vacant for a period.

- 4.3 Officers will signpost people to Independent Financial Advice and other national and local organisations that are able to support people in their decision-making process.

## 5.0 How much can be deferred?

- 5.1 In principle, a person eligible for a DPA 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 DPA, and whether the amount or size of the weekly deferral requested is sustainable given the equity obtained from their chosen form of security.
- 5.2 Prior to entering into the agreement, Officers and the person will discuss the amount to be deferred and will consider the security and the sustainability (in terms of how costs, given intended length of deferral, match up to equity available). The care home costs to be deferred will be agreed between the Council and the person and set out clearly in the agreement.
- 5.3 When considering the equity available, the Council will set an 'equity limit' for the total amount that can be deferred and seek to ensure that the amount deferred does not rise above this agreed limit. The equity limit will leave some equity remaining – this will both act as a buffer to cover any subsequent interest payments and will provide a small 'cushion' in case of small variations in value of the security. When calculating progress towards the equity limit, the Council will include interest due and fees to be deferred.
- 5.4 If the person intends to secure their DPA with a property, the Council will require a written independent valuation of the property to be provided.
- 5.5 The equity limit will be set as the value of the property minus 10%, minus the lower capital limit minus any other encumbrance secured on it.
- 5.6 When someone is approaching or reaches their equity limit Officers will review the cost of care with the person and discuss any means tested support they are now receiving, any top-ups due and whether a DPA continues to be the best way for someone to meet these costs.
- 5.7 The Council has the discretion to allow someone to defer more than the equity limit agreed. The Council will exercise this discretion if someone does not have sufficient income or other assets to meet their care costs without having to sell their home. The Council will also consider whether it would be best to allow the deferral to continue if it is likely to be for a short period of time. Where the Council allows someone to defer more, they can allow up to the full sale value of the home minus the lower capital limit.
- 5.8 The Council will require a contribution towards fees from a person's income but will not leave the person with less than the disposable income allowance. A person may choose to keep less of their income than the disposable income allowance, contributing more from their income upfront, should they wish.
- 5.9 When deciding on the amount to be deferred, the Council and the person will need to consider a range of factors to satisfy themselves that the arrangement is sustainable:

- a) likely period the person would want a DPA for (if known);
- b) equity available;
- c) the sustainability of a person's contributions from their savings;
- d) flexibility to meet future care needs; and
- e) the period of time a person would be able to defer their weekly care costs for.

5.10 To ensure sustainability of the deferral, the Council will have discretion over the amount people are permitted to top-up. The Council will consider any request for top-ups but retain discretion over whether to agree to a given top-up.

5.11 The amount being deferred will be reviewed annually to ensure that the amount deferred does not exceed the upper limit.

## **6.0 Obtaining security**

6.1 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.

6.2 The Council has discretion to decide what else can be used as 'adequate security' for a DPA. This can include:

- a) A third-party guarantor - subject to appropriate security;
- b) A solicitor's undertaking;
- c) A valuable object i.e. painting or artwork;
- d) An agreement to repay the amount from the proceeds of a life assurance policy.

6.3 The Council reserves the right to refuse a DPA if it is not satisfied that adequate security can be put in place.

## **7.0 Interest rate and administration fee**

7.1 The Council will apply interest charges to DPAs. This is to cover the cost of lending and the risk to the council. The Council will charge the nationally set maximum interest rate.

7.2 The national interest rate will change every six months on 1st January and 1<sup>st</sup> July.

7.3 The DPA will detail that interest will be charged and added to the deferred amount and that it will accrue on a compound basis.

7.4 Interest will continue to accrue even after the equity limit is reached or if someone dies it will continue to accrue until the amount is repaid.

7.5 The council will charge a non-refundable administration fee to cover the following costs:

- a) Registering a legal charge with the Land Registry, including search charges and identity checks;
- b) Postage, printing, telecommunications;
- c) Officers time spent providing the service;
- d) Cost of valuation and re-valuation of the property;
- e) Cost of removal charges against the property;
- f) Overheads including payroll, audit, management, legal services;
- g) Ongoing monitoring
- h) Closure of the DPA

7.6 The one-off fee should be paid when the agreement is signed and formally submitted. The fees can be added to the DPA; if this is the case interest will be charged on these fees.

## **8.0 Making the agreement**

8.1 The Council will aim to finalise the DPA by the end of the 12-week disregard period, if applicable. This may not be possible in every case due to complexities.

8.2 The DPA will form a legal contract between the Council and the person. The DPA will set out the terms, conditions, information regarding the interest to be charged, termination of the agreement and the equity limit to be used.

## **9.0 The council's responsibilities whilst the agreement is in place**

9.1 The Council will provide a written copy of the agreement to the person and will provide a written statement every 6 months or within 28 days of receiving a request for a written statement. The statement will detail how much a person owes to the council and the cost to them including interest and fees of them repaying the debt and will detail how much equity it estimates is remaining.

9.2 The Council will provide 30 days written notice of the date on which the person is likely to reach their equity limit.

## **10.0 The individual's responsibilities whilst the agreement is in place**

10.1 The DPA will set out the contractual requirements on the individual. This will include:

- a) Notifying the Council of a change in their income or circumstances;
- b) Notifying the Council of a change in their care and support needs;
- c) Notifying the Council of a change to the property.

10.2 The Council will also require the person to maintain and insure their home. The insurance company must be advised that the Council has an interest in the property.

10.3 A person may not want to sell the property during their lifetime and the property would remain empty. In these circumstances the person or their representative may wish to consider renting out the property.



- 10.4 The person must contact the Council and obtain approval of the proposal to rent and of the Tenancy Agreement. Upon approval by the Council, the person may make the property available to rent.
- 10.5 The person must discuss and agree with the Council how the rental income will be used. Rental income can be paid to the Council to reduce the accruing debt.

### **11.0 Termination of the agreement**

11.1 The DPA can be terminated in certain circumstances:

- a) When the property (or other form of security) is sold, and the authority is repaid;
- b) If the service user dies and the amount is repaid.
- c) At any time by the person by repaying the full amount due.

11.2 On termination the full amount due, plus interest accrued must be paid to the Council.

11.3 If a person decides to sell their home, the Council must be notified during the sale process.

11.4 If a person decides to repay the deferred payment at any time, the Council must be notified as the Council must relinquish the charge on the property.

11.5 If the person dies, the amount due to the Council must be paid out of the estate or paid by a third party, the Executor of the will, or the Administrator of the Estate. The Council will wait at least two weeks following the person's death before approaching the Executor with a full breakdown of the total amount due. Interest will accrue on the amount owed after the person's death until the amount due is repaid in full.

11.6 If terminated through a person's death, the amount owed to the Council under a DPA falls due 90 days after the person has died. After this 90-day period, the Council will enter legal proceeding to reclaim the amount due to it, if officers conclude that active steps are not being taken to repay the debt.

11.7 When the DPA is repaid in full, the Council will provide written confirmation that the agreement has been repaid and is concluded and where applicable, that the charge on the property has been removed.

## **APPENDIX 7 DEPRIVATION OF ASSETS/INCOME**

This procedure sets out how the Council will consider Deprivation of Assets and/or Income and the steps that can be taken.

### **1.0 Legislation and guidance**

1.1 The Care Act 2014 allows the Council to charge for care and support under Part 1 Sections 14, 17 and 69-70: 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.

- 1.2 The Department of Health has issued 'Care and Support Statutory Guidance' to support the Act. In particular 'Annexe E – Deprivation of Assets' is most relevant to this procedure. This guidance is published and updated online here <https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>
- 1.3 The Council will also have regard to changes in regulations, statutory guidance and best practice when considering deliberate deprivation of assets.
- 1.4 People should be signposted to seek legal advice if they are considering making a gift of their assets or disposing of their assets in some way as there may be other consequences as well as the potential effect on paying for care and support.

## 2.0 What is deliberate deprivation of assets and income?

- 2.1 Deliberate deprivation can be defined as 'a person who has deliberately deprived themselves of assets to avoid or decrease the amount they are asked to pay towards any care and support charges.
- 2.2 This can also be applied to third parties who are acting on behalf of a person either formally under a Power of Attorney/Deputyship or informally as their representative.
- 2.3 Assets can be defined as any capital or income which is referred to in the Care and Support Statutory Guidance' Annexe B –Treatment of Capital and Annexe C – Treatment of Income.
- 2.4 Some examples of deprivation are detailed in the table below; however, this list is not exhaustive and other circumstances may apply:

Item	Description
1	Making a lump sum payment to someone else, for example as a gift (and may also have been made without application of the HM Revenues & Customs rules about the making of such gifts)
2	Giving away or selling the right to an income from an occupational pension
3	Substantial expenditure incurred suddenly which is out of character with previous spending patterns, for example expensive holidays, a new car
4	Purchasing expensive items and giving them away, for example a painting or antique furniture
5	Selling assets for less than their market value, for example selling property or land to a relative or friend for a token amount
6	Transferring the title deeds of one or more properties to someone else; for example, transferring the ownership of their home to their adult children

7	Placing financial assets into an irrevocable trust fund, for example a fund to provide a future lump sum for grandchildren
8	Converting assets into another form that would be disregarded under the financial assessment, for example personal possessions
9	Reducing assets by living extravagantly, for example through gambling or paying for expensive designer clothing which would be out of character usually
10	Using assets to purchase an investment bond with life insurance whereby the recipient of the bond is another person

2.5 Repayment of a debt that would otherwise remain is not considered as deprivation of assets. However, the debt must be a genuine debt incurred by the person themselves and not someone else.

### **3.0 Has deliberate deprivation of assets occurred?**

3.1 Before deciding if deliberate deprivation has occurred officers must determine the reason for the deprivation as there may be valid reasons why someone no longer has an asset.

3.2 In the first instance it is up to the person or their representative to prove to the Council that they no longer have the asset. Officers will ask for supporting evidence in writing and provide a date by which the information must be provided. 10-15 working days should be sufficient. The deadline for provision of information may be extended (at the discretion of officers) if the evidence is difficult to obtain.

3.3 If the person cannot prove that they no longer have the asset then it will be taken into account in the financial assessment.

3.4 If the person provides evidence that the asset has been disposed of then officers may ask further questions about the asset and its disposal, for example:

- the reason for its disposal;
- the sequence of events;
- financial transaction history;
- details of any legal advice that was sought;
- lifestyle and spending patterns;
- health, wellbeing, and medical needs;
- previous care and support needs;
- details of any recipient of the asset/s; and
- other relevant information to support decision making.

3.5 Officers will review the data provided and may also conduct their own investigation using information that is available to them i.e. Council held data, information within the public domain.

- 3.6 Officers may also investigate using the Regulation of Investigatory Powers Act 2000. Officers will seek legal advice prior to using this option.
- 3.7 Officers will aim to conclude their investigations within 4-6 weeks of initiation.
- 3.8 The person or their representative/s will be required to co-operate with officers. Lack of co-operation may result in officers having to decide with little information and possibly inferring that unwillingness to co-operate is evidence of deliberate deprivation.

#### **4.0 Decision making process**

- 4.1 Officers will consider whether avoiding or reducing care and support charges was a significant motivation in the timing of the disposal of the asset. For example, could the person or their representative have a reasonable expectation of the need for care and support? Did the person or their representative have a reasonable expectation of needing to contribute to the cost of their care and support?
- 4.2 The motivation and timing of the disposal of the asset in relation to the persons anticipated or known care needs is key to determining deliberate deprivation of assets.
- 4.3 If it is likely that deliberate deprivation has occurred then officers (Community Care Finance) will alert the allocated Social Worker (Adult Social Care) or Prevention and Safeguarding Team if the case is not allocated and discuss the case and any implications for the person. This can occur at any stage of the investigation. Officers will consider what approach to take and who should lead on the investigation if required. For example, if there are concerns and the incident/harm triggers a safeguarding enquiry in accordance with the 'LLR Safeguarding Adults Thresholds Guidance' then Prevention and Safeguarding Team will lead.
- 4.4 If the decision is complex, officers may seek legal advice before deciding. Advice may be sought at the outset or following initial enquiries. The decision to seek legal advice will be made by the leading officer after reviewing and considering the available information and the person's circumstances.
- 4.5 The person or their representative will be advised in writing of the outcome by a manager depending on which takes the lead. If deliberate deprivation of assets is established the letter will explain why we have made this decision, the affect this will have on their care and support costs, how to dispute the decision and any other implications i.e. third-party recovery. The final financial assessment will determine the person's contribution to care and support in line with usual procedures.
- 4.6 A decision may be disputed, however there is an expectation that fresh evidence or other considerations are put forward by the person for the original decision to be reviewed by a senior officer.

#### **5.0 What happens if deliberate deprivation of assets is established?**

- 5.1 If deliberate deprivation of assets is established, the person will be treated as having 'notional capital' or 'notional income' to the value of the asset that was disposed of. Notional means that, even though the person may not have the capital or income anymore, the person is treated as though they still possess it.
- 5.2 If the notional amount added to the persons existing capital and income exceeds the upper threshold (£23,250), the person may be deemed to be self-funding.
- 5.3 If the notional amount added to the persons existing capital and income is less than the upper threshold (£23,250), the Council will apply any tariff on the 'notional capital'.
- 5.4 The amount of any notional capital applied will reduce over time in accordance with statutory guidance.

## **6.0 Debt recovery**

- 6.1 Officers will discuss repayment options with the person or their representative in line with the Corporate Debt Policy. Ultimately the Council may take Court action to recover the debt.
- 6.2 If the asset were transferred to another person (a third party) they are liable to pay the debt or the difference between what the person would have been charged or did charge in proportion to the amount they received, as per the example below:

*Mrs Richards has £23,250 in her savings account. A few weeks before entering residential care she gives her sons Ben, Charles, and Tony £7,750 each (total of £23,250). Deliberate deprivation was established.*

*Had Mrs Richards not given her money away, the first £14,250 would have been disregarded and she would have been charged a tariff income of £1 for every £250 on her savings between £14,250 and £23,250. This means that Mrs Richards should have paid £36 per week towards the cost of her care.*

*After 10 weeks of care, Mrs Richards should have contributed £360. This means that Ben, Charles, and Tony are each liable for £120 towards the cost of their mother's care.*

## **APPENDIX 8 DIRECT PAYMENTS**

- 1.0 Direct payments are cash payments made to service users for the purpose of enabling them to arrange their own care. They provide independence, choice, and control by enabling people to commission their own care and support to meet their eligible needs.
- 2.0 The legislative context for direct payments is set out in the Care Act 2014, Section 117(2C) of the Mental Health Act 1983, the Care and Support (Direct Payments) Regulations 2014 and by the Statutory Guidance (Chapter 12).
- 3.0 Direct Payments will be paid net of any assessed social care contribution (i.e. the charges you have been assessed as being liable to pay towards the cost of your care). The person will be expected to top up the Direct Payment account with their assessed contribution. The terms of the Direct Payment arrangement are set out in the Direct Payment Agreement between the Council and the person.
- 4.0 The Council can discontinue direct payments in a number of circumstances as set out in the Statutory Guidance and the Law. The Council will undertake a review before making the decision to discontinue direct payments and provide written notice to the person.

- 5.0 In a case where a condition of the Direct Payment is breached, the Council may terminate the Direct Payment Agreement and require repayment of the whole or part of a direct payment, depending on the nature of the breach.
- 6.0 The costs incurred by the Council in recovering or seeking to recover a sum due to it are recoverable by the Council as a debt due to it.
- 7.0 Following the commencement of a Direct Payment, the Council will conduct a review in the first 6 weeks, and then at least once every 12 months subsequently. The Council reserves the right to review more frequently if it thinks it is necessary or it is notified of a change on circumstances.

## **APPENDIX 9 RECOVERY OF DEBT PROCESS**

The Corporate Debt Policy details steps the Council can take to recover outstanding invoices for care and support fees and the Council's overall approach to debt recovery.

The Care Act 2014 conveys powers to recover money owed for arranging care and support for a person. These powers can be exercised where a person refuses to pay the amount they have been financially assessed as being able to pay.

The powers granted to the Council for the recovery of debt also extends to the person and to their representative, where they have misrepresented or have failed to disclose (whether fraudulently or otherwise), information relevant to the financial assessment of what they can afford to pay.

The Council will approach the recovery of debt reasonably and sensitively and will only take Court action as a last resort.

The initial stage of debt recovery will involve discussing the debt with the person or their representative. Social Workers will be advised of the debt and will become involved as appropriate. In all cases the desired outcome is to prevent debt escalating and for the person to enter into affordable repayments of the debt as well as being able to pay ongoing costs as they arise.

The Council will only proceed with Court action where all alternatives have been exhausted. At this stage, the Council will proceed with action through the County Court.

**A large print version of this document is available on request**



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