**MEDWAY COUNCIL**



**Charging and Financial Assessment for Adult Social Care and Support Services Policy**

**From 01/04/2015**

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# 1.0 Introduction

* 1. Medway Council’s ‘Charging and Financial Assessment for Adult Social Care and Support Services’ policy has been designed to comply with The Care Act 2014. Its aim is to produce a consistent and fair framework for charging and financial assessment for all service users that receive care and support services, following an assessment of their individual needs, and their individual financial circumstances.
	2. For the purposes of this policy, an adult is a service user aged 18 and above.

# 2.0 Legal basis for charging and financial assessment

* 1. The Care Act 2014 provides a single legal framework for charging for care and support. It enables local authorities to decide whether or not to charge a service user when it is arranging to meet a service user’s care and support needs, or a carer’s support needs.
	2. Section 14 of The Care Act 2014 provides local authorities with the power to charge adults in receipt of care and support services, where the local authority is permitted to charge for the service being provided.
	3. Section 14 of The Care Act 2014 provides local authorities with the power to charge for services meeting carer’s needs, by providing services directly to the carer.
	4. Section 17 of The Care Act 2014 permits local authorities to undertake an assessment of financial resources. The financial assessment will determine the level of a service user’s financial resource, and the amount (if any) which the service user may be likely to be able to pay towards the cost of meeting their needs through care and support services.
	5. Section 14 of The Care Act 2014 instructs that local authorities are not permitted to charge for provision of the following types of care and support:
* Community equipment (aids and minor adaptations): a service that consists of the provision of an aid, or minor adaptation to property, for the purposes of assisting with nursing at home or aiding daily living. An adaptation is minor if the cost of making the adaptation is £1,000 or less
* Intermediate care (including Reablement support) services for up to six weeks
* Care and Support provided to people with Creutzfeldt-Jacob Disease
* Any service or part of a service that the NHS is under duty to provide. This includes Continuing Healthcare and the NHS contribution to Registered Nursing Care
* Any Service Users receiving care under Section 117
* Assessment of need and care planning, including the financial assessment as these constitute “meeting needs”
* Services which Medway Council have a duty to provide through other legislation

2.6 Medway Council will refer to Care and Support Regulations (Statutory Instruments) and Care and Support Statutory Guidance and Annexes issued under The Care Act 2014, in all regards for specific guidance relating to charging and financial assessment, and as such, these statutory regulations form the basis of this policy, except where the council exercises its power of discretion as set out within the regulations.

# 3.0 Diversity and equality

* 1. The council is fully committed to the broad principles of social justice and is opposed to any form of discrimination and oppression. It therefore willingly accepts not only its legal responsibilities but also wishes to embrace best practice in all areas of its work in order to secure equality of both treatment and outcome.
	2. The council is committed to ensuring that no one is treated in any way less favourably on the grounds of personal differences such as age, race, ethnicity, mobility of lifestyle, religion, marital status, gender, sexual orientation, physical or mental impairment, caring responsibilities and political or other personal beliefs.

# 4.0 Policy objectives

The principles underpinning this policy are:

* Where the authority is required to arrange care and support for free, it does so
* That service users will only be required to pay what they can afford as calculated by the financial assessment
* That financial support from Medway Council towards care costs will be determined through a financial assessment
* To provide clear and transparent information so service users know what they will be charged
* To apply the rules consistently, to avoid variation in the way people are assessed and charged
* To promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control
* To support carers to look after their own health and wellbeing and to care effectively and safely
* To be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet service user’s needs
* To apply charging rules equally so those with similar needs or services are treated the same and to minimise anomalies between different care settings
* To ensure that the charge to the service user for services provided is no greater than the cost of that service being delivered to the council
* To encourage and enable those who wish to stay in or take up employment, education, or training, to plan for the future costs of meeting their needs to do so
* To ensure that where a service user lacks capacity to undertake a financial assessment that the local authority consults a suitable person defined as having Enduring Power of Attorney (EPA), Lasting Power of Attorney (LPA) for Property and Affairs Property and Affairs Deputyship under the Court of Protection or an Appointee for benefits as appointed by the Department for Work and Pensions.).

# Charging and financial assessment for care and support in care homes on a permanent basis

* 1. The council will charge for care and support delivered in a care home on a permanent basis.
	2. Service user’s requiring permanent care and support in a care home must initially satisfy an eligibility assessment for care and support. Only where a service user has an eligible care and support need will a financial assessment be required.
	3. All service users requiring permanent care and support in a care home must have a financial assessment. Service users’ financial circumstances will determine whether the service user is eligible for support towards permanent care costs from the council.
	4. Service users will be made aware at the outset of the maximum amount of funding the council makes available towards care and support provided by private sector care homes. This rate is inclusive of any assessed service user contribution.
	5. Service users that would like to live in accommodation that costs more than Medway Council’s Rate can do so providing a third party or in some circumstances the service user meets the additional cost. This additional cost (known as a ‘top-up) must be sustainable and the local authority has the right to refuse a service user using their assets for this purpose if the costs cannot be met over a sustained length of time.
	6. Where a service user chooses more expensive accommodation than Medway Council’s rate and the top-up is to be paid by a third party, the third party must be able to prove that they are able to meet the costs of the top-up for the duration of the agreement, including any price changes that may occur. The third party will be required to provide evidence supporting that they can pay the top up. Both they and the service user will be made aware of the cost and to whom payment is to be made, together with the frequency, as well as provision for reviewing the agreement on an annual basis, the consequences of failing to maintain payment and the effect changes in any parties’ financial circumstances will have on the agreement. The third party will be asked to enter into a signed agreement, covering all of these points.
	7. Service users that own a property or other valuable asset, over which security can be taken, may be eligible to defer care costs against the value of the property/asset. This is known as a Deferred Payment Agreement. Medway Council will make deferred payment agreements available under the Deferred Payment Agreement Scheme providing the eligibility criteria has been met. Details of deferred payment agreements can be found within the council’s deferred payment agreement policy.
	8. The Council will undertake a financial assessment and benefits check for service users entering residential care on a permanent basis. Contributions are payable from the date care commences, but invoices will not be produced until after the financial assessment.
	9. The Financial Assessment will take into account income, capital, and the value of any assets. The charging methodology will take into consideration any mandatory disregards of income, capital, and property as defined in the Charging for Care and Support Statutory Guidance.
	10. The financial assessment will take into account statutory amounts required to be retained by the service user from their income. These amounts are dependent upon the service users’ financial circumstances and are reviewed annually by the Department of Health.

# Charging and financial assessment for care and support in care homes on a temporary basis

* 1. The council will charge for care and support delivered in a care home on a temporary basis.
	2. Following an assessment of a service user’s eligible care and support needs, a decision may be taken that the service user would benefit from a temporary stay in a care home. A temporary resident is defined as a person whose need to stay in a care home is intended to last for a limited period of time and where there is a plan to return home. The person’s stay should be unlikely to exceed 52 weeks, or in exceptional circumstances, unlikely to substantially exceed 52 weeks.
	3. Where a person’s stay is intended to be permanent, but circumstances change and the stay becomes temporary, then the council will assess and charge as a temporary stay.
	4. Service users that have a temporary stay that becomes permanent will be assessed for a permanent stay at the date permanency is confirmed and the care and support plan is amended.
	5. The council will financially assess all service users having a temporary stay in a care home and will charge from the date of admittance.
	6. The financial assessment for temporary stays will completely disregard the service user’s main or only home where the service user intends to return to that home.
	7. The financial assessment will treat income and capital in the same way as if the service user was entering a care home on a permanent basis with the following exceptions:
* Where the service user is in receipt of Disability Living Allowance, Personal Independence Payment or Attendance Allowance, these are completely disregarded from the financial assessment.
* Where the service user receives Severe Disability Premium or Enhanced Disability Premium, these benefits cease when Disability Living Allowance, personal Independent Payment or Attendance Allowance ceases.
* The financial assessment will be adjusted where the temporary stay extends into this period.
	1. The council will ensure that where a spouse or partner resides in the same residence as the service user, that the spouse/partner will have an income of at least the basic level of income support or pension credit, to which they would be entitled to in their own right.
	2. The council will ensure that where housing benefit is paid, this is disregarded.
	3. The council will ensure that payments made by the service user to keep and maintain their home, such as rent, water rates, insurance premiums are disregarded. Contributions are payable from the date care commences. A new financial assessment will be required in each financial year where a service user requires temporary accommodation in a care home.

# 7.0 Charging and financial assessment for care and support in all non-residential settings.

* 1. The council will charge for care and support delivered in all non-residential settings including a person’s own home.
	2. Service user’s requiring care and support in their own home or other care settings must initially satisfy an eligibility assessment for care and support. Only where a service user has an eligible care and support need will a financial assessment be required.
	3. Where a service user has an eligible care and support need, the council will calculate how much the personal budget might be, using its Resource Allocation Tool (RAT). Once the indicative budget is known, the care and support planning process, taking into account the service users desired outcomes, will determine the agreed budget.
	4. Service users are likely to choose varied forms of care and support to meet their specific outcomes, as defined in their care and support plan. Where a service user has capital in excess of the higher capital limit and is therefore required to pay the full cost of their care and support, they are still entitled to request services to be arranged by the council. The council will charge an annual fee for arranging and administering personal accounts for all service users that are able to pay the full cost of their care and support. The annual fee cost is set out along with the relevant higher and lower capital limits, on the council website at [www.medway.gov.uk.](http://www.medway.gov.uk.)
	5. Service users will have the option to take a personal budget as council commissioned services or as a direct payment or a combination of both. Service users that take their personal budget as a direct payment may purchase alternative types of care to meet their care and support needs as defined in Sections 31 to 33 of The Care Act 2014.
	6. The council will undertake a financial assessment to determine the amount a service user can contribution towards their care and support costs. The council will undertake a financial assessment based, as a minimum, on income, capital, housing costs and disability related expenditure (DRE). Service users with capital in excess of the higher capital limit will be responsible for meeting all of their care and support costs, along with administration charges. Evidence will be required to substantiate fully a service user’s financial circumstances. Please refer to schedule A of this policy for guidance in relation to DRE.
	7. Where a service user has capital in excess of the higher capital limit, they can request a ‘light-touch’ financial assessment. Similarly, where undertaking a full financial assessment may be disproportionate to the cost of care and support services, service users can request a ‘light-touch’ financial assessment. The council will take steps to assure that the service user is willing and will continue to be willing to pay all charges due. Evidence will be required to substantiate this, i.e., bank statements.
	8. The council will ensure that service users retain at least the ‘Minimum

 Income Guarantee’ This retained income level is designed to promote

 independence and social inclusion and is intended to cover basic needs

 such as purchasing food, after housing costs have been taken into

 consideration. Direct housing costs will only be considered where the

 service user is liable for such costs, i.e., holds the tenancy agreement or

 is party to the mortgage. The ‘Minimum Income Guarantee’ ensures that

 the service user retains at least income to the equivalent of Income

 Support or Guaranteed Credit element of Pension Credit. The ‘Minimum

 Income Guarantee’ rates are set by the Department of Health & Social

 Care.

* 1. The financial assessment will refer to Care and Support Statutory Guidance for all disregards in respect of income and capital when making a determination of the service user’s financial resources.
	2. Service users will be informed of the weekly amount they must contribute towards their care and support costs and how this has been calculated. Service users will not be charged more than the amount determined by the financial assessment.
	3. Contributions are payable from the date care commences and invoices will be issued every 4 weeks in arrears if the council is required to arrange the care. The first invoice will be received approximately 9 weeks after the financial assessment. If there is any delay in distributing the invoice a letter will be sent providing an explanation for the delay.
	4. If the financial assessment appointment is cancelled by the Service User and/or their representative, contributions will continue to apply from the date the care and support package starts.
	5. Service users receiving their care and support costs through direct payment will receive ‘net’ payments 4 weekly in advance, to which they must then make arrangement to pay their contribution.
	6. All financial assessments will be reviewed on an annual basis, and changes applied from the Monday following re-assessment.

# 8.0 Charging and financial assessment for support for carers

* 1. The Care Act 2014 provides councils with the power to charge for support for carers, where they have an eligible support need in their own right, providing the adult they care for also meets the eligibility criteria for care and support. Medway Council has decided that they will not charge Carers for services they receive in their own right for the financial year 2015/16. This will be reviewed at a later date.

# 9.0 Financial Assessment Considerations

* 1. Deprivation of income and/or assets is the disposal of income and capital (property and investments) in order to avoid or reduce care charges. Disposal can take the form of transfer of ownership or conversion into a disregarded form. In all cases, it is up to the service user to prove to the council that they no longer possess an income or an asset. The council will determine whether to conduct an investigation into whether deprivation of income or assets has occurred. Following the investigation, where the council decides that a service user has deliberately deprived themselves of an asset or income in order to reduce a charge for care and support, the local authority will initially charge the service user as though they still owned the asset or income.
	2. Property other than the service user’s main or only home will be included within the financial assessment as a capital asset. The only exception to this rule is where the service user is taking steps to occupy premises as their home. In this case the asset value will be disregarded for a maximum of 26 weeks.
	3. Allowable housing costs (e.g., rent/mortgage/council tax) will only be allowed in the financial assessment where the service user is liable to pay these costs. Where the service user is not liable for these costs but contributes towards these through a private board agreement or similar, then the service user will be expected to meet this expenditure from their guaranteed income.
	4. Where funds are held in trust, the financial assessment will seek to determine whether income received, or capital held in trust should be included or disregarded. Copies of trust documents (e.g., Trust Deed, Will Settlement etc.) are required to be produced as part of the financial assessment.
	5. Where the service user receiving care and support has capital at or below the higher capital limit, but more than the lower capital limit, they will be charged £1 per week for every £250 in capital between the two amounts. This is called “tariff income”. For example, if a person has £4,000 above the lower capital limit, they are charged a tariff income of £16 per week.
	6. Service users will have a financial assessment within two weeks of the start of their care package. Invoices will be sent every 4 weeks and the first invoice will be received within 8 weeks of the financial assessment visit. If there is a reason why the service user will not receive the invoice, they will receive a letter explaining the delay and stating when the invoice will be received.

* 1. Part of the financial assessment is a Welfare Benefits check. All standard benefits that you should be receiving i.e., state pension, will be used in the financial assessment. Other benefits that the assessment officer believes the service user to be entitled to will be notified to the Department of Work and pensions for further investigation. Once in receipt of these benefits the service user must notify the Customer Contact Team for them, to reassess. Alternatively, the CCO will contact the service user within 2 months of the visit.

# 10. Ability to pay

10.1 The purpose of the financial assessment is to ensure that the level of financial contribution calculated is within service users’ means and leaves the service user in receipt of the guaranteed minimum level of income set by the Government.

# Recovery of Debt

* 1. The Care Act 2014 consolidates the council’s powers to recover money owed for arranging care and support for a service user. These powers can be exercised where a service user refuses to pay the amount they have been assessed as being able to pay or have been asked to pay (where the cost of care and support is less than their assessed contribution).

 11.2 The powers granted to the council for the recovery of debt also extends to the service user or 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.

* 1. The council will approach the recovery of debt reasonably and sensitively and will only take Court action as a last resort.
	2. The initial stage of debt recovery will involve discussing the debt with the service user 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 service user to enter into affordable repayments of the debt as well as being able to pay ongoing costs as they arise.
	3. 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.
	4. All debt that arises from 1st April 2015 must be recovered within 6 years from when the sum became due to the council.

# Schedule A – Disability Related Expenditure

* + - Service users that are in receipt of care in all settings with the exception of permanent care in a care home and are in receipt of disability benefits (Attendance Allowance/Disability Living Allowance and Personal Independence Payment) will be asked about additional costs incurred as a direct result of their disability. Allowances will be made where costs are not and would not expect to be met by the council.
		- Only costs incurred by the service user will be considered as part of the assessment as allowable expenditure.
		- The council has 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 include the following disability related expenditure within the financial assessment
* Community alarm system not included in care package
* Costs of any privately arranged care services required
* Costs of any specialist items needed to meet the person’s disability

needs:

* day or night care for which the service user has an eligible need but is not provided by the council
* additional laundry costs
* additional costs for dietary needs due to illness or disability (evidence from the service users GP may be required)
* special clothing or footwear where this needs to be specially made or altered, or due to additional wear and tear due to the disability
* additional costs of bedding, for example, due to incontinence

any heating costs, above average levels for the area and housing type, occasioned by age, medical condition, or disability

* reasonable costs of basic garden maintenance
* cleaning or domestic help, if necessitated by the service user’s disability and is not met be social services
* personal assistance costs, including any household or other necessary costs arising for the service user
* the council will not make allowances at a higher rate where a reasonable alternative is available at a lower cost, for example where incontinence pads are available on the NHS, but the service user decided to purchase them privately
* other transport costs necessitated by illness or disability, including costs of transport to day centres, over and above the mobility component of DLA or PIP, if in payment
* Where the council provides transport and the service user wishes to use alternative transport at a higher cost, the cost of council provision will be used to determine any allowance
* All other expenditure will be assessed as either an everyday living cost, or will be reviewed as a specific need against the service users’ care and support plan

# Schedule B - Complaints

1. A service user may wish to make a complaint about any aspect of the financial assessment or how a local authority has chosen to charge.
2. The first stage is to ensure that the assessment has been conducted and calculated correctly. Requests for a financial reassessment should be direct to:

Senior Financial Assessment Officer

Medway Council

Gun Wharf

Dock Road

Chatham

Kent

ME4 4TR

1. An officer, independent of the disputed assessment will reassess the information provided by the service user at the time of assessment. Any information omitted from the initial assessment will be considered upon submission; however, the council is under no obligation to backdate the outcome to the date of the original assessment. The only exception to this is where benefit income has stopped without the prior knowledge of the service user.
2. If the complainant is still not satisfied, then Medway Council’s complaints procedure should be followed. Information can be found using the following link.

 http://www.medway.gov.uk/information/contactus/complaintsandcompliments.

 Or email:- customer.relations@medway.gov.uk

 Or by mail to:- Customer Relations, Medway Council, Gun Wharf, Dock

 Road, Chatham, Kent ME4 4TR

**Schedule C – Summary of Publications**

The following publications have been referred to in the compilation of this policy

* The Care Act 2014
* The Care Act 2014 Regulations Part 1
* The Care Act 2014 Care and Support Statutory Guidance