

Adult Social Care Charging Policy

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Lead officers:

Damian Crowther, Customer Services Manager

Nazire Mira, Client Financial Affairs Unit Manager

Revision history

Version	Details of Changes	Sections	Date Signed off
2.9	<p>New charges added for several administration fees.</p> <p>Change to the way in which we refund for missed care.</p> <p>Removal of discount rate for Respite care.</p> <p>General updates to reflect current legislation and procedures.</p>	<p>14</p> <p>20</p> <p>18</p> <p>Various</p>	14 January 2017
2.10, 2.11	<p>Clarified language covering charges/refunds/ for missed care</p> <p>Allowed for some circumstances when admin fee for self-funders will not be enforced.</p> <p>Additional section explaining how Disability Related Expenses are assessed and calculated.</p> <p>General wording changes for claiming, change of circumstances, backdating, appeals and help and independent advice.</p> <p>Changes to add in Appointeeship Process and Court of Protection process and charging rules</p>	<p>26</p> <p>19</p> <p>8 and new appendix</p> <p>11, 12, 13 and 29 to 32</p> <p>20</p>	May 2019
3	Direct Payment Policy added as an appendix		September 2020
4	<p>Minor amends to language in most sections.</p> <p>Chapters re-numbered.</p> <p>Information about the Council's online financial assessment tool.</p> <p>Clarification on waiving self-funder admin fee for services provided by the Council.</p> <p>Additional information on permissions for gifting related to deprivation of income.</p>	<p>5, 9</p> <p>10</p> <p>19</p>	March 2024

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1. Introduction

- 1.1. Adult Social Care (unlike some health care) is not free. You are liable to pay all your care costs yourself unless you qualify for financial assistance.
- 1.2. To work out whether you qualify for any financial assistance and to give you an idea of how much you will have to pay, you need to complete an application for financial assistance. Failure to complete a valid application will mean that you must pay the full cost of your care.
- 1.3. This policy explains how the Council will charge adults for care and support in order to sustain the delivery of care services to some of the most vulnerable members of society.
- 1.4. If you are eligible for some support from the Council to meet your social care needs, you will be given a Personal Budget to arrange your support. You can take your Personal Budget in the following ways:
 - I. A Direct Payment, which is money payable into an account you have control over.
 - II. Have your support arranged on your behalf by the Council.
 - III. Take your Personal Budget as a mix of both (money and arranged support).
- 1.5. This policy covers care and support in community settings and in a residential home setting which includes nursing. Community based support includes services such as homecare, Shared Lives, day services and activities, short breaks, respite care and assistive technology.

2. Policy Statement

- 2.1. This policy responds to the requirements of the Care Act 2014 and all regulations issued under the Care Act 2014, which provide a single legal framework for charging for care and support.
- 2.2. This charging policy applies to all adult social care services and support provided by the Council.
- 2.3. The policy applies from April 2024 and supersedes all previous adult social care charging policies and practice before this date and for the purpose of this policy; an adult is a person aged 18 and above who is eligible for a Personal Budget from the Council.
- 2.4. In determining a charging policy that complies with the Care Act 2014 the Council must also have due regard to the Care and Support Statutory Guidance and Annexes issued under the Care Act 2014.

2.5. The policy provides details about:

- I. The legal and regulatory context for charging.
- II. The key aim of the policy, which is to ensure that where an adult is assessed to pay for care and support, they are not charged more than they can afford to pay as per the rules and regulations.
- III. How we aim to be as clear, transparent and comprehensive as possible so people know what they need to pay towards the costs of their care and understand (with support if necessary) any charges or contributions they are asked to make.
- IV. How different types of services and support are charged and how these may be paid for or recovered.
- V. More cost-effective collection methods e.g. Direct Debit.
- VI. The financial assessment process, including the review and appeals process.
- VII. Charging rules so those with similar needs or services are treated the same way.
- VIII. The administration of the charging policy to allow the Council to provide sustainable services for those needing care and support in the future.
- IX. Promoting wellbeing, social inclusion, and supporting the vision on personalisation, independence, choice and control.
- X. Encouraging and enabling those who wish to stay in or take up paid employment to do so.
- XI. Supporting carers to look after their own health and wellbeing effectively and safely and recognising their valuable contribution to society.
- XII. Reflecting the variety of care journeys and the variety of options available to meet people's needs.

3. The Legal and regulatory Context Basis for Charging

- 3.1. Sections 14 and 17 of the Care Act 2014 (as amended) ("the Act") provide a single legal framework for charging for adult social care and support.
- 3.2. Section 14 of the Act provides a local authority with the power to charge for meeting needs under sections 18 to 20 of the Act.
- 3.3. Section 17 of the Act creates a duty for a local authority to carry out a financial assessment which would arise where the local authority thinks that if it were to meet an adult's needs for care and support, or a carer's needs for support, it would charge the adult or carer under section 14(1) of the Act.
- 3.4. The Care and Support **Charging and Assessment of Resources Regulations 2014** describe the limitations on local authority powers to make a charge for meeting needs under section 14 of the Act; and provide details about the requirements for carrying out financial assessments for the purposes of section 17 of the Act.

- 3.5. Section 2(1) of the Act requires a local authority to provide or arrange for the provision of services, facilities or resources (or take other steps) which it considers will contribute towards preventing, delaying or reducing the needs for care and support of adults or for support in relation to carers.
- 3.6. The Care and Support **Preventing Needs for Care and Support Regulations 2014** describe the rules permitting and prohibiting a local authority for making a charge for the provision of services, facilities and resources under section 2 of the Act.
- 3.7. The 'Care and Support Statutory Guidance' (CSSG), issued by the Department of Health in October 2014 and updated in March 2016 sets out how a local authority should go about performing its care and support responsibilities. This includes details about interpreting and applying the rules relating to charging and financial assessments as defined in both the Act and regulations.
- 3.8. This policy has been written in accordance with the CSSG and related primary and secondary legislation.
- 3.9. The policy will need to be revised from time to time to consider either:
 - I. Any provisions of the Care Act 2014 that are brought into force (e.g. Cap on Costs).
 - II. New statutory instruments (e.g. the proposed increase in the capital threshold or any amending or repealing legislation).

4. Chargeable and Non-Chargeable Services

- 4.1. The Council operates five charging categories:
 - I. Exempt services or care and support provided free of charge.
 - II. Means tested charging and full cost service following a financial assessment.
 - III. Full cost charge for customers who do not wish to disclose their finances.
 - IV. Flat rate charges, such as for Carephones and/or assistive technology.
 - V. Pass on reasonable costs involved in miscellaneous services, for example providing pet care.
- 4.2. Exempt Services - The Council is not allowed to charge for some types of care and support. The list below sets out what these currently are:
 - I. Community equipment (aids and minor adaptations): this is where a person is supplied with equipment or a minor adaptation to their property, in order to support daily living so a person can stay in their home. An adaptation is minor if the cost of making the adaptation is £1,000 or less.
 - II. Reablement service can be provided to support service users to become as independent as possible in their homes; this can be from one day up to a maximum period of six weeks. This could be after a stay in hospital, an

illness or to prevent a hospital admission. For support services following the Reablement period, charges will be applied based on a financial assessment.

- III. Services provided to people suffering from Creutzfeldt Jakob Disease.
- IV. Any service or part of service which the NHS is under duty to provide. This includes Intermediate Care, Continuing Healthcare and the NHS contribution to Registered Nursing Care.
- V. Services which local authorities have a duty to provide through other legislation, including any specific services provided as After Care Services under Section 117 of the Mental Health Act 1983. There will be occasions when chargeable services are also provided to service users who are subject to Section 117 of the Mental Health Act 1983. This is usually when a service is in place that is not specifically related to their Section 117 status. If this is the case the service user will be advised of this in writing and a financial assessment will need to be undertaken in relation to such services.

5. Means Tested Financial Assessment

- 5.1. A financial assessment will need to be completed for all care and support provided or arranged by Kirklees Council.
- 5.2. The purpose of the financial assessment is to find out how much a person can afford to pay towards the cost of their care or support service(s); it is means tested.
- 5.3. The client should complete the online financial assessment to find out how much they are liable to pay for their care costs, this is subject to validation. It is advisable to complete the online assessment before the care assessment process starts.
- 5.4. The financial assessment will consider the client's financial circumstance e.g., benefits, property, savings, pensions, stocks, shares, bonds and any other income. Income from paid employment is disregarded from the financial assessment.
- 5.5. The financial assessment will calculate how much, if anything, a person can afford to pay towards the cost of their care (or contribute towards their personal budget) on a weekly basis. This amount is referred to as the "maximum weekly assessed charge".
- 5.6. The Financial assessment may calculate that a person can afford to pay the full cost of their care and support. An example of this is where the amount of disposable income available is more than the weekly cost of the care package.
- 5.7. Charges for support will be payable from the date services or packages start; not the date the financial assessment is completed.
- 5.8. The Council will not charge more than it costs to provide or arrange care and support, which is subject to means tested charging.

- 5.9. In the event of the person's death before a financial assessment has been completed and the person has been in receipt of services, the Council will seek full recovery of costs from the deceased's estate.
- 5.10. The technical rules for the financial assessment differ between care and support provided in a residential care setting ('care home') and care and support provided in all other settings ('non-residential'). Assessments will be carried out in accordance with the [Care and Support Statutory Guidance: Chapter 8](#):
- 5.11. All documentary evidence requested by the Council to complete the financial assessment **must** be provided within one month of the request. The Council will only ask for documentary evidence that is necessary to complete the financial assessment accurately and comprehensively. The Council will use other information sources available to validate and complete the financial assessment, such as the Department of Work and Pensions customer information system and the Council's Housing Benefits and Council Tax systems.
- 5.12. Where evidence is requested but not provided the Client will be classed as a full payer and be liable for the full cost of the service. The Council may also consider notional income when completing a financial assessment.
- 5.13. Backdating of a financial assessment application can be considered on a case-by-case basis, where a person can demonstrate that they had good cause for not having made an application on an earlier date. Under normal circumstances we will not backdate a financial assessment further than 3 months.
- 5.14. Financial assessments will be completed for people as individuals and not as couples. Where capital is held and income is received on a joint basis, then it will be assumed that each party is entitled to 50% of that capital/income. The same is assumed for assets such as second properties.
- 5.15. The Council will review on a case-by-case basis where an individual states they can demonstrate their share is more or less of the asset and amend the assessment appropriately.
- 5.16. The financial assessment will make sure a person (or both people, in the case of a couple) has money left after charges are applied for themselves in line with statutory amounts, these are known as 'Personal Expenditure Allowance' (PEA) for care in a care home and 'Minimum Income Guarantee' (MIG) for care at home. These amounts are set and reviewed annually by the Department of Health.
- 5.17. The Council will review each year the published MIG and PEA rates and determine whether these amounts require adjustments.
- 5.18. The financial assessment process will normally include a welfare benefits check to ensure the person is claiming all the benefits they are entitled to claim; or customers may be signposted to **BetterOff Kirklees** or **Advice Kirklees**.
- 5.19. A review, or financial assessment may be requested by the client at any time. This may be where their circumstances have changed, or for people who are

self-funding, if their total savings/capital has fallen to, or below the upper capital threshold, or where they have not previously had an assessment.

- 5.20. Communications are sent to clients informing them of changes to fees and charges and how it affects their assessed weekly contribution. This communication gives details on how charges have changed because of inflationary increases, changes to services and/or how changes in benefit rules and amounts issued by the Department of Work and Pensions (DWP) affect their assessed weekly contribution.

6. Duty to notify changes of circumstances

- 6.1. The applicant (or any person acting on their behalf) must notify the Council of any change of circumstances, which the applicant (or that person) might reasonably be expected to know, might affect the financial assessment, or the amount of the care cost contribution.
- 6.2. This should be done by sending a change of circumstances notice to the Council by email, in writing or completing a new online financial assessment form.
- 6.3. Notice in all cases must be given within a period of 21 days beginning with the day on which the change occurs, or as soon as reasonably practicable after the change occurs, whichever is later.

7. Disability Related Expenses (DRE's)

- 7.1. The care act statutory guidance says that the council must leave a person with enough money to pay for necessary disability-related expenditure to meet any needs which are not being met by the Council.
- 7.2. Included in the non-residential financial assessment is a consideration of any DRE's a person may have and what the amount of money this would equate to per week. This amount is then deducted as an allowable expenditure from the disposable income.
- 7.3. The nature of the DRE's and whether they are considered to be essential costs as a result of a disability will need to be agreed by the care assessor and documented in the social care assessment or review.
- 7.4. The finance officer will look into the details of the expenses taking into account any bills (e.g. heating bills) or receipts (e.g. for specific items related to a disability). Once the details have been evidenced and agreed the appropriate amount of money will be included in the financial assessment.
- 7.5. The value of any allowable expenditures is included in the confirmation letter following completion of the financial assessment.
- 7.6. For further information on the types of expenses that can be considered and how an amount will be calculated, please see the [Appendix, Disability Related Expenditure guidance](#).

8. Light Touch Financial Assessments

- 8.1. In some circumstances, the Council may decide that a full financial assessment is not necessary or appropriate. This type of financial assessment is defined as a “light touch financial assessment.”
- 8.2. The light touch financial assessment will apply:
 - I. If a person does not wish, or refuses, to disclose their financial information.
 - II. If a person says they have significant financial resources and or savings above the limit of £23,250 and does not wish to go through a full financial assessment for personal reasons.
 - III. Where the charges for the service are small and a person can pay and would clearly have the relevant minimum income left. Carrying out a full financial assessment would be disproportionate.
 - IV. Where a person is in receipt of benefits, which show they would not be able to pay towards their care and support costs.
- 8.3. In circumstances where the person has refused a financial assessment but is eligible for care services the Council will assume the person can meet the full cost of the support needed and will pass on the full charge accordingly. The Council will inform the person to help them to understand that they will have to pay the full cost of any support service and what that cost will be; the Council will remind them of their right to request a full financial assessment.
- 8.4. In circumstances where the person states they have sufficient financial resources to meet the cost of their support, the Council will advise the person to take independent financial advice regarding their options for meeting the cost of their care and support. The Council can offer advice to help the person access appropriate care and support services.
- 8.5. The Council will inform a person when they are charged the full amount of the care costs due to non-disclosure of financial information and will make it clear that the person has the right to request a full financial assessment.

9. Online Financial Assessment and online review process

- 9.1. The Council has an online financial assessment portal to enable anyone (client or representative) to complete their own financial assessment.
- 9.2. This portal enables customers to enter their relevant financial information to find out the maximum they will be expected to pay for social care.
- 9.3. Where the client or representative requires assistance to complete the online form, the Council’s main customer service centres in Huddersfield and Dewsbury and “Advice Kirklees” Voluntary sector are available for help and advice.
- 9.4. The Council advise service users and their representatives/families to complete a financial assessment to find out the maximum amount they may have to pay so

they are better able to make informed decisions about arranging social care services.

- 9.5. The Date of application will be the date upon which the application form is completed in full. Only applications submitted in a manner agreed by the authority, such as through the Financial Assessment portal, will be accepted.
- 9.6. A person who has made an application for a financial assessment may amend it at any time before a decision has been made on it.
- 9.7. A person can withdraw a financial assessment application before a decision has been made on it. However, should a care service be received this would be charged at the full amount of the care costs.

10. Self-Funders - (full cost charging)

- 10.1. A “Self-Funder” financial assessment means that the person is required to pay the full amount of all qualifying charges for any means tested care and support they receive.
- 10.2. The Council will treat a person as being a “Self-funder”, where they:
 - I. Have savings and other financial resources above the national upper limit, currently £23,250.
 - II. Own a second property.
 - III. Choose not to disclose their financial information to enable a full financial assessment.
 - IV. Fail to co-operate and/or do not provide a completed financial assessment form, within one-month (14 days for Carephones) of the commencement of chargeable services; The Council will be deemed to have undertaken a financial assessment in accordance with regulation 10 of the “The Care and Support (Charging and Assessment of Resources) Regulations 2014 (as amended).
 - V. Declare that they agree to pay the full cost of services received.
- 10.3. Self-funders have the option for the Council to arrange a suitable social care package for them. There is an annual administration charge in operation to help fund the cost of arranging and administering these services.
- 10.4. This administration charge will not be applied if the service user has no option other than using a specialist Council run service (e.g. Dementia Day Care).
- 10.5. The administration charge will cover a 12-month period and will be renewed annually. There will only be a refund if the service user passes away within 6 months of the arrangement first being made.

11. Administration fees

- 11.1. The Council will charge administration fees for work which it undertakes on behalf of people who fund their own care and have asked the Council to arrange care on their behalf (applies to non-residential services only).
- 11.2. Where the Council becomes the legal appointee for managing a person's finances (as there is no other person or legal representative to do so) the Council will use its power to charge an administration fee for the set up and annual running costs. This will be paid for from the person's financial account. This is in line with recommendation by audit and national practice by other Councils.

12. Support Services in the Community

- 12.1. The Council will charge for support delivered in community settings including a person's home or a community facility such as a day centre. The person's home includes tenancies within Extra Care, Supported Living and Shared Lives accommodation.
- 12.2. All non-residential community-based support services fall within the scope of this policy and include:
 - I. Personal Care Support delivered to the person in their home.
 - II. Sitting Services.
 - III. Day Services and activities, both building based and in the community.
 - IV. Respite breaks that are not in a residential care home.
 - V. Daily living support such as shopping, laundry, cleaning delivered to the person living at home.
 - VI. Joint funded services – service users will be required to contribute towards the cost of the services provided by the Council but not those provided by the NHS as part of a joint package of support.
- 12.3. Services not included within charging for care services in the community:
 - I. Meals in Day Centres.
 - II. Cost of transport to Day Centres unless otherwise included in the care plan.
- 12.4. Where applicable, a charge will be made for meals and transport on a 'Pay as you use' basis as meals and transport are not included in the unit cost unless otherwise stated. This ensures people only pay for the activity and support provided to them.
- 12.5. Should the person receive more than one service per week, charges will be calculated up to the disposable income threshold. Where possible charges for services will be listed on the same invoice for customer ease and efficiency.

13. Carephones Telecare Home Safety Service

- 13.1. The Council provides a home safety service through the provision of a personal alarm system linked to a Carephone. There are no charges for the provision, installation and maintenance of the equipment. Charges for this service are purely for the ongoing monitoring and support.
- 13.2. Carephone charges will normally be recovered by regular Direct Debit. The person's consent to pay by Direct Debit and their bank details should be collected from the customer at the earliest opportunity i.e. first point of contact.
- 13.3. Individuals can apply for the service without the necessity of meeting the national eligibility criteria and having an assessment, but they are offered a financial assessment. Charges may be subject to VAT.
- 13.4. For those who receive the service following an assessment and as part of their support plan a financial assessment is undertaken unless the person chooses not to have a financial assessment.
- 13.5. There are currently two types of packages a person can receive (standard or enhanced). The cost varies depending on the type of package taken.
- 13.6. The Council currently invoice for Carephone services on a quarterly basis. The period for invoicing may be reviewed and result in less frequent invoices. i.e. six monthly or yearly.

14. Shared Lives

- 14.1. This is a scheme that is similar to Fostering, whereby adults with support needs can live with a family who provide board, lodgings and support. The Shared Lives user is responsible for making payments in respect of board and lodgings directly to the accommodation provider. They may be able to get some help with the lodgings element through the Housing Benefit system but will need to make payments in respect of food and utilities from their income.
- 14.2. The person entering into a Shared Lives placement will be financially assessed for the cost of the placement. If the person uses other support services such as day care, home care or respite then there will be no additional charge for this. However, in all instances the person will only pay the maximum they are financially assessed as able to contribute, even if they receive more than one service.

15. Residential/Nursing Care

- 15.1. Where the Council carries out a financial assessment for care and support provided in a care home, information and advice will be provided to enable the person to identify options of how best to pay a charge. This may include offering the person a deferred payment agreement. (See Section 17 below).
- 15.2. As with support delivered within the community, there is a charge for support provided in a residential home.

- 15.3. As the residential home will become the person's main place of stay providing board and lodgings in addition to care and support, the financial assessment for residential care will take into account the person's property, income and savings.
- 15.4. If a person receives community support services in addition to their placement at a residential home such as attending a day service with another provider, the person will be financially assessed for charges towards the cost of the placement but will only pay the overall maximum they are able to afford.
- 15.5. The Council can only pay towards the cost of residential care once a person has been assessed as having needs that mean moving into residential care is the best option for them. If the person needs nursing care as part of their support within a residential home this will be paid for by the NHS.
- 15.6. If a person arranges to move into a residential home without having an assessment by the Council, and later asks for financial help with charges, the Council will determine whether the person meets the national eligibility for social care support. If the person does meet the criteria, it will carry out assessments, both financial and personal to establish if financial support can be provided. If eligible for financial support in residential care, the Council will contribute towards the cost of care from the date of the referral (application date) to the Council and not from the date the person moved themselves into the residential home.
- 15.7. For people who have funded their own care and support within a residential home and their financial resources have reduced down near to, or below the financial threshold for support, the Council will consider payments, from the date a referral is made to the Council, subject to a completed financial assessment being received within the relevant timescales for applications and evidence.
- 15.8. The Council will not backdate contributions to a person's care costs to the date they entered the residential home or the date their capital dropped below the capital threshold.
- 15.9. If a person cannot afford their existing residential home and do not qualify for help from the Council, or for a deferred payment agreement then the person will need to seek alternative arrangements such as moving to a residential home that is affordable.
- 15.10. If customers are paying for their own care, the Council strongly advises seeking independent financial advice to ensure that customers will be able to afford the care they choose for the foreseeable future. (see section 21 and 32 below)
- 15.11. For more information about arranging residential care see: [Care Homes](#)

16. Appointeeship and Court of Protection

- 16.1. An Appointee is a person who has been appointed by the Department of Work & Pensions (DWP) to receive welfare benefits on behalf of someone who is unable to manage their affairs such as household bills, food, personal items and residential accommodation charges generally because of mental incapacity. An

appointee can only be granted with the consent of the service user, so they must still have the ability to make their own decisions.

- 16.2. Where an Appointeeship is already in place the appointee will be responsible for contracting directly with the residential care home and making the necessary payments.
- 16.3. Court of Protection - If a person has capacity, they can appoint an attorney to deal with their affairs via a Lasting Powers of Attorney ('LPAs') for both Property & Financial matters and Health & Welfare matters. However, where a customer lacks capacity and does not have a LPA in place already (or their LPA has become invalid) then the only legal way in which another person can make decisions on their behalf is through an application to the Court of Protection for Deputyship.
- 16.4. Where an appointeeship or Court of Protection deputyship is not in place at the time the customer enters the residential care home the Council will look to pay the care home direct on a temporary basis for approx. 6 weeks to allow the appointeeship to be granted. The payments will be accrued for the appointee to repay back to the Council in full within 28 days of the appointeeship being granted (this process should take no more than 6 weeks to complete). The Council will Invoice the customer every 4 weeks for the accrued debt.
- 16.5. The Council reserves the right to take legal action where the Court of Protection deputyship has not been granted in a reasonable period of time and it appears unreasonable delay is the cause. (i.e. the legal authority to administer the customer affairs; where a deputyship has not been granted within six months of the admission date due to non-compliance by the person/representative not applying for the order), in these circumstances the Council will cease funding the care and refer the matter to the Court Of Protection to appoint an alternative deputy to manage the customer's property and financial affairs.
- 16.6. The Council will need to see documentary evidence of these Appointeeship and Court of Protection applications within the timescale outlined below in order to set up and maintain arrangements for payment of care fees.
 - I. For Court of protection evidence must be provided within three months after the financial assessment.
 - II. For appointeeships evidence must be provided within six weeks after the financial assessment.
 - III. Or within one month (30 days) following any written request by the Council.
- 16.7. Failure to comply with any of the requests in 16.6 above may result in the Council withdrawing the funding and seeking to recover the full amount outstanding through its debt recovery policy.
- 16.8. Where the Council is satisfied that an Appointeeship or Court of Protection application is in progress, the Council will on a temporary basis, start paying the care fees to the care provider and will accrue these charges (for the representative/appointed person to pay at a later point) whilst the application is

being progressed. Once the legal authority has been granted, the appointed person(s) will be responsible for repaying (in full) the accrued care fees, within the first 28 days following the date of appointment, i.e. all of the accrued debt must be paid back to the Council from the Customer's bank, building society or other nominated account within 28 days.

- 16.9. The Council reserves the right to take legal proceedings to recover any accrued debt that remains unpaid and representatives are not complying with the requirements as set out in the charging policy.

17. Property and Deferred Payment Agreements (DPA)

- 17.1. A deferred payment agreement is an interest-bearing secured loan that self-funding eligible persons can apply for from the council for the purposes of paying residential care costs.
- 17.2. Providing a person and their property meet eligibility criteria, the person may be entitled to enter into a Deferred Payment Agreement with the Council. The intention of a DPA is to enable a person to get the support they need without them having to sell their home within their lifetime.
- 17.3. A DPA is a loan provided by the Council and is not a free service. The Council will charge set up costs, interest on the loan and termination costs on all DPA's that are set up from and including the date this policy comes into effect. The loan monies, any interest and any administration costs (that are not discharged on an as and when basis) that are at any time secured under the deferred payment agreement is known as the "Deferred Amount".
- 17.4. The loan is secured on the self-funder's house and the Council releases the loan by 4-weekly instalments, each one being the same sum as the residential care fees that are due and payable by the person.
- 17.5. The Council will charge the person for the costs of setting and running the deferred payment agreement. The adult can either pay for the administration costs separately when the costs are incurred, or the adult can ask for the costs to be added to the loan and the Council's costs along with the loan will be then recouped upon completion of the sale of the home. Interest will be charged on the costs during the term of the deferred payment agreement if the costs are added to the loan. Follow this link for more information. [Deferred Payment Agreements](#)
- 17.6. Property owned by a person is included in the financial assessment. It will not be taken into account (disregarded) subject to meeting conditions when a spouse or partner continues to live there after a person moves permanently into residential care.
- 17.7. Where the property is to be included in the financial assessment, the Council will exclude from the assessed charge, its value for the first twelve weeks of a person's stay. This period is called the twelve-week property disregard period and gives people time to seek independent financial advice and consider the options available to them to fund their support costs.

18. Treatment of third party “Top Ups” in Residential Care

- 18.1. A person may choose a home that is more expensive than the residential or nursing fees the Council has set for residential or nursing care arranged on behalf of the person who is eligible for support from the Council.
- 18.2. Where a person has chosen a setting that costs more than this, an arrangement will need to be made as to how the difference will be met. This is known as an additional cost or ‘top-up’ payment. If the person is part or fully funded by the Council, the ‘top up’ **must** be paid for by a third party i.e. not the person or the Council.
- 18.3. Where there is no option but to use a more expensive residential or nursing home at the time of the needs assessment the Council may be required (short term) to pay the top-up costs. The Council reserves the right to transfer the client to suitable alternative accommodation at the standard Council rates at a later date, at which point, a 3rd party would then have a choice whether they agree to pay for the client to stay, (i.e. 3rd party to pay “top up” rate) or move to the alternative accommodation.
- 18.4. Where a choice does exist, the 3rd party will be responsible for “top up” payments” and must sign a top up agreement within the placement agreement.
- 18.5. The Council needs to be satisfied that the third party has indicated they are willing and able to meet the cost for the person’s care and support. This includes ensuring the person has sufficient information and advice to understand the terms and conditions of the ‘top up’ agreement. The person will need to pay the top up fees direct to the home or via the Council. The Council encourages the third-party payee to get independent financial advice. See section 30 below for some external contacts.
- 18.6. In the event the ‘top up’ arrangements fail the Council may have to consider moving the person to an alternative home that can meet the person’s needs and is within the fees the Council has set.
- 18.7. All parties including the Provider will need to agree on the “top-up” prior to the person moving into the care home and sign the Placement Agreement.
- 18.8. Any increase to the top up payments should be agreed between the three parties involved, i.e. the Council, the Care Home and the third-party payer.

19. Deprivation of Assets and or Income (including trusts)

- 19.1. Deprivation of income and/or assets means a person reduces or tries to hide how much capital they have to avoid paying towards the cost of their care. Examples of this are signing property, investments, or assets over to relatives or giving large monetary gifts.
- 19.2. Gifting money which would otherwise be available to pay for care fees is considered as deprivation. This may mean that the value of the money gifted would have to be added back to the savings. The responsibility falls on the client

or their legal representative to prove why the money or possessions were gifted despite being aware of care costs, relevant evidence would have to be provided to the council.

Rules about paying for care differ from Inheritance Tax planning rules and gifts of £3000 should not be made on the assumption that the two rules are the same. For gifting cases, the council will need to consider the reasons for gifting money or possessions as well as evidence of previous gifting history and transactions. Gift amounts exceeding £500 will require proof of approval from authorising bodies such as the Court of Protection or Office of Public Guardian.

- 19.3. **Placing a property in Trust** - Trusts are legal devices designed to hold assets on behalf of named beneficiaries. The law states that you must not place a property in trust to secure more financial assistance for adult social care.
- 19.4. If the Council establish this is the case, then the client/representative will not qualify for financial assistance and will have to pay all of the care home fees.
- 19.5. If the client or representative have been advised to place their savings or property in trust to protect their investments from being used to pay care home fees, they have been given the wrong advice. The law states that ownership of assets like a home or savings must not be transferred into a trust to avoid or reduce care costs.
- 19.6. The Council will decide whether to investigate to ascertain if deprivation of income or assets has occurred where there are indicators as noted above are present. Where the Council determines that someone has deliberately deprived themselves of an asset or income on order to reduce or avoid a charge for care and support, the Council will charge services as though they still owned the asset or income. The Council may also take legal action for fraud.
- 19.7. The Council will take legal action against the customer/client, representative or the third party where appropriate to recover monies owed for charges. This is in line with national guidance.
- 19.8. Financial assistance is strictly means-tested so, if the Council believe you have placed your house (or any of your assets) in trust for the avoidance of paying care fees, we will decide that you have deprived yourself of your own assets to take advantage of state financial assistance and you will not qualify.

20. Charging for short term or temporary residence (e.g. respite care)

- 20.1. Short term care, such as respite care will be charged at the standard residential care rate. During periods of respite, the financial assessment will consider costs from the service user's home, such as household bills.
- 20.2. As with all social care costs, the charges will be based on the amount a person has been assessed as being able to pay. If a person refused or opted out of a financial assessment, they will need to pay the full cost of their stay.

20.3. Charges for respite care will be based on a full financial assessment.

21. Charging for Support to Carers

21.1. Where a carer has eligible support needs of their own that are not met through support arrangements for the cared for person, the Council is required to undertake a carer's assessment in order to provide a Personal Budget to the carer.

21.2. Under the Care Act the Council has the power to charge carers for support provided via a Personal Budget direct to the carer.

21.3. The Council very much appreciates the invaluable support carers provide for people across the district. The Council therefore does not currently charge carers but may need to consider introducing charges in future years. This policy will be amended to reflect any necessary changes to charging for support to carers.

22. Charges for services not received and refunds

22.1. A key principle of the Council's charging policy is that having carried out its duties to ensure charges for support are affordable and fair that payment should be made accordingly.

22.2. Where planned care services are not used, or, in the case of Home Care, not cancelled in advance, the services will be deemed to be delivered in accordance with the person's support plan, and therefore subject to normal charging rules.

22.3. The Council also has a duty to ensure that consistent, high-quality services are maintained and in order to do this, we operate certain guarantees to providers so they can effectively maintain the service for all. This may mean that people are charged for services they did not receive, even if the absence is planned or unavoidable (such as a medical appointment).

22.4. Consideration to providing refunds depends on whether a service user pays the full cost of their care, or if the Council subsidises the cost.

22.5. Customers paying the full cost of their care charges will only be considered for a refund if either of the points below are met.

I. The Service provider has failed to deliver the service. Examples of this are the closure of a Day Centre (e.g. bank holidays, summer leave or emergency) or when a Home Care provider does not attend for planned support calls.

II. The service user is unable to receive or attend the service (e.g. due to admission to hospital). Any service after a period of 24 hours of continual admission will not be charged.

22.6. Anyone who receives financial assistance from the Council (i.e. the service is fully funded, or is part funded by the Council) gets a service greater than their

contribution. As such in general any service that is not received will not be refunded. The exceptions to this are:

- I. The person does not receive any service in their support package for a sustained period of time (28 days) due to holiday/hospital admission etc. In this case, the person's benefits will change and will affect what the person could afford to pay. At this point we will look to review the case to determine whether it is appropriate for the service to continue, or if the person's needs should be reviewed.
- II. The person has purchased alternative care when their scheduled care has not been delivered.
- III. The service is unavailable due to unplanned circumstances for a period of longer than 7 days.

23. Collection Debt Recovery

- 23.1. To ensure our income stream is protected and to enable us to meet our legal and financial obligations to our customers, we maintain a robust debt recovery process. This means that if necessary, we will use all measures available to recoup the charges as explained in this document.
- 23.2. Our preferred payment method is by Direct Debit (DD) and you may be asked to complete a DD form, this will be used to clear your Council debts.
- 23.3. Invoices can be paid by debit card by the following methods:
 - I. On the internet at www.kirklees.gov.uk/payments
 - II. Automated Telephone 01484 414818
 - III. Post Office (there may be a charge);
- 23.4. If payment is not made for an invoice a reminder process is initiated. If payment is still not forthcoming then this can result in legal action to recover the debt outstanding, using all of the recovery powers available under regulations and common law. Please refer to the Council's Adult Social Care Debt Recovery Policy.
- 23.5. We will work with all our customers to help them to understand the charges and to be able to make regular payments in line with their own financial circumstances. However, if payments for care are not forthcoming using these steps, legal proceedings will begin and all legal costs incurred by the Council will also be claimed from the service user /representative.

24. Increases to rates

- 24.1. In line with the Council's Corporate Charging Policy Fees and Charges, all charges and the scope for charging will be reviewed at least annually within the service area. The review will include those services which could be charged for but which are currently provided free of charge.

- 24.2. Amendments are delegated to appropriate officers and should be approved following the completion of a business case. Where new fees or charges are to be introduced, they are to be approved by Cabinet. As explained above, all changes in fees or charges are subject to individual financial assessments and all service users will only be charged what they have assessed as being able to afford.
- 24.3. Any changes to the Minimum Income Guarantee will be considered and approved by the appropriate Council officers.

25. Direct Payments

- 25.1. When an individual chooses to take their personal budget as a direct payment, their assessed contributions must be paid first towards the total of their care budget and the remainder is paid by the Council. The Council pays the Direct Payment net of the client's contributions.
- 25.2. There are regular reviews of direct payments to ensure money is spent appropriately. Clients must provide details of their expenditure. Any unused funds will be reclaimed by the Council.
- 25.3. Where direct payments are being made and the service user is not spending the direct payment for the appropriate purpose, the council will take steps to recover or reconcile any payments that have been inappropriately used. In these cases a review of the care assessment and the financial assessment will also be undertaken.
- 25.4. Where a client does not comply with the conditions of the Direct Payment agreement, the Council reserves the right to make appropriate changes to the way in which the Direct Payment is administered. E.g. switch to a different method of payment or a commissioned service.
- 25.5. For more information, see our [Adults Direct Payment Policy](#).

26. Review and Appeals Process

- 26.1. If an individual is unhappy about the outcome of their financial assessment, they must start the review process within one calendar month of the decision letter. Cases outside of this appeal window will be considered as out of time for appeal.
- 26.2. At the review stage a different Financial Assessment Officer will review the issue(s) raised by the individual and consider any new financial information provided. The Officer will also check to ensure the Charging Policy has been applied correctly.
- 26.3. All requests for further information from the customer will be required back within 14 days of the request letter.
- 26.4. The outcome of the review should be confirmed in 14 days or as soon as a reasonably practicable.

- 26.5. If the individual is still unhappy with their reviewed charge or personal contribution, an appeal can be requested within one month of the decision letter.
- 26.6. All appeals must be received in writing and must contain details of the grounds for the appeal, along with any relevant additional supporting evidence i.e. income or capital or expenditure etc.
- 26.7. Following receipt of an appeal request the Council will write out and confirm the position with the request, next steps and if any further information is required.
- 26.8. At the appeal stage the case will be reviewed by an Appeals Officer in Welfare and Exchequer Services in conjunction with a CFA manger.
- 26.9. The appeal process can take up to 28 days from the time the completed appeals form is received, to the time the individual is informed of the outcome.
- 26.10. Confirmation of the outcome at each stage of this process is communicated with the individual.
- 26.11. The individual will continue to be charged the original assessed contribution during the review and appeal process.
- 26.12. If after the review and appeal the Council asks the person to pay a different weekly charge or personal contribution, the difference will be backdated. Any overpaid charges or contributions will be refunded.

27. Related Documents and Help and Advice

- The Care Act 2014
- Equality Act 2010
- Disability Discrimination Act 2005
- Data Protection Act 1998
- Human Rights Act 1998
- Mental Capacity Act 2005
- Kirklees website Adult social care and support

Where can I get financial advice?

The Council is not allowed to give financial advice directly, but there are independent organisations and services you can go to for financial advice. Some organisations are national and some more local to Kirklees.

Do I have to pay for financial advice?

It depends. Some organisations offer free advice and others may charge.

Useful Contacts:

Society of Later Life Advisors (SOLLA)

This organisation aims to meet the needs of people seeking advice about the financial issues in later life by ensuring they can find an accredited adviser local to them.

Any financial advice given is chargeable. societyoflaterlifeadvisers.co.uk

Tel: 0333 2020 454

Money Helper

This organisation offers free impartial advice to help you manage your money.

www.moneyhelper.org.uk/

Tel: 0300 500 5000

Age UK Calderdale and Kirklees

This organisation provides services to inspire, enable and support older people.

enquiries@ageukck.org.uk

Tel: 01422 252 040

Kirklees Citizens Advice and Law Centre

This organisation provides free, confidential and impartial advice

Tel: 0344 848 7970

28. Appendix: Guidance - Assessing Disability Related Expenditure (DRE)

Introduction

Section 17 of The Care Act 2014 permits local authorities to undertake a financial assessment which will determine the level of a service user's financial resources, and the amount (if any) which the service user is assessed as able to pay towards the cost of meeting their care and support needs.

A financial assessment is undertaken to work out how much the service user can afford to contribute towards the cost of care and support. The amount to be paid will depend on the service user's financial situation and is called a "financially assessed contribution". Service users are never asked to pay any more money than the financial assessment shows they can afford.

One of the things considered as part of this assessment is any Disability Related Expenditure.

This document should also be read in conjunction with the Councils Adult Social Care Charging Policy.

Disability Related Expenditure

When considering Disability Related Expenditure, allowance is made for reasonable spending directly related to a disability to help service users to stay as independent as possible and to ensure they are able to maintain a healthy, hygienic and safe standard of living.

Care and Support Statutory Guidance

The following extracts from the guidance show what should be considered in relation to Disability Related Expenditure
(See link for Annex C: [care and support statutory guidance](#))

Annex C 39) Where disability-related benefits are considered, the local authority should make an assessment and allow the person to keep enough benefit to pay for necessary disability-related expenditure to meet any needs which are not being met by the local authority.

Annex C 40) In assessing disability-related expenditure, local authorities should consider the following. However, it should also be noted that this list is not intended to be exhaustive, and any reasonable additional costs directly related to a person's disability should be included.

Annex C 41) The care plan may be a good starting point for considering what is necessary disability-related expenditure. However, flexibility is needed. What is disability-related expenditure should not be limited to what is necessary for care and support. For example, above average heating costs should be considered

Assessing Disability Related Expenditure

To qualify for Disability Related Expenditure the service user must be in receipt of the care component of Disability Living Allowance, Personal Independence Payment (Care) or Attendance Allowance.

The Assessment of Care and Support Plan should also identify and consider disabilities or medical conditions which demonstrate the need for Disability Related Expenditure.

Adults not receiving disability benefits should visit the “BetterOff” Kirklees website or can contact the Kirklees Citizen Advice and Law Centre for help and advice.

The disability benefits awarded by the DWP or other Gov’t department to the individual or household are designed to cover daily living expenditure so the award of a DRE will only be made where costs are met entirely by the adult, exceed ‘normal’ cost of living expenses and are specifically resulting from the person’s disability.

The Assessor will identify, assess and record all Disability Related Expenditure as part of the care needs assessment, evidence should be collected at the initial meeting if available. Evidence of this spend will be required such as receipts and invoices. If the service user is not able to provide this evidence during the financial assessment, they will have 28 days to provide it. On receipt of the evidence being provided within the 28 days, any award or reduction in charge due to the DRE will be backdated to the date of the assessment. If evidence is provided after 28 days, any reduction will be made from the date of receipt of the last supporting evidence. Where evidence requested by the Council is not provided by the service user the application will be treated as withdrawn.

Calculating Disability Related Expenditure

Disability Related Expenditure is calculated based on evidence of relevant spending, and local information, for example typical heating costs for different types of housing in Kirklees or regional area costs, and local costs of domestic help. If the Disability Related Expenditure is higher than usual or is of a more unusual nature this will be discussed with the service user during the financial assessment. Expenditure will not be considered as disability related where free alternatives are available through the NHS, for example for incontinence products or chiropody etc.

Everyday expenses

Everyday living expenses will not be considered when awarding DRE’s. **The following items are considered to be everyday living expenses or a lifestyle choice (this list is not exhaustive):**

- Food & Beverages (unless specialist as above)
- Clothing/Shoes (unless specialist as above)
- Accommodation Costs e.g. Rent/Mortgage/Repairs & Maintenance
- Accommodation Related Costs e.g. house/contents insurance
- Fuel type e.g. gas/electricity/oil/coal
- Water
- Furniture & Flooring (including carpets), and Household Appliances

- Household textiles, cutlery, crockery and cooking utensils
- Personal transportation costs e.g. fuel/tax/insurance/servicing
- Entertainment & Media (TV including digital TV reception/Telephone (including Mobile phones)/Internet & Broadband), Computing and Gaming Hardware and Software
- Domestic pet expenses
- Short Breaks and Holidays

Typical DRE's the Council will Consider

This list is not exhaustive. There may be other items that can be reasonably considered to be a disability related expense.

Table 1 Household bills disability related expenses

Household bills	Amount
Fuel (gas /electricity etc)	Evidence of higher use, compared to national average based on property type and size.
Water	Evidence of higher use

Table 2 Services disability related expenses

Services	Amount allowable
Support to maintain your garden if you have one.	Evidenced cost
Cleaning	Evidenced cost
Window cleaning	Evidenced cost
Support to decorate, repair and maintain your home	Up to £257.84 per year =£4.96 per week. Higher costs can be spread over a longer period, see examples in Section 8
Laundry This includes cost of replacement washer/dryer and extra detergent. Average person does 4 loads of washing per week. DRE applies if person does more than this	£5.56 per week

Table 3 Personal items disability related expenses

Personal items	Amount allowable
Clothing –needing to replace more frequently due to extra wear and tear	Evidenced cost
Specialist clothing or alterations to clothing	Evidenced cost

Personal items	Amount allowable
Bedding If you need to replace your bedding due to extra wear and tear or damage because of your disability. We will also allow the cost of replacing staff bedding if reasonable and not covered by other funding	Evidenced cost
Prescriptions If you don't access free prescriptions	Evidenced cost
Specialist Dietary Requirements Recommended by a healthcare professional but not necessarily paid for by the NHS	Evidenced cost

Table 4 Equipment disability related expenses

Equipment	Cost
Powered Wheelchair /Mobility Scooter	Max £11.55 per week (Evidence of Purchase required)
Manual wheelchair If not provided free of charge by NHS	Max £4.75 per week (Evidence of Purchase required)
Powered Bed	Max £5.25 per week (Evidence of purchase required)
Turning Bed	Max £9.19 per week (Evidence of purchase required)
Powered Reclining Charge	Max £4.16 per week (Evidence of purchase required)
Replacement Mattress	Evidenced cost
Stair Lift	Max £7.42 per week (Evidence of purchase required)
Hoist	Max £3.64 per week (Evidence of purchase required)
Insurance on equipment Note: A higher amount will be allowed if several items need to be insured separately or an extra cost due to adaptations. This needs to be agreed with your social care worker.	Evidenced cost
Maintenance and repair of specialist equipment	Evidenced cost
Rental of specialist equipment (this may be a one- off rental for a limited time and not an ongoing cost)	Evidenced cost

Table 5 Miscellaneous disability related expenses

Miscellaneous	Cost
Registered assistance animal. Food, insurance, vet's fees, boarding fees if there is an emergency e.g. hospital admission and any other associated cost	Evidenced cost
Disability entitlement/identity cards e.g. CEA card/ DID Card/ blue badge	Evidenced cost
Specialist computer equipment or software	Evidenced cost
Assistive technology - Alarms	Evidenced cost

Help for Local Welfare provision /Discretionary Housing Payment team for electric - hardship relief

Some help and support for housing costs may also be available through the LWP/DHP team; please advise the service user to contact (01484 414782 10am to 5pm Monday – Friday) for further advice and an assessment.

Discretionary DRE

In extreme circumstances, DRE exceptions could be made to avoid severe financial hardship or to prevent (or minimise the risk of) harm to the adult or their carer.

Appeal Process - Questioning the Disability Related Expenditure amount

If a service user does not agree with the DRE amount calculated then an appeal can be made.

The service user can write to :- (Kirklees Council, Welfare and Exchequer Service, PO Box 1683, Huddersfield HD1 9AP).

Tel 01484 416795 to ask them to look at the DRE, explaining why the amount is incorrect and by providing additional income or expenditure related information.