

# Knowsley Council Adult Social Care Charging Policy

1 April 2015 to 31 March 2016

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## **1. Introduction and Legal Framework**

Local authorities have a duty to arrange care and support for those with eligible needs, and a power to meet both eligible and non-eligible needs. The Council's Charging Policy has been produced in accordance with the Department of Health "Care and Support Statutory Guidance" issued under the Care Act 2014.

In particular:

- sections 14, 17 and 69-70 of the Care Act 2014 (the Act);
- the Care and Support (Charging and Assessment of Resources) Regulations 2014; and
- the Care and Support and Aftercare (Choice of Accommodation) Regulations 2014 (the Regulations).

This policy supersedes all previous Fairer Charging Policies and will come into force on 1 April 2015 for all new and existing service users.

Existing service users in receipt of community based care services will be re-assessed during the period 1 April 2015 and 30 September 2015 and any difference in charges arising from re-assessment under this Policy will take effect from 5 October 2015. .

## **2. Principles of the Charging Policy**

Where the Council arranges care and support to meet a person's needs, a charge may be applied. This policy document is intended to explain in which circumstances charges are applied and to make charging fairer and more clearly understood by everyone.

The overarching principle is that people should only be required to pay what they can afford. People will be entitled to financial support based on a means-test and some will be entitled to free care. The framework is therefore based on the following principles:

- that people are not charged more than it is reasonably practicable for them to pay;
- the policy is clear and transparent and people know what they will be charged; and
- the Local Authority is able to sustain services in the long-term.

Information and advice will be made available free of charge to ensure that service users or their representatives are able to understand any contributions they are asked to make.

### **3 Services that fall within the Charging Policy**

- Charging for home care and support in a person's own home and in other accommodation settings such as in extra care housing, supported living accommodation or shared living arrangements;
- Charging for care and support in a care home;
- Making additional payments for preferred accommodation;
- Requesting local authority support to meet eligible needs;
- Transport provided by the Council. This will be charged for separately as a flat rate per journey.

### **4. Services that are not subject to the Charging Policy**

- Information, Advice and Guidance provided by Knowsley Council.
- Preventative Services and assessment from the Reablement Service.
- The cost of meals is not included under this policy.
- Community Alarm Charges.

The Council will not charge for certain types of care and support. These are:

- Intermediate care.
- Reablement, which is provided free of charge in accordance with the identified needs of the individual.
- Community equipment (aids and minor adaptations).
- Care and support provided to people with Creutzfeldt-Jacob Disease.
- After-care services/support provided under section 117 of the Mental Health Act 1983.
- Any service or part of service which the NHS is under a duty to provide. This includes Continuing Healthcare and the NHS contribution to Registered Nursing Care.
- Any services which a local authority is under a duty to provide through other legislation may not be charged for under the Care Act 2014.
- Assessment of needs and care planning.

## **5. Carrying out a financial assessment (Non-residential Care Services)**

A person's ability to pay towards the cost of their care is calculated by carrying out a **financial assessment**. The assessment is based on a person's income and savings less allowances and disregards.

**This section includes details of the charging arrangements in Knowsley for any setting that meets care and support needs outside of a care home.** For example, care and support received in a person's own home, and in other accommodation settings such as in extra care housing, supported living accommodation or shared lives arrangements. **See Section 6 for care and support in a Care Home.**

Where a person is able to contribute towards the costs of their care, charges will be applied from the date the support is provided. This may result in backdated charges where the provision starts prior to a financial assessment being completed.

### **5.1 Arranging a visit.**

When a Care Manager assesses a person's care needs they will explain how care is funded and that the person may need to contribute towards the cost of the care they receive.

Where a financial assessment is completed, the actual amount a person will have to pay will depend on the amount of services they receive. No one receiving care outside of a care home will be asked to pay more than the full cost of their care up to a maximum of £200.00 per week. A fact-sheet explaining how ability to pay is calculated will be made available and, if a package of care is appropriate, the Care Manager will make arrangements for a financial assessment visit to take place.

Every effort will be taken to ensure that visits are arranged at a time convenient to both the service user and their family. If necessary/appropriate a telephone interview may be offered and a desk-based assessment completed rather than a visit.

Where a visit is refused, or the service user and/or their family are unavailable at the time of the visit, it may be necessary to apply an interim client contribution equal to the actual cost of care up to a maximum of £200.00 per week until a full assessment has been completed.

If a customer does not wish to have a financial assessment, they will be expected to pay the full cost of their care up to a maximum of £200.00 per week.

## **5.2 Financial Assessment for persons receiving care and support outside of a care home**

Because a person who receives care and support outside a care home will need to pay their daily living costs such as rent, food and utilities, the charging rules must ensure they have enough money to meet these costs.

- After charging, a person will be left with the minimum income guarantee (MIG), equivalent to Income Support, Income Based Employment Support Allowance or the Guarantee Pension Credit plus a 'buffer' of 25%.
- The value of any property is disregarded in the financial assessment where it is occupied as the person's main or only home or the person is receiving care in a setting that is not a care home.

Where appropriate, further amounts will be allowed for the following items, providing that evidence of spend can be supplied:

- Rent (net of Housing Benefit)
- Ground Rent
- Council Tax (net of Council Tax Reduction and any other discounts)
- Mortgage
- House Buildings Insurance

## **5.3 Disability Related Expenditure**

Where a person receives benefits to meet their disability, such as the care component of Disability Living Allowance, Severe Disability Premium or the daily living component of Personal Independence Payments, the first 10% of that benefit will be disregarded.

Any other disability related needs **identified as part of the care assessment** but that do not meet the eligibility criteria for local authority care and support, may be disregarded where the customer can evidence the amount and frequency.

The total disregard will be either the standard 10% or the total value of disability related expenditure, whichever is the highest.

Details of costs that **may** be considered as a disregard under this policy are included at **Annex C** but as an example could include additional costs for laundry or special clothing or footwear that is not available from any other source. Every application to have disability related expenditure disregarded in the financial assessment will be considered on its own merits in accordance with the identified care needs of the client.

The mobility component of Disability Living Allowance and Personal Independence Payment will not be taken into account as part of the financial assessment

Where a financial assessment of what the person can afford to pay is completed the Council will give a written record of the assessment to the service user explaining:

- how the assessment has been carried out,
- what the charge will be;
- how it should be paid; and
- if there is any fluctuation in charges, the reason.

Couples or civil partners will be assessed individually and not according to their joint resources, in accordance with the Act and Guidance.

This section should be read in conjunction with the Regulations and **Annex B** on the treatment of capital and **Annex C** on the treatment of income in non-residential care.

## **6. Charging for care and support in a care home**

When a Care Manager assesses a person's care needs they will explain how care is funded and that the person may need to contribute towards the cost of the care they receive.

The financial assessment is based on a person's income and savings which may include the capital value of any property they own or in which they have a financial interest.

The actual amount a person will have to pay will depend on their financial circumstances and choice of accommodation, but no one will be asked to pay more than the full cost of the service.

### **6.1 Temporary or Short Term Residence (including Respite Care)**

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.

A decision to treat a person as a temporary resident must be agreed with the person and/or their representative and written into their care plan.

### **6.2 Charging (short term residence & respite care)**

For Respite Care and for the first 8 weeks of their temporary stay in a care home the Council will charge a flat rate fee based on the minimum income guarantee. From week 9, a financial assessment will be completed and charges will be based on the provision of care in a care home.

Any additional amounts the person may need so they can maintain their home during their temporary stay so that it is in a fit condition for them to return to will be disregarded. Such expenses may include, but are not limited to, ground rent, service charges, water rates or insurance premiums.

**Annex F** provides more information about how we will assess people in temporary or short term residential care.

### **6.3 Financial Assessment for Persons receiving care and support in a care home**

The Council will be responsible for contracting with a care provider and will agree its maximum charge for accommodation. Where the accommodation chosen is more expensive than the Council's maximum charge, consideration will be given to additional payment arrangements and/or 3rd party top ups (see **Annex A**).

Additional charges will not be made where the Council needs to place a person in more expensive accommodation solely because it has been unable to identify accommodation at its agreed rate. However, those additional charges may become due should a person choose to remain in this accommodation once alternative choices become available.

A fact-sheet explaining how ability to pay is calculated will be made available and, if a residential placement is appropriate, the Care Manager will make arrangements for a financial assessment visit to take place.

If a visit is not deemed appropriate (where, for example, the placement is outside the Local Authority area) financial information may be collected by telephone interview or a self-assessment form and a desk-based assessment, rather than a visit, will be completed.

People in a care home will contribute most of their income towards the cost of their care and support. However, as a minimum, each resident must be left with money to spend on personal items such as clothes and other items that are not part of their care. This is known as the personal expenses allowance.

The personal expenses allowance is normally adjusted annually as part of the national uprating to Welfare Benefits. These changes are communicated by Local Authority Circular and are binding. In 2015/16 the personal allowance will be £24.90 per week.

More information about the treatment of income and capital is included at **Annex B** and **Annex C**.

### **6.4 Property**

Where a person enters residential care on a permanent basis the capital value of any property they own or in which they have a financial interest may be taken into account.

#### **6.4.1 12-week Property Disregard**

A key aim of the Charging Policy is to prevent people being forced to sell their home at a time of crisis. The regulations under the Act create space for people to make decisions as to how to meet their contribution to the cost of their eligible care needs.

A local authority must disregard the value of a person's *main or only* home when the value of their non-housing assets is below the upper capital limit for 12 weeks in the following circumstances:

- when they first enter a care home as a permanent resident; or
- when a property disregard other than the 12-week property disregard unexpectedly ends because the qualifying relative has died or moved into a care home.

#### **6.4.2 Mandatory Disregards**

Where the person is receiving care in a setting that is not a care home, or their stay in a care home is temporary, the value of their main or only home will be disregarded.

Mandatory disregards may apply in other circumstances including where the property was the main or only home of any of the people listed below, but only where that person was permanently resident in the property before the person requiring care moved into a care home.

- The person's partner, former partner or civil partner, except where they are estranged;
- A lone parent who is the person's estranged or divorced partner;
- A relative (for definition of a relative see **Annex B**) or a member of the person's family who is:
  - Age 60 or over,
  - Is a child of the resident aged under 18, or
  - Is incapacitated.

#### **6.4.3 Discretionary Disregard**

The Council may use its discretionary powers to apply a property disregard in other circumstances, for example where a person has given up their own home in order to care for the person who is now in a care home.

Any application for a discretionary disregard will be considered on a case by case basis and on the individual circumstances of each case.

More information about the treatment of capital and, property/capital disregards, is included at **Annex B**

## **6.5 Deferred Payments**

In certain circumstances a deferred payment may be agreed. By entering into a deferred payment agreement, a person can “defer” or delay paying the cost of their care and support until a later date.

Details of how deferred payments can be offered and administered are included in the Council’s Deferred Payment Policy at **Annex G**.

## **6.6 Payments and Top Ups**

In some cases a person may actively choose a setting that is more expensive than the amount agreed by the Council. Where this happens the Council may agree to the placement providing a third party is willing and able to meet the cost.

Where a 3<sup>rd</sup> Party Top up is agreed and, unless there is a deferred payment arrangement in place, the top-up payment will be included as part of the person’s income and taken into account in the Financial Assessment. Details of how this should be paid will be clearly shown on the person’s invoice.

Where a deferred payment agreement is in place the top up will be added to the amount owed.

The person whose needs are to be met by the accommodation may themselves choose to make top up payments only in the following circumstances:

- They are subject to a 12 week property disregard;

- Payment has been included in a deferred payment arrangement;
- They are receiving accommodation provided under S117 for mental health aftercare.

Detailed guidance is set out in **Annex A**

**The following sections relate to all persons receiving care and support regardless of where the care is provided**

## **7. Financial re-assessment – all persons receiving care and support**

Financial re-assessments will normally be undertaken annually.

The Council's Financial Assessment and Visiting Team will be able to automatically adjust some basic benefit amounts but in some cases further details will need to be provided. Each customer will be asked to confirm their revised details and given the opportunity to have them amended in order to ensure the accuracy of their assessed contribution.

More frequent re-assessments may be necessary depending on individual circumstances, changes in care provision or at the request of the service user and will take effect from the date of change.

## **8. Capacity.**

The Council has a Safeguarding Policy which outlines how we will communicate with vulnerable residents.

At the time of the assessment of care and support needs, the Care Manager will establish if the person has any of the following:

- Enduring Power of Attorney (EPA);
- Lasting Power of Attorney (LPA) for Property and Affairs;
- Lasting Power of Attorney (LPA) for Health and Welfare;
- Property and Affairs Deputyship under the Court of Protection; or

- Any other person dealing with that person's affairs (e.g. someone who has been given appointee-ship by the Department for Work and Pensions (DWP) for the purpose of benefits payments).

Residents who lack capacity to give consent to a financial assessment and who do not have any of the above people with authority to be involved in their affairs, may require an Appointee or a Property and Affairs Deputy by the Court of Protection. Family members can apply for this to the Department for Work and Pensions or Court of Protection depending on circumstances or the Council may apply for a Corporate Appointee or Deputyship if there is no family involved in the care of the person.

## 9. “Light-touch” financial assessments

In some circumstances, we may choose to treat a person as if a financial assessment had been carried out. In order to do so, the Council must be satisfied on the basis of evidence provided by the person that they can afford, and will continue to be able to afford, any charges due. This is known as a “light-touch” financial assessment.

The main circumstances in which we may consider carrying out a light-touch financial assessment are:

- Where there is a small or nominal amount for a particular service (e.g. for subsidised services) which a person is clearly able to meet and would clearly have the relevant minimum income left, and carrying out a financial assessment would be disproportionate.
- When an individual is in receipt of benefits which demonstrate that they would not be able to contribute towards their care and support costs. This might include, for example, income from Jobseekers Allowance or other national means-tested benefits.
- Where a person has significant financial resources, and does not wish to undergo a full financial assessment for personal reasons, but wishes nonetheless to access local authority support in meeting their needs.

This could include evidence that a person has:

- property clearly worth more than the upper capital limit, where they are the sole owner or it is clear what their share is;
- savings clearly worth more than the upper capital limit; or,
- sufficient income left following the charge due.

In these situations we may accept other evidence in lieu of carrying out the financial assessment and consider the person to have financial resources above the upper limit.

Where we have agreed to meet the person's needs, and a light-touch financial assessment is deemed appropriate, confirmation will be sought from the service user that they are willing, and will continue to be willing, to pay all charges due.

Where a person does not agree to the charges that they have been assessed as being able to afford to pay under a light-touch assessment they can request a full financial assessment.

For both financial assessments and light-touch financial assessments, residents will be supported to access a wide range of information and advice services, including the option of independent financial information and advice.

## **10. Capital Limits**

A financial limit, known as the "upper capital limit", exists for the purposes of the financial assessment. With capital beyond this threshold, a person will be self-funding for residential care and the local authority is prohibited from paying towards this care but can be asked to arrange it.

- The upper capital limit is currently set at £23,250.

Where a person is receiving non-residential care services and their capital exceeds this limit, the local authority is permitted to pay towards the cost of non-residential services but need not do this.

This Policy provides for a maximum weekly charge of £200 in relation to non-residential services during 2015/16. This will be subject to review and consultation in relation to future financial years.

Capital below the lower capital limit is disregarded in the assessment of what a person can pay.

- The lower capital limit is currently set at £14,250.

Where a person's resources are below the lower capital limit of £14,250 they will not need to contribute to the cost of their care and support from their capital **but there may still be a charge depending on the person's income.**

## **10.1 Tariff Income.**

Where the person receiving care and support has capital at or below the upper capital limit (currently £23,250), but more than the lower capital limit (currently £14,250), income of £1 per week will be assumed for every £250 (or part thereof) in capital between the two amounts. This is called “tariff income”. In the case of non-residential care services, tariff income will continue to be accrued above the upper capital limit, up to the maximum weekly charge of £200 per week.

Some types of capital are disregarded for the purpose of a financial assessment. More information about capital and capital disregards can be found at **Annex B**.

## **11. Income**

Generally income from all sources is considered in the financial assessment including Attendance Allowance, Disability Living Allowance (for care but not mobility) and the daily living component of Personal Independence Payments. However, there are different approaches to how income is treated depending on whether a person is in a care home or receiving care and support in their own home.

**Annex C** sets out how income will be treated.

## **12. Deprivation of assets and debts**

People with care and support needs are free to spend their income and assets as they see fit, including making gifts to friends and family. This is important for promoting well-being and enabling people to live fulfilling and independent lives. However, it is also important that people pay their fair contribution towards their care and support costs.

Where the Council believes there is evidence to suggest that a person may have tried to deliberately avoid paying for care and support costs through depriving themselves of assets – either capital or income we may either charge the person as if they still possessed the asset or, if the asset has been transferred to someone else, seek to recover the lost income from charges from that person.

Additional information about how we will deal with deprivation of assets is included at **Annex E**.

Where a service user has accrued a debt, the Council will consider using its powers under the Act to recover that debt. Consideration will be given to the circumstances of the case before a course of action is agreed. For example, consideration will be given to whether this was a deliberate avoidance of payment or due to circumstances beyond the person's control.

Ultimately, we may institute County Court proceedings to recover the debt. However, this will only be considered after other reasonable alternatives for recovering the debt have been exhausted.

Further details on how we will pursue debts are set out in **Annex D and the Corporate Debt Recovery Policy**.

### **13. Charging for support to carers**

Local Authorities can charge for support provided to carers. The Council does not currently apply charges for support that the Council provides to carers. However, this will be kept under review and the Council may introduce charges in the future.

### **14. Requesting local authority support to meet eligible needs**

People with eligible needs and financial assets above the upper capital limit may ask the Council to meet their needs but may be liable to pay an arrangement fee in addition to the costs of meeting their needs to cover the cost of putting the care and support in place.

Where the Council chooses to meet eligible needs at the request of a person with resources above the financial limit **who requires a care home placement**, we will not charge an arrangement fee.

Where the Council is requested to meet the eligible needs of a person other than in a care home (i.e. domiciliary care services), the Council proposes to charge a flat rate arrangement fee to cover the costs the Council incurs in arranging care. The Council proposes to introduce this fee during 2015/16 and consultation will be undertaken.

Where a person has needs that do not meet the national eligibility criteria but that person still requires the Council to arrange care, the Council also propose to charge a flat rate arrangement fee.

The cost implications will be outlined to the person before care is arranged and will not exceed the actual costs incurred by the Council.

We will not charge people for, a needs assessment, a financial assessment, or the preparation of a care and support plan.

## **15. Payment Arrangements**

A person will be expected to pay their weekly contribution at the assessed rate (see Sections 5 and 6). Where a review or appeal has been requested, payment must be made at the assessed rate until the review or appeal has been concluded.

### **15.1 How to pay**

Payments for support are collected in different ways depending upon whether the individual has a Direct Payment, is living in Residential Care or receives Domiciliary Care.

Where a person is in receipt of a Direct Payment they, or their representative, must set up a dedicated bank account to manage the Direct Payment. The assessed contribution should be paid direct into their dedicated bank account.

Where a person is in Residential Care, payment, including any agreed 3<sup>rd</sup> Party Top Up should be paid direct to the Care Provider.

In other cases details of how to pay are shown on the invoice and include:

- Direct Debit
- Standing Order
- Cash

- Cheque

Where a person fails to pay their contribution, the Council will follow the Corporate Debt Recovery Policy and pursue any debt that is owed to the Council.

This may lead to legal recovery action through the courts if payment is not made. The Council has a duty to recover all contributions.

## **16. Reviews and Appeals**

A three stage check, review and complaints procedure exists for anyone who believes that their contribution has been incorrectly calculated.

### **Stage 1 – Check**

The customer must first contact the Financial Assessment and Visiting Team to request a check that their assessed contribution has been calculated correctly. An officer from the team will:

- Check that the financial information used in the calculation is correct
- Look at any new information provided by the customer
- Check that the assessed contribution has been calculated correctly
- Decide whether the decision was fair and correct

The customer will be notified of the decision in writing.

### **Stage 2 - Review**

If a customer is still not happy with the decision, they should contact the Financial Assessment and Visiting Team Manager who will carry out a second stage review. The Team Manager will:

- Ensure that stage one checks have been completed accurately
- Check that the latest customer financial information was used
- Determine whether the matter needs to be discussed with the customer's assessor or social worker

The customer will be notified of the outcome in writing.

If the customer still believes that their contribution is incorrect they should raise their concerns formally via the Council's Corporate Complaints Policy.

### **Stage 3 – Corporate Complaints Procedure**

To make a complaint:

- [Complete the online form](http://www.Knowsley.gov.uk) at [www.Knowsley.gov.uk](http://www.Knowsley.gov.uk)
- Email [haveyoursay@knowsley.gov.uk](mailto:haveyoursay@knowsley.gov.uk)
- Telephone 0151 443 4031
- Write to Customer Liaison Team, Knowsley Metropolitan Borough Council, Archway Road, Huyton, L36 9UX or pass your written comments to a member of staff at one of our One Stop Shops
- Contact us by textphone on 0151 443 4749
- Pick up one of our Have Your Say leaflets from a One Stop Shop or other public building