



Charging and Financial Assessment for Adult Care and Support Services

From 01/04/2015

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1.0 Introduction

1.1 The City of York Council's 'Charging and Financial Assessment for Adult 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 customers that receive care and support services, following an assessment of their individual needs, and their individual financial circumstances.

1.2 For the purposes of this policy, an adult is a customer aged 18 and above.

2.0 Legal basis for charging and financial assessment

2.1 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 customer when it is arranging to meet a customer's care and support needs, or a carer's support needs.

2.2 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.

2.3 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.

2.4 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 customer's financial resource, and the amount (if any) which the customer may be likely to be able to pay towards the cost of meeting their needs through care and support services.

2.5 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 which consists of the provision of an aid, or minor adaptation to property, for the purposes of assisting with

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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 6 weeks;
- Care and support provided to people with Creutzfeldt-Jacob Disease;
- Any service or part of service which the NHS is under duty to provide. This includes Continuing Healthcare and the NHS contribution to Registered Nursing Care;
- Services with the local authorities have a duty to provide through other legislation;
- Assessment of needs and care planning, including the cost of the financial assessment, as these constitute 'meeting needs'.

2.6 City of York 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

3.1 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.

3.2 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

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- 4.1 The principles underpinning this policy are:
- Where the authority is required to arrange care and support for free, it does so;
 - That customers will only be required to pay what they can afford;
 - That financial support towards care costs will be determined through financial assessment;
 - To provide clear and transparent information so customers 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 customer'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 customer 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 customer 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, 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 appointeeship by the Department of Work and Pensions (DWP) for the purpose of benefits payments).

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

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- 5.1 The council will charge for care and support delivered in a care home on a permanent basis.
- 5.2 Customer's requiring permanent care and support in a care home must initially satisfy an eligibility assessment for care and support. Only where a customer has an eligible care and support need will a financial assessment be required.
- 5.3 All customers requiring permanent care and support in a care home must have a financial assessment. Customers' financial circumstances will determine whether the customer is eligible for support towards permanent care costs from the council.
- 5.4 Customers 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 is known as 'The Local Authority Rate'. This rate is inclusive of any assessed customer contribution, and in the case of nursing care, includes the free nursing care element (FNC) paid by the NHS.
- 5.5 Where a customer is eligible to receive local authority funding support, but decides to reside in another local authority area, City of York Council will match the local authority rate for the area where the customer decides to live.
- 5.6 Customers that would like to live in accommodation that costs more than The Local Authority Rate, can do so providing the customer or a third party 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 customer using their assets for this purpose, if the costs cannot be met over a sustained length of time.
- 5.7 Where a customer chooses more expensive accommodation than the local authority rate and the top-up is to be paid by a third party, the third party must confirm they are able to meet the costs of the top-up for the duration of the agreement, including any price changes that may occur. Both they and the customer 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

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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 an agreement, covering all of these points.

- 5.8 Customers 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. City of York Council will make deferred payment agreements available under the national 'Universal Deferred Payment Agreement Scheme' and 'The City of York Council 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.
- 5.9 The Council will undertake a financial and benefits check for customers entering residential care on a permanent basis. This is normally done before the customer starts to receive care. Contributions are payable from the date care commences.
- 5.10 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.
- 5.11 The financial assessment will take into account statutory amounts required to be retained by the customer from their income. These are known as 'Personal Expenditure Allowance' (PEA) and 'Disposable Income Allowance' (DIA). These amounts are dependent upon the customers' financial circumstances, and are reviewed annually by the Department of Health. The rates applicable for the relevant financial (April – March) are set out on the councils website www.york.gov.uk Where a customer has no income, the local authority must ensure that the customer receives a personal expenditure allowance at the prevailing rate. Financial assessments will be updated annually.

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

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- 6.1 The council will charge for care and support delivered in a care home on a temporary basis.
- 6.2 Following an assessment of a customer's eligible care and support needs, a decision may be taken that the customer 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.
- 6.3 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.
- 6.4 Customers that have a temporary stay that becomes permanent will be assessed for a permanent stay at the date permanency is confirmed and the care plan is amended.
- 6.5 The council will financially assess all customers having a temporary stay in a care home, and will charge from the date of admittance.
- 6.6 The financial assessment for temporary stays will completely disregard the customer's main or only home where the customer intends to return to that home.
- 6.7 The financial assessment will treat income and capital in the same way as if the customer was entering a care home on a permanent basis with the following exceptions:
- Where the customer is in receipt of Disability Living Allowance or Attendance Allowance, these are completely disregarded from the financial assessment.
 - Where the customer receives Severe Disability Premium or Enhanced Disability Premium, these benefits cease when Disability Living Allowance or Attendance Allowance ceases.
 - The financial assessment will be adjusted where the temporary stay extends into this period.
- 6.8 The council will ensure that where a spouse or partner resides in the same residence as the customer, that the

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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.

- 6.9 The council will ensure that where housing benefit is paid, this is disregarded.
- 6.10 The council will ensure that payments made by the customer to keep and maintain their home, such as rent, water rates, insurance premiums are disregarded. Similarly, expenses that the customer would normally incur and would continue to pay should also be disregarded, such as household related Disability Related Expenditure (e.g. cleaning, gardening, community alarm services). Contributions are payable from the date care commences. A new financial assessment will be required in each financial year where a customer requires temporary accommodation in a care home.

7.0 Charging and financial assessment for care and support in other care settings including a person's own home

- 7.1 The council will charge for care and support delivered in other care settings including a person's own home.
- 7.2 Customer'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 customer has an eligible care and support need will a financial assessment be required.
- 7.3 Customers receiving care and support that is neither temporary nor permanent in a care home will have their care and support costs administered through personal accounts. A personal account is a combination of the amount of money that is required to meet eligible care and support needs, and the amount a customer can contribute towards that cost. The difference is the amount of funding support that the local authority will provide. Personal accounts may also contain funding towards care and support costs from the NHS.
- 7.4 Where a customer has an eligible care and support need, the council will calculate the how much the personal budget might be, using its Resource Allocation System (RAS). Once the indicative budget is known, the care and support planning

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process, taking into account the customers desired outcomes, will determine the agreed budget.

- 7.5 Customers 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 customer 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 customers 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.york.gov.uk.
- 7.6 Customers will have the option to take a personal budget as council commissioned services or as a direct payment or a combination of both. Customers 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.
- 7.7 The council has a specific 'Direct Payments' policy that sets out the criteria for care and support being managed through Direct Payments.
- 7.8 The council will undertake a financial assessment to determine the amount a customer can contribute 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). Customers with capital in excess of the higher capital limit will be responsible for meeting all of their care and support costs. Evidence will be required to substantiate fully a customer's financial circumstances. Please refer to schedule A of this policy for guidance in relation to DRE.
- 7.9 Where a customer 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, customers can request a 'light-touch' financial assessment. The

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council will takes steps to assure that the customer is willing and will continue to be willing to pay all charges due.

- 7.10 The council will ensure that customers 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 customer is liable for such costs, i.e. holds the tenancy agreement or is party to the mortgage. The 'Minimum Income Guarantee' ensures that the customer retains income to the equivalent of Income Support or Guaranteed Credit element of Pension Credit, plus a minimum buffer of 25%.
- 7.11 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 customer's financial resources.
- 7.12 Following the financial assessment has been concluded, the customer will be informed of the annual and equivalent weekly amount they must contribute towards their care and support costs. Customers will not be charged more than the amount determined by the financial assessment. Contributions are payable from the date care commences. Customers that require services to be arranged by the council will be invoiced on a monthly basis in arrears for their care costs. Customers receiving their care and support costs through direct payment will receive 'net' payments monthly in advance, to which they must then make arrangement pay their contribution.
- 7.13 All financial assessments will be reviewed with the customer or their financial representative on an annual basis, and changes applied from the Monday following re-assessment.
- 7.14 Personal accounts will be reconciled annually, normally in the same month as the customer's annual financial review takes place. The reconciliation will take into account the actual cost of care, against the actual amount the customer has contributed. Where the cost of care is greater than expected, and the customer has been assessed as being able to pay that amount, then the customer will be charged extra. Where the actual cost

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of care is less than what a customer has contributed, the customer will be refunded the amount they have overpaid.

7.15 Customers will continue to have access to their personal budget throughout hospital stays and holidays. Personal accounts will only be closed where agreement is reached between care management and the customer. All personal accounts are reconciled upon closure.

8.0 Charging and financial assessment for support for carers

8.1 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.

8.2 The support which the council can charge for must not be provided directly to the adult being cared for under any circumstance.

8.3 Where the council decides to charge for support to carers, the financial assessment will follow the same calculation methodology as those receiving care and support outside of a care home. This will normally be a light-touch financial assessment, however the carer can request a full financial assessment if they so wish.

9.0 Financial Assessment Considerations

9.1 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 customer 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. Where an investigation is conducted, this will be conducted under guidance contained within the Regulation of Investigatory Powers Act 2000. Following the investigation, where the council decides that a customer has deliberately deprived themselves of an asset or income in order to reduce a charge for care and

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support, the local authority will initially charge the customer as though they still owned the asset or income.

- 9.2 Property other than the customer'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 customer is taking steps to occupy premises as their home. In this case the asset value will be disregarded for a maximum of 26 weeks.
- 9.3 The Care Act 2014 requires that financial assessments are completed for customers as individuals. Where capital is held and income is received on a joint basis, then it is assumed that each person is entitled of 50% of that income. A couple is defined (for administration of their financial affairs) as two people living together as spouses or partners.
- 9.4 The council will not undertake a financial assessment for customers in Adult Placement Schemes, due to the nature of the scheme. Customers will be advised of the amount they will need to pay their carer by the care manager or service provider.
- 9.5 Allowable housing costs (e.g. rent/mortgage/council tax) will only be allowed in the financial assessment where the customer is liable to pay these costs. Where the customer is not liable for these costs, but contributes towards these through a private board agreement or similar, then the customer will be expected to meet this expenditure from their guaranteed income.
- 9.6 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.
- 9.7 Where the customer 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.

1.0 Ability to pay

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1.1 The purpose of the financial assessment is to ensure that the level of financial contribution calculated is within customers' means and leaves the customer in receipt of the guaranteed minimum level of income set by the Government.

2.0 Recovery of Debt

2.1 The Care Act 2014 consolidates the council's powers to recover money owed for arranging care and support for a customer. These powers can be exercised where a customer 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).

2.2 The powers granted to the council for the recovery of debt also extends to the customer 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.

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

2.4 The initial stage of debt recovery will involve discussing the debt with the customer 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 customer to enter into affordable repayments of the debt as well as being able to pay ongoing costs as they arise.

2.5 The council will give regard to the level of debt and the cost of recovery, and will not proceed with recovery action where the cost of recovery would be disproportionate.

2.6 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.

2.7 All debt that arises from 1st April 2015 must be recovered within 6 years from when the sum became due to the council.

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Schedule A – Disability Related Expenditure

- i. Customers 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.
- ii. Only costs incurred by the customer will be considered as part of the assessment as allowable expenditure.
- iii. 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
- iv. The council will include the following disability related expenditure within the financial assessment
 - Payment for any community alarm system
 - 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 customer has an eligible need but is not being provided by the council;
 - specialist washing powders or laundry;
 - additional costs for dietary needs due to illness or disability (evidence from the customers 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;
 - occasioned by age, medical condition or disability;
 - any heating or metered water 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

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customer's disability and is not met be social services;

- personal assistance costs, including any household or other necessary costs arising for the customer;
 - purchase, maintenance and repair of disability-related equipment, including equipment or transport needed to enter or remain in work; this may include IT costs, where necessitated by the disability; reasonable hire costs of equipment may also be included, if due to the waiting of supply of equipment from the council;
 - 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 customer decided to purchase them privately;
 - specialist internet access for example for blind and partially sighted people;
 - 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 and available for these costs. Where the council provides transport and the customer 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 customers' care and support plan.

Schedule B - Complaints

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

The Income Services Manager
Income Services Team
City of York Council
3rd Floor
West Offices

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Station Rise
YORK
YO1 6GA

Or e-mail: cbssincomeservices@york.gov.uk

- iii. An officer, independent of the disputed assessment will reassess the information provided by the customer 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 customer.
- iv. Where the assessment is correct, complaints about the level of charge are subject to the Care and Support Complaints Procedure as set out in The Local Authority Social Services and NHS Complaints Regulations 2009. Complaints should be addressed to.

Have Your Say
Customer Feedback Team
City of York Council
West Offices
Station Rise
YORK
YO1 6GA
Or e-mail: haveyoursay@york.gov.uk

Schedule C – Summary of Publications

- i. 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

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- Mental Health Act 1983
- The Local Authority Social Services and NHS Complaints Regulations 2009