

PROCEDURE TITLE	Charging Policy for Residential Care Services
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PURPOSE	Charging Policy for Adult Social Care Residential care services
SCOPE	Adult Social Care services in long and short-term residential care, deferred payments and services for those deemed as full cost payers.
POLICY SUPPORTED	Top up Policy, Deferred Payment Policy
RESPONSIBILITIES	Executive Director of Adults, Health and Integration
ENQUIRY POINT	Danielle Brooks and Lee Hudson, Service Manager, Social Care Business Support and Finance
KEYWORDS	Charging, The Care Act 2014, Fees

PROCEDURE APPROVAL			
APPROVED BY	Adults & Health Committee	POSITION	Executive Director of Adults, Health and Integration
SIGNATURE		DATE APPROVED	March 2024

REVIEW			
REVIEW DATE & BY			
POSITION		APPROVED BY	
SIGNATURE		DATE APPROVED	

DEFINITIONS

Charge	The amount of personal contribution required from a resident for a particular council-provided service, dependent on their assessed ability to pay
Price	In the context of council-provided services, this is the amount required from a resident's Personal Budget to purchase a service, regardless of their ability to pay through a financial assessment
Personal Budget	Money that is allocated to you by the council to pay for care or support to meet your assessed needs. You can take your personal budget as a direct payment, or choose to leave the council to arrange services.
Care and Support Plan	A written plan after you have had an assessment, setting out what your care and support needs are, how they will be met (including what you or anyone who cares for you will do) and what services you will receive.
Carer	A person who provides unpaid support to a partner, family member, friend or neighbour who is ill, struggling or disabled and could not manage without this help. This is distinct from a care worker, who is paid to support people.
Client Contribution	The amount you may need to pay towards the cost of the social care services you receive.
Deferred	With a deferred payment agreement, a person can 'defer' or delay paying the costs of their residential care and support until a later date. Deferring payment can help people to delay the need to sell their home.
Department of Health and Social Care	The Department of Health and Social Care is a department responsible for developing the government's policies for health and adult social care matters in England.
Direct Payments	Money that is paid to you (or someone acting on your behalf) on a regular basis by the council so you can arrange your own support, instead of receiving social care services arranged by the council. Direct payments are available to people who have been assessed as being eligible for council-funded social care.
Minimum Income Guarantee	Amount set by the Department of Health and Social Care that you must be allowed to keep to cover daily living costs.
Non-residential care	Social care services that can help you live a full, independent life and to remain in your own home for as long as possible.
Residential Care	Care in a care home, with or without nursing, for people who require 24-hour care.
Respite	A service giving carers a break, by providing short-term care for the person with care needs in their own home or in a residential setting. It can mean a few hours during the day or evening, 'night sitting', or a longer-term break. It can also

	benefit the person with care needs by giving them the chance to try new activities and meet new people.
Self-funding	When you arrange and pay for your own care services and do not receive financial help from the council.
Social Care Business Support and Finance	Council's department responsible for the completion of financial assessments, adult social income collection and debt recovery.
Telecare	Technology that enables you to remain independent and safe in your own home, by linking your home with a monitoring centre that can respond to problems. Examples are pendant alarms that you wear round your neck, automatic pill dispensers, and sensors placed in your home to detect if you have fallen or to recognise risks such as smoke, floods or gas-leaks. The monitoring centre is staffed by trained operators who can arrange for someone to come to your home or contact your family, doctor or emergency services.
Top-Up	A top-up fee is usually applied when the care and support you chose costs more than your personal budget (this is the amount the council is prepared to pay).

APPENDICES

Appendix 1: Income Disregards 2024-2025

Appendix 2: Standard Charge Summary from 06th April 2024

1. INTRODUCTION

This policy explains how Cheshire East Council calculates the amount a person is required to pay towards residential care services. Residential care refers to care and support delivered in a residential or nursing care setting.

This policy commences from the XXXX and supersedes the council's previous adult social care charging policies. Any figures contained within this policy will be updated annually in accordance with any changes to legislation/benefit rates. The Council has a scheme of delegated fees and charges which are normally subject to annual inflationary increases.

2. CHARGING FRAMEWORK

The Department of Health and Social Care requires Local Authorities to agree a charging policy in relation to Adult Social Care fees for chargeable services. This relates to Residential and Nursing Care Home fees and non-residential charges for those living independently in the community.

This policy reflects the requirements of the Care and Support Statutory guidance issued under the Care Act 2014 and the Care and Support Charging and Assessment Regulations 2014.

The Care Act provides a single legal framework for charging for care and support under sections 14 and 17. It enables a local authority to decide whether or not to charge a person when it is arranging to meet a person's care and support needs or a carer's support needs.

The overarching principle is that people should only be required to pay what they can afford. People will be entitled to funding from their local authority based on a means-test which may result in some people being entitled to free care. The accompanying Department of Health guidance includes the principles to be adopted by local authorities when deciding when to charge, the requirements for appropriate information and advice and the financial assessment process.

3. CAPITAL LIMITS

For individuals with assessed eligible needs, the amount of funding they are entitled to from the council is means tested. The amount a person will pay depends on the type of care and support services they require and the savings and income that they have:

- If a person has income and savings of more than £23,250 they would need to pay the full cost of the care and support they receive.
- If a person has less than £23,250 in income and savings, they may be entitled to financial support from Cheshire East Council.

A financial assessment would need to be completed to check this.

A person with capital and savings above the upper capital limit will be deemed as a full cost payer and can choose to access services through the council. An arrangement fee will be applicable to any care or support sourced by the council and a weekly administration fee will be levied to full cost payers who wish to continue with services commissioned by the council.

Termination of the contract between the council and care provider will be considered in cases whereby the person is deemed as a full cost payer and does not settle the invoices for their care charges.

4. INTERIM CHARGING

The council will levy an interim charge from the start of services for up to a 6-week period. The interim charge is a nominal fee which would be adjusted and backdated to the start of the care service once a full financial assessment has been completed.

The person's final charge may be higher or lower than the interim charge and will be reflected in their billing. Residents should ensure that payment is made for any interim charges applied and if necessary, the council will refund monies or apply a credit on account should an overpayment occur.

Whilst the interim charge is in place the resident should comply with the financial assessment process as per section 6 of this policy.

5. NON-CHARGEABLE SERVICES

The council will not charge for certain types of care and support which will be arranged and provided for free. These are:

- **Intermediate Care including Reablement:** intensive support with a duration agreed as part of the discharge planning process to enable an individual to recover from an acute episode and be independent.
- **Community Equipment (aids and minor adaptations).** Aids must be provided free of charge whether provided to meet or prevent/delay needs. A minor adaptation is one costing £1,000 or less.
- **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 Health Care and the NHS contribution to Registered Nursing Care.
- **More broadly,** 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.

- **Supported Employment** - free of charge.
- **Continence Services:** The NHS is responsible for providing and meeting the cost of any continence supplies and services that individuals are assessed as requiring, including any equipment needed.
- **Specialist Medical Equipment in Care Homes:** A care home providing nursing must produce a Statement of Purpose, which explains what equipment and facilities it will provide. It should also make general alterations and adaptations to allow appropriate access to facilities for its residents.

6. FINANCIAL ASSESSMENT

The financial assessment is a means test to calculate if a person can afford to contribute towards their care and support.

A financial assessment is required for all residents receiving care and support other than those types of care and support that are not chargeable.

Once an individual has been found to have eligible needs for care services a referral for a financial assessment will be made. Financial assessments can be completed online or via paper forms. Support will be given from Social Care Business Support and Finance to complete the financial assessment if required.

The financial assessment is conducted by a Financial Co-ordinator who will gather financial information from a range of sources including, information previously shared with the council, data held by The Department for Work and Pensions and completion of the financial assessment forms.

The outcome of the financial assessment will be shared in writing and residents will be offered the opportunity to provide further evidence to ensure the accuracy of the assessment.

During the financial assessment process Social Care Business Support and Finance will check that residents are in receipt of their correct and full benefit entitlement. For those that are not in receipt of full benefit entitlement, help and advice will be provided to claim the appropriate benefits.

Where an individual is considering deferring charges against their property, the allocated Financial Co-ordinator will offer a face-to-face discussion and the resident is always recommended to seek independent financial advice.

In some circumstances the council may choose to treat a resident as if a financial assessment had been carried out. To do so the council must be satisfied on the basis of evidence provided by the resident 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 the council may consider carrying out a light-touch financial assessment are:

a) Where a resident has significant financial resources and does not wish to undergo a full financial assessment but wishes to access care and supported arranged by the council.

b) Where the council charges a small or nominal amount for a particular service and the resident is clearly able to meet the cost

c) When a resident is in receipt of benefits which demonstrate that they would not be able to contribute towards their care and support costs.

The value of a resident's property may be counted as capital and considered when calculating care charges.

Where a resident has an interest in a second property which they do not live in, the asset will be taken into consideration as capital and the resident is likely to be deemed to be a full cost payer.

The charging start date will always be the day that the care and support commenced. When the financial circumstances of a resident change they should inform the council so that their contribution can be re-calculated. If full information is delayed or not disclosed the council can backdate the change in contribution to the appropriate effective date.

Failure to comply with the financial assessment process would result in full cost charges being levied to a resident for the care and support they receive. The council will allow 21 days for the completion of financial assessment forms from the point that the forms are received.

At the time of the assessment of care and support needs it will be established whether the resident has the capacity to take part in the financial assessment. If the resident lacks the capacity to undertake the financial assessment, then the council will establish if the resident has the support of any of the following:

- Enduring Power of Attorney
- Lasting Power of Attorney for Property and Affairs
- Lasting Power of Attorney for Health and Welfare
- Property and Affairs Deputyship under the Court of Protection
- Any other person/organisation dealing with the resident's affairs e.g. DWP appointee to receive benefit payments

7. DEPRIVATION OF ASSETS

There are some cases where a resident may have tried to deliberately avoid paying for care and support costs through depriving themselves of assets – either capital or income.

Where the council believes they have evidence to support this, the council may either charge the resident as if they still possessed the asset or, if the asset has been transferred to someone else, seek to recover the lost income from that person. However, the council cannot recover more than the person gained from the transfer.

Where a person has accrued a debt, the council may use its powers under the Care Act to recover that debt. In deciding how to proceed, the council will consider the circumstances of the case before deciding a course of action. For example, the council will consider whether this was a deliberate avoidance of payment or due to circumstances beyond the resident's control.

Deprivation of assets means where a person has intentionally deprived or decreased their overall assets in order to reduce the amount they are charged towards their care. This means that they must have known that they needed care and support and have reduced their assets in order to reduce the contribution they are asked to make towards the cost of that care and support.

Deprivation of capital

It is up to the person to prove to the council that they no longer have the asset. If they are not able to, the council will assess them as if they still had the asset. For capital assets, acceptable evidence of their disposal would be:

- (a) A trust deed;
- (b) Deed of gift;
- (c) Receipts for expenditure;
- (d) Proof that debts have been repaid.

A person can deprive themselves of capital in many ways, but common approaches may be:

- (a) A lump-sum payment to someone else, for example as a gift;
- (b) Substantial expenditure has been incurred suddenly and is out of character with previous spending
- (c) The title deeds of a property have been transferred to someone else;
- (d) Assets have been put in to a trust that cannot be revoked;
- (e) Assets have been converted into another form that would be subject to a disregard under the financial assessment, for example personal possessions;
- (f) Assets have been reduced by living extravagantly, for example gambling;
- (g) Assets have been used to purchase an investment bond with life insurance.

Questions of deprivation will be considered where the person ceases to possess assets that would have otherwise been taken into account for the purposes of the financial assessment or where the asset has been moved to an area that is now disregarded.

Deprivation of income

It is possible for a person to deliberately deprive themselves of income. For example, they could give away or sell the right to an income from an occupational pension.

It is up to the person to prove to the council that they no longer have the income. Where the council considers that a person may have deprived themselves of income, we will treat them as possessing notional income.

The council will determine whether deliberate deprivation of income has occurred. In doing so we will consider:

- (a) Was it the person's income?
- (b) What was the purpose of the disposal of the income?
- (c) The timing of the disposal of the income?

In some circumstances the income may have been converted into capital. The council will consider what tariff income may be applied to the capital and whether the subsequent charge is less or more than the person would have paid without the change.

If the council decides that a person has deliberately deprived themselves of assets in order to avoid or reduce a charge for care and support, we will decide whether to treat that person as still having the asset for the purposes of the financial assessment and charge them accordingly.

The council will seek to charge the person as if the deprivation had not occurred. This means assuming they still own the asset and treating it as notional capital or notional income.

If the person in depriving themselves of an actual resource has converted that resource into another of lesser value, the person should be treated as notionally possessing the difference between the value of the new resources and the one which it replaced. For example, if the value of personal possessions acquired is less than the sum spent on them, the difference should be treated as notional resource.

Recovering charges from a third party

Where the person has transferred the asset to a third party to avoid the charge, the third party is liable to pay the council the difference between what it would have charged and did charge the person receiving care. However, the third party is not liable to pay anything which exceeds the benefit they have received from the transfer.

If the person has transferred funds to more than one third party, each of those people is liable to pay the council the difference between what it would have charged or did charge the person receiving care in proportion to the amount they received.

8. CHARGING FOR CARE AND SUPPORT IN A CARE HOME

People in a care home will contribute most of their income (excluding their earnings) towards the cost of their care and support. The council will leave the resident with a specified amount of their own income so that the individual has 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 (PEA). This is in addition to any income the person receives from earnings.

9. CHOICE OF ACCOMMODATION AND ADDITIONAL PAYMENTS

In some cases, a person may actively choose a service that is more expensive than the amount identified for the provision of the care and support in the personal budget. Where the person has chosen care and support that costs more than the personal budget, 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 and is the difference between the amount specified in the personal budget and the actual cost.

For further information please refer to the council's Choice of Accommodation and Third-Party Payments or Top Ups policy.

10. CHARGING FOR SUPPORT TO CARERS

The Care Act also gives local authorities the power to charge for services directly provided to carers who meet the Care Act eligibility levels. The accompanying guidance states that when deciding whether to charge, and in determining what an appropriate charge is, "a local authority should consider how it wishes to express the way it values carers within its local community as partners in care, and recognise the significant contribution carers make". Cheshire East Council does not charge for carer's services but would charge for any replacement care provided to the individual requiring care and support.

Services to support carers will usually be paid as a Direct Payment and will not attract a charge. Replacement care where a carer requires a break from their caring duty or faces an emergency/unplanned need would attract a charge applied to the individual requiring the care and support, following the Care Act charging guidelines.

11. TREATMENT OF CAPITAL

The financial assessment will look across all of a person's assets – both capital and income to decide which is capital and which is income and assess those assets according to the regulations and guidance. The treatment of income will vary depending on the type of setting a person is receiving care in. The treatment of capital is broadly the same for all settings. Where there is a distinction between care homes and all other settings, this is clearly set out.

In assessing what a person can afford to contribute the council will apply the upper and lower capital limits. The upper capital limit is currently set at £23,250 and the lower capital limit at £14,250.

A person with assets above the upper capital limit will be deemed to be able to afford the full cost of their care. Those with capital between the lower and upper capital limit will be deemed as able to make a contribution, known as "tariff income", from their capital. Any capital below the lower capital limit will be disregarded.

The following list gives examples of capital. This list is intended as a guide and is not exhaustive.

- (a) buildings
- (b) land
- (c) National Savings Certificates and Ulster Savings Certificates
- (d) Premium Bonds
- (e) stocks and shares
- (f) capital held by the Court of Protection or a Deputy appointed by that Court
- (g) any savings held in:
 - (i) building society accounts
 - (ii) bank current accounts, deposit accounts or special investment accounts. This includes savings held in the National Savings Bank, Girobank and Trustee Savings Bank.
 - (iii) SAYE schemes
 - (iv) unit trusts
 - (v) co-operatives share accounts.
 - (vi) cash
- (h) trust funds

It is important that people are not charged twice on the same resources. Therefore, resources should only be treated as income or capital but not both. If a person has saved money from their income then those savings should normally be treated as capital. However, they should not be assessed as both income and capital in the same period. Therefore, in the period when they are received as income, the resource should be disregarded as capital.

In assessing a person's assets it may not be immediately clear where a resource is capital or income, particularly where a person is due to receive planned payments. In order to guide the decision, in general, a planned payment of capital is one which is:

- (a) not in respect of a specified period; and
- (b) not intended to form part of a series of payments.

A capital asset is normally defined as belonging to the person in whose name it is held, the legal owner. However, in some cases this may be disputed and/or beneficial ownership argued. Beneficial ownership is where someone enjoys the benefits of ownership, even though the title of the asset is held by someone else or where they directly or indirectly have the power to vote or influence a transaction regarding a particular asset. In most cases the person will be both the legal and beneficial owner.

Where ownership is disputed, the council will seek written evidence to prove where the ownership lies. If a person states they are holding capital for someone else, the council will obtain evidence of the arrangement, the origin of the capital and intentions for its future use and return to its rightful owner.

Where a person has joint beneficial ownership of capital, except where there is evidence that the person's own an unequal share, the total value should be divided equally between the joint owners and the person should be treated as owning an equal share. Once the person is in sole possession of their actual share, they can be treated as owning that actual amount.

In some cases a person may be the legal owner of a property but not the beneficial owner of a property. In other words, they have no rights to the proceeds of any sale. In such circumstances the property must not be taken into account.

The council will work out what value a capital asset has in order to take account of it in the financial assessment. Other than National Savings Certificates, valuation must be the current market or surrender value of the capital asset, for example, property, whichever is higher, minus the following:

- (a) 10% of the value if there will be any actual expenses involved in selling the asset. This must be expenses connected with the actual sale and not simply the realisation of the asset. For example the costs to withdraw funds from a bank account are not expenses of sale, but legal fees to sell a property would be
- (b) any outstanding debts secured on the asset, for example a mortgage

A capital asset may have a current market value, for example stocks or shares, or a surrender value, for example premium bonds. The current market value will be the price a willing buyer would pay to a willing seller. The way the market value is obtained will depend on the type of asset held.

If the resident and the financial co-ordinator both agree that after deducting any relevant amounts (as set out above) that the total value of the person's capital is more than the upper capital limit of £23,250, or less than the lower capital limit of £14,250, then it is not necessary to obtain a precise valuation. If there are any disputes, a precise valuation should be obtained. However, the council will bear in mind how close a resident is to the upper capital limit when deciding whether or not to obtain a precise valuation.

Where a precise valuation is required, a professional valuer should be asked to provide a current market valuation. Once the asset is sold, the capital value to be taken into account is the actual amount realised from the sale, minus any actual expenses of the sale.

Where the value of a property is disputed, the aim should be to resolve this as quickly as possible. The council will try to obtain an independent valuation of the person's beneficial share of the property within the 12-week disregard period where a person is in a care home. This will enable the council to work out what charges a resident should pay and enable the resident, or their representative, to consider whether to seek a deferred payment agreement.

The value of National Savings Certificates (and Ulster Savings Certificates) (Premium Bonds) is assessed in the same way as other capital assets. A valuation for savings certificates can be obtained by contacting the NS&I helpline on 0845 964 5000. An alternative method to get the value of National Savings Certificates is to use the NS&I online calculator. To enable an accurate value for the savings certificates the person must provide details of the:

- certificate issue number(s);
- purchase price;
- date of purchase.

Assets held abroad

Where capital is held abroad and all of it can be transferred to the UK, its value in the other country should be obtained and taken into account. Where capital is held jointly, it should be treated the same as if it were held jointly within the UK. The detail will depend on the conditions for transfer to the UK.

Where the capital cannot be wholly transferred to the UK due to the rules of that country, for example currency restrictions, the council will require evidence confirming this fact. Examples of acceptable evidence could include documentation from a bank, Government official or solicitor in either this country or the country where the capital is held.

Where some restriction is in place, the council will seek evidence showing what the asset is, what its value is and to understand the nature and terms of the restriction so that should this change, the amount can be taken into account. It should also take into account the value that a willing buyer would pay in the UK for those assets, but be aware that it may be less than the market or surrender value in the foreign country.

Capital not immediately realisable

Capital which is not immediately realisable due to notice periods, for example National Savings Bank investment accounts or Premium Bonds, should be taken into account in the normal way at its face value.

This will be the value at the time of the financial assessment. It may need to be confirmed and adjusted when the capital is realised. If the person chooses not to release the capital, the value at the time of assessment should be used and it should be reassessed at intervals in the normal way.

Tariff income

Where a person has assets between the lower and upper capital limits the council must apply tariff income. In a financial assessment for residential care services, this assumes that for every £250 of capital, or part thereof, a person is able to afford to contribute £1 per week towards the cost of their eligible care needs.

In some circumstances a person may be treated as possessing a capital asset even where they do not actually possess it. This is called notional capital. Notional capital may be capital which:

- (a) would be available to the person if they applied for it;
- (b) is paid to a third party in respect of the person;
- (c) the person has deprived themselves of in order to reduce the amount of charge they have to pay for their care.

A person's capital should therefore be the total of both actual and notional capital. However, if a person has actual capital above the upper capital limit, it may not be necessary to consider notional capital.

Where a person has been assessed as having notional capital, the value of this must be reduced over time. The rule is that the value of notional capital must be reduced weekly by the difference between the weekly rate the person is paying for their care and the weekly rate they would have paid if notional capital did not apply.

Where a person is benefiting from the 12-week property disregard and has chosen to pay a “top-up” fee from their capital resources between the upper and lower capital limits, the level of tariff income that applies during those 12 weeks is the same as it would be if the person were not using the capital to “top-up”.

Capital disregarded

The following capital assets must be disregarded:

- a) Property in specified circumstances;
- b) The surrender value of any:
 - a. Life insurance policy;
 - b. Annuity.
- c) Payments of training bonuses of up to £200;
- d) Payments in kind from a charity;
- e) Any personal possessions such as paintings or antiques, unless they were purchased with the intention of reducing capital in order to avoid care and support charges
- f) Any capital which is to be treated as income or student loans;
- g) Any payment that may be derived from:
 - (i) The Macfarlane Trust;
 - (ii) The Macfarlane (Special Payments) Trust;
 - (iii) The Macfarlane (Special Payment) (No 2) Trust;
 - (iv) The Caxton Foundation;
 - (v) The Fund (payments to non-haemophiliacs infected with HIV);
 - (vi) The Eileen Trust;
 - (vii) The MFET Trust;
 - (viii) The Independent Living Fund (2006);
 - (ix) The Skipton Fund;
 - (x) The London Bombings Relief Charitable Fund.
 - (xi) Scottish Infected Blood Support Scheme
 - (xii) an approved blood scheme (this is a scheme approved by the Secretary of State, or trust established with funds provided by the Secretary of State, to provide compensation in respect of a person having been infected from contaminated blood products)
 - (xiii) London Emergencies Trust
 - (xiv) We Love Manchester Emergency Fund
 - (xiv) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State (the Thalidomide Trust)
 - (xv) the scheme established by the government for former British child migrants in response to the Investigation Report on Child Migration Programmes by the

Independent Inquiry into Child Sexual Abuse published on 1 March 2018, made to a former child migrant

- h) The value of funds held in trust or administered by a court which derive from a payment for personal injury to the person. For example, the vaccine damage and criminal injuries compensation funds;
- i) The value of a right to receive:
 - (i) Income under an annuity
 - (ii) Outstanding instalments under an agreement to repay a capital sum
 - (iii) Payment under a trust where the funds derive from a personal injury
 - (iv) Income under a life interest or a life-rent
 - (v) Income (including earnings) payable in a country outside the UK which cannot be transferred to the UK
 - (vi) An occupational pension
 - (vii) any rent. Please note however that this does not necessarily mean the income is disregarded. Please see Annex C for guidance on the treatment of income.

- (j) capital derived from an award of damages for personal injury which is administered by a court or which can only be disposed of by a court order or direction
- (k) the value of the right to receive any income under an annuity purchased pursuant to any agreement or court order to make payments in consequence of personal injury or from funds derived from a payment in consequence of a personal injury and any surrender value of such an annuity
- (l) periodic payments in consequence of personal injury pursuant to a court order or agreement to the extent that they are not a payment of income and are treated as income (and disregarded in the calculation of income)
- (m) any Social Fund payment
- (n) refund of tax on interest on a loan which was obtained to acquire an interest in a home or for repairs or improvements to the home
- (o) any capital resources which the person has no rights to as yet, but which will come into his possession at a later date, for example on reaching a certain age
- (p) payments from the Department of Work and Pensions to compensate for the loss of entitlement to Housing Benefit or Housing Benefit Supplement
- (q) the amount of any bank charges or commission paid to convert capital from foreign currency to sterling
- (r) payments to jurors or witnesses for court attendance (but not compensation for loss of earnings or benefit)
- (s) community charge rebate/council tax rebate
- (t) money deposited with a Housing Association as a condition of occupying a dwelling
- (u) any Child Support Maintenance Payment
- (v) the value of any ex-gratia payments made on or after 1 February 2001 by the Secretary of State in consequence of a person's, or person's spouse or civil partner's imprisonment or internment by the Japanese during the Second World War
- (w) any payment made by a local authority under the Adoption and Children Act 2002 (under section 2(b)(b) or 3 of this act)

(x) the value of any ex-gratia payments from the Skipton Fund made by the Secretary of State for Health to people infected with Hepatitis C as a result of NHS treatment with blood or blood products

(y) payments made under a trust established out of funds provided by the Secretary of State for Health in respect of persons suffering from variant Creutzfeldt-Jakob disease to the victim or their partner (at the time of death of the victim)

(z) any payments under Section 2, 3 or 7 of the Age-Related Payments Act 2004 or Age Related Payments Regulations 2005 (SI No 1983)

(aa) any payments made under section 63(6)(b) of the Health Services and Public Health Act 1968 to a person to meet childcare costs where he or she is undertaking instruction connected with the health service by virtue of arrangements made under that section

(bb) any payment made in accordance with regulations under Section 14F of the Children Act 1989 to a resident who is a prospective special guardian or special guardian, whether income or capital

Property disregards

In the following circumstances the value of the person's *main or only* home must be disregarded:

(a) Where the person is receiving care in a setting that is not a care home;

(b) If the person's stay in a care home is temporary and they:

(i) intend to return to that property and that property is still available to them; or

(ii) are taking reasonable steps to dispose of the property in order to acquire another more suitable property to return to

(c) Where the person no longer occupies the property but it is occupied in part or whole as their main or only home by any of the people listed below, the mandatory disregard only applies where the property has been continuously occupied since before the person went into a care home (for discretionary disregards see below):

(i) the person's partner, former partner or civil partner, except where they are estranged;

(ii) a lone parent who is the person's estranged or divorced partner;

(iii) a relative as defined in paragraph 35 of the person or member of the person's family who is:

(1) Aged 60 or over, or

(2) Is a child of the resident aged under 18, or

(3) Is incapacitated.

For the purposes of the disregard, the definition of a relative can be sought from the Care and Support Statutory Guidance, Annex B: Treatment of capital.

A member of the person's family is defined as someone who is living with the qualifying relative as part of an unmarried couple, married to or in a civil partnership.

For the purposes of the disregard the meaning of "incapacitated" is reasonably defined as, that a relative is incapacitated if either of the following conditions apply:

(a) the relative is receiving one (or more) of the following benefits: incapacity benefit, severe

disablement allowance, disability living allowance, personal independence payments, armed forces independence payments, attendance allowance, constant attendance allowance, or a similar benefit; or

(b) the relative does not receive any disability related benefit but their degree of incapacity is equivalent to that required to qualify for such a benefit. Medical or other evidence will be needed before a decision is reached.

In most cases it will be obvious whether or not the property is occupied by a qualifying relative as their main or only home. Where occupancy is not clear the council will undertake a factual inquiry weighing up all relevant factors in order to reach a decision. An emotional attachment to the property alone is not sufficient for the disregard to apply.

The council will need to take account of the individual circumstances of each case. However, it may be helpful to consider the following factors in making a decision:

- does the relative currently occupy another property?
- if the relative has somewhere else to live do they own or rent the property (for example, how secure/permanent is it?)
- if the relative is not physically present is there evidence of a firm intention to return to or live in the property
- where does the relative pay council tax?
- where is the relative registered to vote?
- where is the relative registered with a doctor?
- are the relatives belongings located in the property?
- is there evidence that the relative has a physical connection with the property?

Discretionary disregard

The council may also use its discretion to apply a property disregard in other circumstances. However, the council will need to balance this discretion with ensuring a person's assets are not maintained at public expense.

12-week property disregard

The council must disregard the value of a resident'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:

(a) when they first enter a care home as a permanent resident; or

(b) 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.

26-week disregard

The following capital assets must be disregarded for at least 26 weeks in a financial assessment.

- (a) Assets of any business owned or part-owned by the person in which they were a self-employed worker and has stopped work due to some disease or disablement but intends to take up work again when they are fit to do so. Where the person is in a care home, this should apply from the date they first took up residence.
- (b) Money acquired specifically for repairs to or replacement of the person's home or personal possessions provided it is used for that purpose. This should apply from the date the funds were received.
- (c) Premises which the person intends to occupy as their home where they have started legal proceedings to obtain possession. This should be from the date legal advice was first sought or proceedings first commenced.
- (d) Premises which the person intends to occupy as their home where essential repairs or alterations are required. This should apply from the date the person takes action to effect the repairs.
- (e) Capital received from the sale of a former home where the capital is to be used by the person to buy another home. This should apply from the date of completion of the sale.
- (f) Money deposited with a Housing Association which is to be used by the person to purchase another home. This should apply from the date on which the money was deposited.
- (g) Grant made under a Housing Act which is to be used by the person to purchase a home or pay for repairs to make the home habitable. This should apply from the date the grant is received.

52 week disregard

The following payments of capital must be disregarded for a maximum of 52 weeks from the date they are received.

- (a) The balance of any arrears of or any compensation due to non-payment of:
 - (i) Mobility supplement
 - (ii) Attendance Allowance
 - (iii) Constant Attendance Allowance
 - (iv) Disability Living Allowance / Personal Independence Payment
 - (v) Exceptionally Severe Disablement Allowance
 - (vi) Severe Disablement Occupational Allowance
 - (vii) Armed forces service pension based on need for attendance
 - (viii) Pension under the Personal Injuries (Civilians) Scheme 1983, based on the need for attendance
 - (ix) Income Support/Pension Credit
 - (x) Minimum Income Guarantee
 - (xi) Working Tax Credit
 - (xii) Child Tax Credit
 - (xiii) Housing Benefit
 - (xiv) Universal Credit
 - (xv) Special payments to pre-1973 war widows.

As the above payments will be paid for specific periods, they should be treated as income over the period for which they are payable. Any money left over after the period for which they are treated as income has elapsed should be treated as capital.

- (b) Payments or refunds for:
 - (i) NHS glasses, dental treatment or patient's travelling expenses;

- (ii) Cash equivalent of free milk and vitamins;
 - (iii) Expenses in connection with prison visits.
- (c) Personal Injury Payments.

2 year disregard

The council must disregard payments made under a trust established out of funds by the Secretary of State for Health in respect of vCJD to:

- (a) A member of the victim's family for 2 years from the date of death of the victim (or from the date of payment from the trust if later); or
- (b) A dependent child or young person until they turn 18.

Other disregards

There may be instances where a person's assets may be tied up in a business that they own or part own. As per the Care and Support Statutory Guidance, where a person is taking steps to realise their share of the assets, these should be disregarded during the process. However, the person will be required to show that it is their clear intention to realise the asset as soon as practicable.

Where the person has no immediate intention of attempting to realise the business asset, its capital value will be taken into account in the financial assessment. Where a business is jointly owned, this should apply only to the person's share.

Treatment of investment bonds

The treatment of investment bonds is currently complex. This is in part because of the differing products that are on offer. As such, the council will seek advice from its legal department.

Where an investment bond includes one or more element of life insurance policies that contain cashing-in rights by way of options for total or partial surrender, then the value of those rights will be disregarded as a capital asset in the financial assessment.

Capital treated as income

The following capital payments should be treated as income.

- (a) Any payment under an annuity.
- (b) Capital paid by instalment where the total of:
 - (i) the instalments outstanding at the time the person first becomes liable to pay for their care, or in the case of a person in temporary care whom the local authority had previously decided not to charge, the first day on which the local authority decided to charge; and
 - (ii) the amount of other capital held by the resident is over £16,000. If it is £16,000 or less, each instalment should be treated as capital.

Earnings

Any income of the person derived from employment must be treated as earnings and not taken into account in the financial assessment.

Income treated as capital

The following types of income should be treated as capital:

- (a) Any refund of income tax charged on profits of a business or earnings of an employed earner; Any holiday pay payable by an employer more than 4 weeks after the termination or interruption of employment;
- (b) Income derived from a capital asset, for example, building society interest or dividends from shares. This should be treated as capital from the date it is normally due to be paid to the person. This does not apply to income from certain disregarded capital;
- (c) Any advance of earnings or loan made to an employed earner by the employer if the person is still in work. This is as the payment does not form part of the employee's regular income and would have to be repaid;
- (d) Any bounty payment paid at intervals of at least one year from employment as:
 - (i) A part time fireman;
 - (ii) An auxiliary coastguard;
 - (iii) A part time lifeboat man;
 - (iv) A member of the territorial or reserve forces.
- (e) Charitable and voluntary payments which are neither made regularly nor due to be made regularly, apart from certain exemptions such as payments from AIDS trusts. Payments will include those made by a third party to the person to support the clearing of charges for accommodation.
- (f) Any payments of arrears of contributions by a local authority to a custodian towards the cost of accommodation and maintenance of a child.

Capital available on application

In some instances a person may need to apply for access to capital assets but has not yet done so. In such circumstances this capital should be treated as already belonging to the person except in the following instances:

- (a) Capital held in a discretionary trust;
- (b) Capital held in a trust derived from a payment in consequence of a personal injury;
- (c) Capital derived from an award of damages for personal injury which is administered by a court;
- (d) Any loan which could be raised against a capital asset which is disregarded, for example the home.

The council should distinguish between:

- (a) Capital already owned by the person but which in order to access they must make an application for. For example:
 - (i) Money held by the person's solicitor;
 - (ii) Premium Bonds;
 - (iii) National Savings Certificates;
 - (iv) Money held by the Registrar of a County Court which will be released on application;

And

(b) Capital not owned by the person that will become theirs on application, for example an unclaimed Premium Bond win. This should be treated as notional capital.

When a council treats capital available on application as notional capital they should do so only from the date at which it could be acquired by the person.

In respect of defined contribution pensions, the council will calculate this as the maximum income that would be available if the person had taken out an annuity.

12. TREATMENT OF INCOME

The following section outlines the treatment of income in the financial assessment.

The income of the cared-for person will be taken into account in the financial assessment of what they can afford to pay for their care and support. Where this person receives income as one of a couple, the starting presumption is that the cared-for person has an equal share of the income. The council will also consider the implications for the cared-for resident's partner.

Income is net of any tax or National Insurance contributions.

Income will always be taken into account unless it is disregarded under the charging regulations. Income that is disregarded will either be:

- (a) Partially disregarded; or
- (b) Fully disregarded.

In all cases, irrespective of setting, employed and self-employed earnings are fully disregarded.

Earnings in relation to an employed earner are any remuneration or profit from employment. The council will refer to Annex B: Treatment of income of the Care and Support Statutory Guidance for appropriate disregard.

Benefits

Any income from the following sources will be fully disregarded:

- (a) Direct Payments;
- (b) Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme;
- (c) War Pension Scheme payments made to veterans with the exception of Constant Attendance Allowance payments
- (d) the mobility component of Disability Living Allowance
- (e) the mobility component of Personal Independence Payments

Any income from the following benefits will be taken fully into account when considering what a person can afford to pay towards their care from their income:

- (a) Attendance Allowance, including Constant Attendance Allowance and Exceptionally

- Severe Disablement Allowance
- (b) Bereavement Allowance
- (c) Carers Allowance
- (d) Disability Living Allowance (Care component)
- (e) Employment and Support Allowance or the benefits this replaces such as Severe Disablement Allowance and Incapacity Benefit
- (f) Income Support
- (g) Industrial Injuries Disablement Benefit or equivalent benefits
- (h) Jobseeker's Allowance
- (i) Maternity Allowance
- (j) Pension Credit
- (k) Personal Independence Payment (Daily Living component)
- (l) State Pension
- (m) Universal Credit

Working Tax Credits must be taken into account when considering what a person can afford to pay from their income towards the cost of their care in a care home. However, they should be disregarded in the calculation of income for care and support arranged other than in a care home.

Where any Social Security benefit payment has been reduced (other than a reduction because of voluntary unemployment), for example because of an earlier overpayment, the amount taken into account will be the gross amount of the benefit before reduction.

Annuity and pension income

An annuity is a type of pension product that provides a regular income for a number of years in return for an investment. Such products are usually purchased at retirement in order to provide a regular income. While the capital is disregarded, any income from an annuity will be taken fully into account except where it is:

- (a) purchased with a loan secured on the person's main or only home; or
- (b) a gallantry award such as the Victoria Cross Annuity or George Cross Annuity.

Where a person is in a care home and has a spouse or civil partner who is not living in the same care home and is paying half of the value of their occupational pension, personal pension or retirement annuity to their spouse or civil partner, the council will disregard this proportion of the payment.

For those who have purchased an annuity with a loan secured on their main or only home, this is known as a 'home income plan'. Under these schemes, a person has purchased the annuity against the value of their home – similarly to a Deferred Payment Agreement.

In order to qualify for the disregard, one of the annuitants must still be occupying the property as their main or only home. This may happen where a couple has jointly purchased an annuity and only one of them has moved into a care home. If this is not the case, the disregard will not be applied.

Where the disregard is applied, only the following aspects will be disregarded:

- (a) the net weekly interest on the loan where income tax is deductible from the interest; or
- (b) the gross weekly interest on the loan in any other case.

The council will apply a disregard for 'home income plans' appropriately in line with the conditions set out in Annex B: Treatment of income.

In respect of defined contribution pensions, the council will assess pension income for the purposes of charging as follows:

- (a) If a person has removed the funds and placed them in another product or savings account, they should be treated according to the rules for that product;
- (b) If a person is only drawing a minimal income, then a local authority can apply notional income choosing not to draw income, or according to the maximum income that could be drawn under an annuity product. If applying maximum notional income, the actual income should be disregarded to avoid double counting;
- (c) If a person is drawing down an income that is higher than the maximum available under an annuity product, the actual income that is being drawn down should be taken into account.

Mortgage protection insurance policies

Any income from an insurance policy is usually taken into account. In the case of mortgage protection policies where the income is specifically intended to support the person to acquire or retain an interest in their main or only home or to support them to make repairs or improvements to their main or only home it will be disregarded. However, the income must be being used to meet the repayments on the loan. The amount of income from a mortgage protection insurance policy that should be disregarded is the weekly sum of:

- (a) The amount which covers the interest on the loan; plus
- (b) The amount of the repayment which reduced the capital outstanding; plus
- (c) The amount of the premium due on the policy.

Income Support and Pension Credit may be adjusted to take account of the income from the policy.

Other income that will be fully disregarded

Any income from the following sources will be fully disregarded:

- (a) Armed Forces Independence Payments and Mobility Supplement
- (b) Child Support Maintenance Payments and Child Benefit, except where the accommodation is arranged under the Care Act in which the adult and child both live
- (c) Child Tax Credit
- (d) Council Tax Reduction Schemes where this involves a payment to the person
- (e) Disability Living Allowance (Mobility Component) and Mobility Supplement
- (f) Christmas bonus
- (g) dependency increases paid with certain benefits

- (h) Discretionary Trust
- (i) Gallantry Awards
- (j) Guardian's Allowance
- (k) Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme
- (l) Payments made to Veterans under the War Pension Scheme with the exception of Constant Attendance Allowance
- (m) Income frozen abroad
- (n) income in kind
- (o) pensioners Christmas payments
- (p) Personal Independence Payment (Mobility Component) and Mobility Supplement
- (q) personal injury trust, including those administered by a Court
- (r) resettlement benefit
- (s) savings credit disregard
- (t) Social Fund payments (including winter fuel payments)
- (u) war widows and widowers special payments
- (v) any payments received as a holder of the Victoria Cross, George Cross or equivalent
- (w) any grants or loans paid for the purposes of education; and
- (x) payments made in relation to training for employment.
- (y) any payment from:
 - (i) Macfarlane Trust
 - (ii) Macfarlane (Special Payments) Trust
 - (iii) Macfarlane (Special Payment) (No 2) Trust
 - (iv) Caxton Foundation
 - (v) The Fund (payments to non-haemophiliacs infected with HIV)
 - (vi) Eileen Trust
 - (vii) MFET Limited
 - (viii) Independent Living Fund (2006)
 - (ix) Skipton Fund
 - (x) London Bombings Relief Charitable Fund
 - (xi) Scottish Infected Blood Support Scheme
 - (xii) an approved blood scheme (this is a scheme approved by the Secretary of State, or trust established with funds provided by the Secretary of State, to provide compensation in respect of a person having been infected from contaminated blood products)
 - (xiii) London Emergencies Trust
 - (xiv) We Love Manchester Emergency Fund

Savings Credit

Qualifying income for Pension Credit Savings Credit equivalent to the amount of Savings Credit received is disregarded up to a maximum set by Department of Health and Social Care.

Charitable and voluntary payments

Charitable payments are not necessarily made by recognised charity, but could come from charitable motives. The individual circumstances of the payment will need to be taken into account before making a decision. In general a charitable or voluntary payment which is not made regularly is treated as capital.

Charitable and voluntary payments that are made regularly must be fully disregarded.

Partially disregarded income

The following income is partially disregarded:

(a) The first £10 per week of War Widows and War Widowers pension, survivors Guaranteed Income Payments from the Armed Forces Compensation Scheme, Civilian War Injury pension, War Disablement pension and payments to victims of National Socialist persecution (paid under German or Austrian law).

(b) A savings disregard based on qualifying income is made to people in care homes as follows:

For individuals

Where a person is in receipt of qualifying income of less than £133.82 per week there will be no Savings Disregard made.

Where a person is in receipt of qualifying income between £133.82 and £155.60 per week the savings disregard is made, which will equal the actual amount of the savings credit received or a sum of £6.95 whichever is less.

Where a person is in receipt of qualifying income in excess of £155.60 per week, and a savings credit reward is in payment, a flat rate savings disregard of £6.95 per week is made irrespective of how much the savings credit payment is.

Where a person has qualifying income above the limit for receiving a savings credit reward (around £190.00 but could be higher if the person is severely disabled, has caring responsibilities or certain housing costs) a flat rate savings disregard of £6.95 is made.

For couples

Where a person is part of a couple (including a civil partnership) and is in receipt of qualifying income of less than £212.97 per week there will be no savings disregard made.

Where a person who is part of a couple (including a civil partnership) and is in receipt of qualifying income between £212.97 and £237.55 per week the savings disregard is

made, which will equal the actual amount of the savings credit received or a sum of £9.75 whichever is less.

Where a person who is part of a couple (including a civil partnership) and is in receipt of qualifying income in excess of £237.55 per week, and a savings credit reward is in payment, a flat rate savings disregard of £9.75 per week is made irrespective of how much the savings credit payment is.

Where a person who is part of a couple (including a civil partnership) and has qualifying income above the limit for receiving savings credit (around £278.00 but could be higher if the person is severely disabled, has caring responsibilities or certain housing costs) a flat rate savings disregard of £9.75 is made.

Notional income

In some circumstances a person may be treated as having income that they do not actually have. This is known as notional income. This might include for example income that would be available on application but has not been applied for, income that is due but has not been received or income that the person has deliberately deprived themselves of for the purpose of reducing the amount they are liable to pay for their care. In all cases the council will satisfy itself that the income would or should have been available to the person.

Notional income should also be applied where a person who has reached retirement age and has a personal pension plan but has not purchased an annuity or arranged to draw down the equivalent maximum annuity income that would be available from the plan. Estimates of the notional income can be received from the pension provider or from estimates provided by the Government Actuary's Department.

Where notional income is included in a financial assessment, it should be treated the same way as actual income. Therefore any income that would usually be disregarded should continue to be so.

Notional income should be calculated from the date it could be expected to be acquired if an application had been made. In doing so, the council will assume the application was made when it first became aware of the possibility and take account of any time limits which may limit the period of arrears.

However, there are some exemptions and the following sources of income must not be treated as notional income:

- (a) Income payable under a discretionary trust;
- (b) Income payable under a trust derived from a payment made as a result of a personal injury where the income would be available but has not yet been applied for;
- (c) Income from capital resulting from an award of damages for personal injury that is administered by a court;
- (d) Occupational pension which is not being paid because:
 - (i) The trustees or managers of the scheme have suspended or ceased payments due to an insufficiency of resources; or

(ii) The trustees or managers of the scheme have insufficient resources available to them to meet the scheme's liabilities in full.

(e) Working Tax Credit.

13. EXPENDITURE

Disability-related expenditure

Where disability-related benefits are taken into account, the council will 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 council.

In assessing disability-related expenditure, the council will make an appropriate allowance where supporting evidence is supplied, in line with the Care and Support Statutory Guidance, Annex B: Treatment of income. The care and support plan for a resident will be considered when assessing the need for any disability-related expenditure and respective allowance.

The assessment will use the National Association of Financial Assessment Officer Disability Expenditure Framework and data obtained by the Office of National Statistics for the Family Spending Surveys. Disability Expenditure Allowance of up to a maximum that is equivalent to an individual's disability benefit payment will be applied.

Expenditure for night care is only taken into account if services are provided by the council during the night.

A disability expenditure assessment will not be offered to residents who are not in receipt of disability benefits.

Personal expenses allowance

The council will leave the person with a minimum amount of income. This is known as the Personal Expenses Allowance (PEA) and the amount is set out in regulations and updates sent via a local authority circular. Anything above this may be taken into account in determining charges.

The PEA is not a benefit but the amount of a person's own income that they must be left with after charges have been deducted. However, where a person has no income, the council is not responsible for providing one. In this instance the council would support the resident to access any relevant state benefits or independent advocacy service.

There may be some circumstances where it would not be appropriate for the council to leave a resident only with the personal expenses allowance after charges. The council will ensure additional allowances are made in line with the Care and Support Statutory Guidance, Annex B: Treatment of income.

14. TEMPORARY AND SHORT-TERM RESIDENTS IN CARE HOMES

Following an assessment of a person's eligible care and support needs a decision may be taken that the person would benefit from a temporary stay in a care home. This could be for a number of reasons such as providing respite care to a carer or to provide a period of more intense support owing to an additional, but temporary, care need.

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 not exceed 52 weeks.

Once it has been agreed that individual is a temporary resident, the council will undertake the financial assessment in accordance with the following guidance.

Capital

The person's main or only home will be disregarded where the person:

- (a) Intends to return to that property as their main or only home and it remains available to them; or
- (b) Has taken steps to dispose of the home in order to acquire one that is more suitable and intends to return to that property.

Any other capital assets will be treated in the same way as for permanent residents.

Income and earnings

Both income and earnings will be treated in the same way as for permanent residents. The council will also take into account the following additional points.

Where Attendance Allowance or Disability Living Allowance is being received, these will be completely disregarded.

Where a stay in a care home is temporary, the amount of Income Support or Pension Credit a person receives will usually remain the same as they will be treated as normally residing in their own home. However, any severe disability premium or enhanced disability premium that may have been included will no longer be paid if the Disability Living Allowance or Attendance Allowance has ceased. There are special rules for Income Support and income related Employment Support Allowance where one member of a couple enters a care home for a temporary period. This will be taken into account in considering what a person can afford to pay.

If Housing Benefit is paid to the person, this will be disregarded as they will still be responsible for meeting any costs associated with their main or only home.

Where a person is sub-letting their property, this will be disregarded where the person occupies the property as their main or only home as they intend to return to the property.

Alternatively a person may have a boarder living in their property. A boarder is someone for whom at least one cooked meal is provided. Where a person has income from a boarder, the first £20 of the income should be ignored plus half of any balance over £20.

If someone wishes to access short-term 24-hour care services using a Direct Payment – they can be allocated up to 4 weeks direct payment funding. The community charge will automatically apply to the direct payment, unless the direct payment is only for short stay care and where this is the case the residential charge will be netted off the allocated amount for respite.

15. INCOME COLLECTION METHODS

The Care Act supports that councils may recover such charges as they consider reasonable in respect of relevant services.

Invoices will be sent to residents or their authorised person every 4 weeks via post or email. Payment of care invoices can be made via a range of methods, including Direct Debit, bankers' Standing Order, online payments, telephone payments.

A billing week runs from Saturday to Friday.

The council will charge the resident's full weekly contribution unless the cost of the care delivered in a week is less than their weekly contribution. In this instance the resident would be charged by the unit.

Direct Payments are paid net of the resident's weekly contribution, and the individual is expected to pay their charge into the direct payment account first with the council adding funds to make up the direct payment to afford the required care. The individual's weekly Direct Payment contribution must be paid in full every week even where care is not provided for a full week. Should services be suspended during a full week (Saturday to Friday) then charges are not levied to the customer. Direct Payments will be audited and more information can be found in the council's all age Direct Payment policy.

16. RECOVERY OF DEBTS

Social Care Business Support and Finance (SCBSF) will ensure charges for Adult Social Care services are raised every 4 weeks in arrears of the care services being delivered. If a resident is in receipt of a Direct Payment their charge will be deducted from the Direct Payment – payment will be net of the resident's charge.

The due date for all care invoices will be 21 days from the date of the invoice. If payment is not made by the appropriate due date the council will issue reminders as follows:

1st reminder – issued after no payment is received within 21 days, giving 14 days to pay the invoice balance

2nd reminder – issued after no payment is received within 35 days of the invoice date, giving 7 days to pay the invoice balance

If a resident does not pay their charges for care and support the council will try to establish the reason for non-payment and take the appropriate action to resolve any problems that have prevented payment. The debt recovery process includes letters and telephone calls to attempt to resolve the issue. Visits from Adult Social Care and SCBSF officers will also be used as appropriate.

If invoices remain unpaid after initial engagement has been attempted, cases will be escalated through Adult Social Care and SCBSF. Escalated debt cases will be referred to debt recovery officers and Sundry Debt who will work in liaison with Legal services.

If the council decides to pursue court action this will be done via the County Court. The Council will have regard to Practice Direction - Pre-Action Conduct guidance published by the Ministry of Justice. However, this will only be done after all other reasonable alternatives for recovering the debt have been exhausted. The council will follow debt recovery guidance as set out in Annex D (Recovery of debt) in the Care and Support Statutory Guidance.

The council reserves the right to levy interest on debts not settled within 28 days at 5% + base rate, capped at 8%. Any costs incurred through the recovery of charges will be added to the debt.

Where the council has obtained a court order or judgment for payment, but the person has not complied with it, the council will seek to enforce the order. There are various methods of enforcement at the council's disposal which will be carefully considered on a case by case basis. The most common enforcement options that are likely to be used are:

- A warrant or writ of control
- An attachment of earnings order
- A third party debt order
- A charging order

The council will also consider any other options that may be available to support the recovery of debts including section 423 of the Insolvency Act 1986. This provides additional routes to recover debts where a person may have transferred or sold their assets to a third party at a price that is lower than the market value with the intention of putting those out of reach or prejudicing the interests of someone who may wish to bring a claim against that person.

17. Deferred Payment Agreements

The universal deferred payment scheme means that people should not be forced to sell their home in their lifetime to pay for their care. By entering into a deferred payment agreement, a person can 'defer' or delay paying the costs of their care and support until a later date. Deferring payment can help people to delay the need to sell their home, and provides peace of mind during a time that can be challenging (or even a crisis point) for them and their loved ones as they make the transition into care.

A deferred payment agreement can provide additional flexibility for when and how someone pays for their care and support.

Please see the council's Deferred payment scheme policy.

18. TRANSPORT

Cheshire East Council does not commission transport but may offer a direct payment to meet eligible unmet need.

Additional costs associated with eligible transport needs will be assessed within the personal budget and may in some cases be disregarded as a disability related expense.

More information is provided in the council's ASC - Assisted Transport Policy.

19. Flat Rate Fees

There are a number of adult social care services which are charged as a flat rate fee. Please refer to Appendix X: Fee and Charges April 2024 for relevant flat rate fees.

A flat rate fee is to be paid by anyone receiving that service. It is not subject to financial assessment unless the fee brings financial hardship and, in such cases, a financial assessment will determine whether the fee is affordable and does not affect the individual's protected income.

20. Fees and charges

The council will review all fees and charges annually and any charges will be communicated each March/April.

21. Appeals

Appeals against the assessed charge are dealt with under Adult Social Care's Complaints Procedure.

Complaints can be logged via the following methods:

- Online: www.cheshireeast.gov.uk
- Email: socialcarecomplaintsmanager@cheshireeast.gov.uk
- In writing: Customer Relations Team, 1st Floor Macclesfield Town Hall, c/o Delamere House, Delamere St, Crewe, CW1 2LL

Appeals against the amount of disability related expenditure allowed in the financial assessment will be dealt with by the Social Business Support & Finance Team Manager and Service Manager and will require documentary evidence of additional customer

expenditure. Where there remains an impasse, with the customers consent, an external organisation may be approached for an independent assessment of the situation.

Appendix 1: Residential Income Disregards 2024-2025

Income Disregards 2024-2025

Personal Expenses Allowance	£30.15
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Appendix 2: Standard Charge Summary from 06th April 2024

Cheshire East Council - Standard Charge Summary from 6th April 2024

Prices for Commissioned Community Services, subject to an assessment of your ability to contribute:		
Service	Rate	Per Item
Domiciliary Home Care	£23.40	Hour
45 min Domiciliary Home Care call	£17.55	Call
30 min Domiciliary Home Care call	£11.70	Call
Waking Night	£95.28	Night
Extra Care Monitoring and Response	£25.00	Per week/Part week
Extra Care Housing Care Call	£22.15	Hour
Day Care	£50.43	Day
Complex Day Care	£62.91	Day
Shared Lives Sessional Support carer home	£35.35	Per 3 hr session
Shared Lives Sessional Support	£35.35	Per 3 hr session
Personal Support and 24 hr supported living	£19.07	Hour

Prices for respite/overnight care subject to an assessment of your ability to contribute:	
Long or Short Stay Residential/Nursing care	Rate per week
Residential Care	£840.00
Residential Dementia Care	£890.00
Nursing Care	£940.00
Nursing Dementia Care	£1030.00
Carer Respite	£750.00
Shared Lives Long Term Placement	£388.50
Shared Lives Long Term Placement Enhanced	£416.50

The rate charged may differ depending on the cost of the service you receive.

Flat Rate Fees (not subject to an assessment of means):

Deferred Payment Fees - £850.00 set-up fee per agreement and an annual administration fee of £100 per annum

Money Management Fee - £12.00 per week

Full cost payer (people who choose to access Council commissioned care) –
£100 care arrangement fee
£5.00 per week administration fee

Telecare/Assistive Technology Fee - £7.50 per week

Interim Charges

Residential	Rate per week
18 - 24	£41.55
25 – Pensionable Age	£60.35
Over Pensionable Age	£188.00
Non-Residential	£1030.00
18+	£10.00