

Adult Social Care Charging Policy

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Glossary

Basic Income Support refers to the basic level of Income Support or guarantee level of pension credit (for people over pensionable age). The amount considered 'basic' is determined annually by the Department of Work and Pensions.

Capital Thresholds levels are set by Government and reviewed annually. A person with capital above the upper threshold will be deemed to be able to afford the full cost of their care. Any capital below the lower threshold will be disregarded.

Care Home refers to either a residential home, nursing home or residential college.

Community Support is support to access the community.

Couple Minimum Income Guarantee is the couple level of income set by Government that someone in a non-care home setting must be left with after charges have been deducted.

Day Care Services are for the elderly and people with disabilities and offer a range of activities and college tutored courses.

Deferred Payment is a means of delaying the cost of care and support until a later date.

Direct Payments are payments made to a person to allow them to arrange their own support needs rather than services being provided directly by the Council

Guarantee Credit (Pension Credit Guarantee) Replaced Income Support for people over pensionable age. If your income is below a certain level, the guarantee credit makes up the difference.

Income Support A benefit for people with a low income. It can be paid on its own if you have no other income or it can top up other benefits or earnings to the basic amount the law states people need to live on.

Intermediate Care (including reablement) is a coordinated short term care arrangement of up to six weeks to enable people to maximise their level of independence in order for them to remain living in the community.

Personal Budgets are an allocation from the Council to a person eligible for social care support based on an assessment of need. The person can use this allocation in the most appropriate way to meet his support needs, either by deciding what services the Council should provide or, if they would like to obtain the services themselves, by receiving a Direct Payment.

Personal Care (sometimes known as Home Care) services can include for example:

- Intimate personal care
- Prompting to take medication
- Preparation and cooking of food
- Specialised help for service users suffering from specific long term conditions.

Personal Expense Allowance is the level of income set by Government that someone in a care home must be left with after charges have been deducted

Minimum Income Guarantee (MIG) is the level of income set by Government that someone in a non-care home setting must be left with after charges have been deducted. Applicable to people who have capital below the upper capital threshold level, the MIG ensures that a person is left with a minimum level of income.

Savings Credit (Pension Credit Savings)

For people aged 65 and over, this is intended to reward people who have made provisions for retirement above the basic state pension.

Tariff Income is the where a person with capital between the lower and upper capital level (£14,250 and £23,250 based on the 2017-18 rates) will be deemed as able to make a contribution known as "tariff income" from their capital.

1. Purpose

- 1.1 The purpose of this policy is to set out how West Berkshire Council (WBC) will ask people for a contribution towards the cost of the adult social care support they receive and how that contribution will be calculated.
- 1.2 The Chief Executive and Corporate Board have approved the Charging Policy.

2. Applicability

- 2.1 This Policy applies to:
 - 2.1.1 Adult Social Care Services.

3. Policy

It is the Policy of the Council to ensure that it uses a consistent and fair approach to assessing and collecting contributions. This approach will promote affordable, sustainable support for people who require Adult Social Care Services.

4. Implementation

- 4.1 This Policy will be supported and implemented by the development and publication of Standards (requirements), Procedures (how to) and Guidance (advice).

5. Roles and Responsibilities

- 5.1 The overall responsibility for charging adults for care within WBC rests within Client Financial Services.
- 5.2 The responsibility for day-to-day management of charging adults for care throughout West Berkshire Council rests with the Service Manager, Client Financial Services who is also responsible for maintaining this Policy, for reviewing all other security policies and procedures and for providing advice and guidance on their implementation.
- 5.3 All managers are directly responsible for implementing this Policy and any sub policies and procedures within their service areas and for the adherence of their staff and others.
- 5.4 All personnel detailed at 2.1.1 have an individual responsibility to adhere to this Policy and any relevant Standards and/or Procedures.

6. Failure to comply with WBC Charging Policy

- 6.1 This document provides staff and others with essential information regarding charging and sets out conditions to be followed. It is the responsibility of all to whom this policy document applies to adhere to these conditions.

7. **Review**

7.1 This policy will be reviewed to respond to any changes and at least every 5 years.

7.2 The Service/Committee/Group responsible for reviewing and maintaining this policy is Client Financial Services.

Charging for Adult Social Care Services

1. Introduction

The purpose of this policy is to establish when and how West Berkshire Council will ask people for a contribution towards the cost of the adult social care support they receive. This document covers the following areas:

Sections 2 explains the contribution principles,
Sections 3, 4 and 5 explains how a contribution is calculated in a non care home setting,
Section 6 and 7 explains how a contribution is calculated in a care home,
Section 8 to 15 explains issues that are common to all contributions including what happens if people cannot afford to pay or want to make a complaint as well as containing other relevant miscellaneous information.

Adult Social Care is going through a period of significant change, moving away from “traditional” services always being arranged by the Council following a care assessment towards other means of arranging care and support including a person receiving a Direct Payment to pay directly for support they have chosen. In both cases the Council may require the person receiving support to make a financial contribution and this policy covers both circumstances.

The Council is committed to ensuring it uses a consistent and fair approach to assessing and collecting contributions. This approach will promote affordable, sustainable support for people who require Adult Social Care Services.

2. Contribution Principles

The Council adopts the following over-arching principles to ensure that both the amount of any contribution sought and the manner in which it is paid is fair:

- In order to act reasonably throughout the process the Council will consider the circumstances of each person through an individual financial assessment and on the merits of each case.
- People not living in a care home will be asked to contribute only what they can reasonably afford based on a financial assessment. The financial assessment will ensure that anyone who has capital of less than the upper threshold retains the minimum income guarantee (MIG - see 5.3) as set by the Department of Health and Social Care before they are asked to make any contribution.
- People living in a care home will be asked to contribute based on a financial assessment. The financial assessment will ensure that anyone who has less than the upper capital threshold retains the personal expenses allowance (PEA – see 7.3) from their income before they are asked to make any contribution.
- Regardless of how support is delivered, the financial assessment will be conducted in the same way.

- In general, contributions will be applied to the total cost of the service funded by the Council for example in the case of a live-in carer. However in some cases, for example personal care and community support, the contribution will be applied to the average cost incurred by the Council.
- Contributions will not exceed either the cost of the service or a person's Direct Payment (if they receive one).
- Contributions will not normally be required for the cost of the Council's assessment or administration processes for the service provided, except in the case of administration for a person with eligible needs who has assets above the upper capital limit and who has asked the Council to arrange their care and support on their behalf.
- Benefits advice will be available throughout the assessment process to ensure that people have access to their full benefits and entitlements.
- If an appeal is lodged against the assessed contribution, the Council will not refuse or withdraw services which meet a person's assessed needs.
- If invoices for assessed contributions are not paid the Council will follow the principles outlined in the Care Act 2014 in seeking recovery of the debt, including initiating court proceedings where appropriate.

3. Charges other than in a care home

Charges for permanent residential accommodation in a care home are covered in sections 6 and 7. Short-term placements in a care home of less than 56 consecutive nights and residential respite care will be treated in the same way as contributions for non-residential support.

4. Types of Non-residential Services

The Council funds a wide range of Adult Social Care services. The following describes what is provided without charge and what might incur a contribution:

4.1 Services Provided Free of Contributions

The Council can not apply any contribution towards:

- Intermediate Care services including reablement provided for a period of up to 6 weeks. If these are in addition to an established (albeit in some cases interrupted) package of support, contributions will continue against the established package. The person's assessment will identify those services provided under Intermediate Care arrangements.
- Community equipment (aids and minor adaptations) including assistive technology and in the case of an adaptation costing less than £1,000. These would be supplied as a result of an assessment. Examples include commodes, stair rails and grab rails.
- Care for sufferers of Creutzfeldt-Jacob Disease.
- After-care services provided under section 117 of the Mental Health Act 1983.
- Any service or part of service that the NHS is under a duty to provide for example Continuing Health care.
- Assessment and care planning services – such as supported self-assessment, needs assessment, support planning and care management.
- Carers' services provided direct to the Carer.

4.2 Services where a contribution will be sought

For most other Adult Social Care services people will be assessed in order to determine whether or not they need to make a contribution towards the service. This includes circumstances in which the service is taken by way of a direct payment. The types of service in this category include but are not limited to:

- Care and support in a person's own home (including the cost of two carers where this is necessary to meet need)
- Support to access the community (Community Support)
- Day Care and Outreach support,
- Transport,
- Employment Support
- Respite care in a residential/nursing home (not exceeding 56 consecutive nights)
- All services arranged within a Direct Payment, including the cost of brokerage services provided outside the Council

4.3 Services Outside of this Charging Policy

The Council provides a number of other support services which are not subject to this policy because they are not care and support services provided under the Care Act including:

- Meals at a Resource Centre. These will be subject to a flat rate charge and although this charge will be added to any weekly assessed contribution it will not be subject to the financial assessment process.
- Issue of Blue Badges

5. Non-residential services

5.1 Overview of the financial assessment

5.1.1 A full financial assessment will be undertaken for anyone who receives services for which a contribution can be made, including those who are in receipt of a Direct Payment. This is in order to establish their individual ability to contribute towards the total cost of the services they receive which the Council can charge for.

5.1.2 The financial assessment will ensure that people:

- Have sufficient money to meet their basic housing costs and some disability related expenditure
- Retain their basic "Minimum Income Guarantee". Where their capital is above the upper threshold the MIG is not included in the assessment calculations.

5.1.3 The assessment calculation is summarised as:

Assessable Income (see 5.2)

- Minimum Income Guarantee (see 5.3)
- Housing Costs (see 5.4)
- Disability Related Expenditure (see 5.5 to 5.5.7)
- Other allowable expenses

= Assessed contribution

5.1.4 Where a person has capital this may affect the assessed contribution. This is explained in section 5.7.2

5.1.5 The Care Act 2014 states that each person receiving care must be treated individually and that a local authority has no power to assess couple or civil partners according to their joint resources. The Department of Health has permitted an extension to current couple assessments until April 2016.

5.1.6 The treatment of jointly paid income and capital held in joint names is explained in section 5.9.

5.1.7 The Council has set a minimum contribution, currently £1.25 per week. If an assessed contribution is less than this minimum, no charge will be made as it is not financially viable to collect a contribution below this level.

5.1.8 Examples of calculated contributions are provided at *Appendix 1*.

5.1.9 Where assistance is provided in applying for a benefit, the person will be notified of the effect of the new benefit on their assessed contribution, which will be backdated to the date of award.

5.2 Assessable Income

The assessment process will look at the total income a person has available to make a contribution and will follow the Care Act 2014 and the statutory guidance issued under it.

5.2.1 The income below will **not** be included in the assessment:

Armed Forces Independence Payments and Mobility Supplement

Charitable and voluntary payments made on a regular basis.

Child Support Maintenance Payments and Child Benefit

Child Tax Credit

Christmas bonus

Council Tax Reduction Schemes where this involves a payment to the person

Dependency increases paid with certain benefits

Disability Living Allowance (DLA) (Mobility Component) and Mobility Supplement

Discretionary Trust

Earnings (as per Care Act 2014 guidance.)

Gallantry Awards

Guardian's Allowance

Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme

Income frozen abroad

Income in kind

Pensioners Christmas payments

Personal Independence Payment (PIP) (Mobility Component) and Mobility Supplement

Personal injury trust, including those administered by a Court

Resettlement benefit

Savings Credit

Social Fund payments (including winter fuel payments)

Statutory Sick Pay, Statutory Adoption Pay and Statutory Maternity Pay or Allowance.

War Disablement Pension or Armed Forces compensation Scheme: Guaranteed Income Payment and War Widows Pension or Armed Forces Compensation Scheme

War widows and widowers special payments

Any payments received as a holder of the Victoria Cross, George Cross or equivalent

Any grants or loans paid for the purposes of education

Payments made in relation to training for employment.

Payments referred to in paragraph 29 (y) of Annex C: Treatment of Income of the Care Act 2014 Care and Support Statutory Guidance

5.2.2 The sources of income below will only partially be included in the assessment:

- Survivors Guaranteed Income Payment (The first £10 per week will be disregarded)
- Sub tenants – Treatment of any income from sub tenants will be in accordance with the Care & Support (Charging & Assessment of Resources) Regulations 2014 (The first £20 per week will be disregarded)
- Boarders - Treatment of any income from boarders will be in accordance with the Care & Support (Charging & Assessment of Resources) Regulations 2014 (The first £20 per week plus half of any income over £20 per week will be disregarded).

5.2.3 Where a person has assets between the lower and upper capital levels the Council will apply a tariff income (see glossary of terms). This will assume 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 support.

5.2.4 If funds have been released using Equity Release Schemes the income may be included in the financial assessment process. Refer to *Appendix 3* for further information.

5.3 Minimum Income Guarantee

Someone whose capital is below the upper capital threshold will retain income equivalent to either basic Income Support or Pension Credit Guarantee as a minimum income which is not included in the assessment calculation. This amount will depend on a person's age and benefit entitlement as per Department of Health guidance.

5.4 Housing Costs

The following household expenditure may be allowed for in the contribution calculation depending on individual circumstances:

- Rent (net of housing benefits)
- Mortgage (net of income support or pension credit assistance)
- Board and lodgings (as defined and managed in The Care Act 2014)
- Council Tax (net of Council Tax Support)
- Building insurance (not including contents)
- Essential service charges and ground rent (net of assistance funding)

5.5 Disability Related Expenditure

5.5.1 Disability Related Expenditure (DRE) is any reasonable additional cost that a person incurs to meet their specific needs due to age, a medical condition or disability. To ensure that the person retains appropriate funding to meet these costs, an allowance for DRE is included in the assessment process where applicable.

5.5.2 Disability related expenditure is not restricted to the national eligibility criteria for care and support prescribed by the Care Act 2014.

5.5.3 DRE will be considered when:

- the extra cost is needed due to age, a medical condition or disability as identified in the person's community care assessment; **and**
- the cost is reasonable and can be verified (receipts will be requested); **and**
- it is not reasonable for a lower cost alternative item or service to be used.

5.5.4 Careful consideration will be given to requests that expenses are accepted as being disability related. Voluntary unpaid support from family and/or friends is not a disability-related expense.

5.5.5 In assessing disability-related expenditure consideration will be given to the following list of items. However, it should also be noted that this list is not intended to be exhaustive and any reasonable additional costs directly related to a person's disability may be considered:

(a) Payment for any community alarm system.

(b) Costs of any privately arranged care services identified as necessary by the care team, including respite care.

(c) Costs of any specialist items needed to meet the person's disability needs, for example:

- i. Day or night care which is not being arranged by the local authority;
- ii. Specialist washing powders or laundry;
- iii. Additional costs of special dietary needs due to illness or disability (the person may be asked for permission to approach their GP in cases of doubt);
- iv. Special clothing or footwear, for example, where this needs to be specially made; or additional wear and tear to clothing and footwear caused by disability;
- v. Additional costs of bedding, for example, because of incontinence;
- vi. Any heating costs, or metered costs of water, above the average levels for the area and housing type;
- vii. Reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by the person's disability and not met by social services;
- viii. 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 be included, if due to waiting for supply of equipment from the local council;
- ix. Personal assistance costs, including any household or other necessary costs arising for the person;
- x. Internet access for example for blind and partially sighted people
- xi. Transport costs necessitated by illness or disability, including costs of transport to daycentres, over and above the mobility component of Disability Living Allowance or Personal Independence Payments, if in payment and available for these costs. Where fuel is being claimed the current HMRC business rate mileage will be used. In some cases, it may be reasonable for WBC not to take account of claimed transport costs — for example, if a suitable, cheaper form of transport (e.g. council-provided transport to a daycentre) is available, but has not been used.

As with transport costs (noted at 5.5.4(c) (xi) above) there may be other items of DRE (whether in the above list or otherwise) which the Council will not allow for if there is a reasonable alternative available at a lesser cost. This could include, for example, where an item is available from the NHS – e.g. the private purchase cost of incontinence pads where these are available from the NHS. The fact of whether there is a reasonable alternative available at a lesser cost will be considered by WBC on a case by case basis taking into account all of the relevant circumstances.

5.5.6 The Council has a schedule of reasonable DRE costs (see *Appendix 4*). This lists the amounts that will be allowed for certain items where a decision is taken to allow a particular item of DRE. These amounts will be reviewed each year in accordance with the National Association of Financial Assessment Officers guidelines.

5.5.7 Where a particular item of expenditure combines more than one item or service, instead of disallowing all of the expenditure the elements that meet the person's specific need can be allowed. For example hair washing is allowed if the person could not do this task themselves and it is not included in the support plan. However, hair cutting would not be allowed for as this is a service used by the general population and is not a disability related expense.

5.5.8 Receipts will be requested in support of all expenses claimed. If receipts have not been kept prior to the initial financial assessment, receipts should be kept in support of future expenses. Receipts or evidence is not required for common expenses, i.e. utilities. The amounts in *Appendix 4* show an average expenditure for various household types. This will be used to calculate the extra costs due to the person's age, medical condition or disability. These amounts will be reviewed annually. If receipts are not provided despite requests to do so then the Council will decide that the expense should not be allowed.

5.6 Special Equipment

Costs for purchasing special equipment (e.g. stair lifts) will be allowed if they meet the person's specific need due to a disability or condition. The amount allowed will be based on the life span of the equipment and the purchase price paid by the person, where this is considered reasonable. This allowance will not apply if the purchase was funded by a Disabled Facilities Grant or any other source of external funding.

Maintenance and repair costs for special equipment will also be allowed if that equipment meets the person's specific need due to a disability or condition. The weekly amount allowed will be the annual cost over 52 weeks.

5.7 Other factors that affect the financial assessment

5.7.1 Shared costs

If more than one person lives in the person's home the additional costs relating to a disability or condition will be shared between the occupants whose needs contribute to the additional costs.

5.7.2 Capital

The value of capital and assets is as defined in the Care Act 2014 and the regulations made under the Act. The value of a person's main or only home will be disregarded.

5.7.3 A person with capital above the Care Act 2014 upper limit (including property but excluding the value of their main home) is liable to pay the full cost for services supplied (or towards a Direct Payment). When a person moves out of a property that they own and becomes ordinarily resident in alternative accommodation, for example, Extra Care Housing, the owned property will no longer be deemed their main home and will be regarded as capital for the purposes of the contribution assessment.

5.7.4 Where a person moves into supported accommodation (including Extra Care Housing) and still owns their previous home the Council must disregard the value of the person's previous home for 12 weeks.

5.7.5 After 12 weeks any property that has been disregarded will either need to be subject to a continuing disregard where there is a remaining resident as defined in the Care Act 2014 or if the property has not been sold a revised assessment will need to be done and a deferred Payment under the Deferred Payment Scheme will be offered.

5.7.6 In accordance with the Care Act 2014 the Council operates a Deferred Payments Scheme to allow people to defer the sale of their home where it is needed to fund care fees (see the Deferred Payment Policy).

5.7.7 The capital limits will be reviewed annually in accordance with the Care Act 2014.

5.7.8 Deprivation of assets

Deprivation of assets means where a person has intentionally deprived or decreased their overall assets in order to reduce the amount that 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.

5.7.9 There may be many reasons for a person depriving themselves of an asset. The Council will follow the guidance set out in the Care Act 2014 to decide whether deprivation for the purpose of avoiding care and support charges has occurred and whether or not to treat that person as still having the asset for the purpose of a financial assessment.

5.7.10 Where an asset has been transferred to a third party to avoid the charge, that third party is liable to pay the Council the difference between what it would have charged and has charged the person receiving care.

5.7.11 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. The Council will follow the guidance in the Care Act 2014 to make a decision on whether to treat someone as receiving a notional income in their financial assessment.

5.7.12 Non-disclosure of financial details

People have the right to choose not to disclose their financial details. However if this right is exercised they will be required to pay the full cost for their non-residential care and be subject to pay an administration fee.

5.8 Administration Fee

An administration fee will be charged when a person pays the full cost of their non-residential care either because they have capital in excess of the upper threshold level, or they have declined to disclose their finances.

5.8.1 The fee is a combination of set up, negotiation, management and administration costs pro-rated over a year, the weekly fee may still be charged even when no care or support services is received.

5.8.2 The fee will be charged for any open period where the Council has been asked to arrange care or support. This may include periods when no care is actually received but the arrangement is still open, for example when care calls have been cancelled or the person is away from home but the on-going arrangement costs for the Council continue.

5.8.3 The annual fee is invoiced on a four weekly basis and is separate from the assessed weekly charge.

5.9 Couples

Only the income of the cared-for person can be taken into account in the financial assessment. However people will be required to identify any income or capital (such as a welfare benefit) that both members of a couple are entitled to jointly.

5.9.1 A couple is defined as follows:

- Two people who are legally married or in a civil partnership
- Two people who have lived together as though they are married or in a Civil Partnership for at least twelve months but who are not legally married or in a Civil Partnership

5.9.2 When assessing one member of a couple:

- 100% of solely owned and 50% of all jointly owned capital and savings will be taken into account (excluding the value of the main home)
- All assessable income appropriate to the cared-for person will be considered.
- An allowance will be made for 50% of the couple's total joint basic household expenditure;
- An allowance will be made for the person's Disability Related Expenditure

5.9.3 Implications for the cared-for person's partner:

If the result of the financial assessment would leave the couple with a weekly income of less than the couple rate of minimum income guaranteed an additional allowance will be included in the assessment.

5.9.4 In these circumstances described above a "Couple Minimum Income Guarantee" (see Glossary) allowance will be included in the assessment. In order to calculate the allowance, which will vary on a case to case basis, the partner must be willing to disclose their financial details.

5.10 Contributions Payable and the Contribution Period

The assessed contribution will apply to any services (non-residential or respite care) provided in each charging week. A charging week starts on a Monday and ends on a Sunday. For example services that run from Wednesday to the following Tuesday will be charged across two charging weeks, except where a person receives only respite care, when the contribution will be apportioned over the number of nights of respite care.

5.11 Direct Payments

The following points relate to contributions payable where a person is in receipt of a Direct Payment:

- The contribution payable will be either the amount of the gross personal budget or the assessed contribution, whichever is lower;
- The contribution should be paid from a person's income, therefore the Direct Payment amount will be paid in full and the Council will raise an invoice for a person's contribution;
- Invoices will be raised every twenty eight days in arrears;
- Contributions will apply from the date the personal budget commences;
- Contributions must not be paid from the Direct Payment funds.

5.12 Other Services

The following points relate to contributions payable where a person has their support needs met by services organised by the Council after an assessment of need:

- The contribution payable will be either the actual chargeable cost of services supplied or the assessed contribution, whichever is lower;
- Invoices will be raised in arrears after every twenty eight day period;
- Where a service was supplied or was available but the person does not receive it because they are absent – for example they are away from their home at the time they are due to receive home care, a contribution will still be required unless the absence has been pre-notified (at least 24 hours in advance to the Council) or is due to hospitalisation, illness or other circumstances beyond the person's control. Where someone believes they should not be required to contribute to a service they should contact their care manager in the first instance;
- Any overpayments will be reimbursed or credited towards the cost of future services;
- Charges will apply from the date the service commences.

6. Charges in a care home

The following sections applies to people who receive care and support in a care home including respite care that exceeds 56 consecutive nights (8 weeks).

Charges for respite care of less than 56 consecutive nights are assessed under the section of the Council's policy for non-residential care (as set out at 3 to 5 of this policy).

6.1 Services and circumstances where no charge is made

The Council can not apply any contribution towards:

- After-care services under the Mental Health Act (Section 117)
- Any services funded by the local Health Authority under NHS continuing care.

All other residential services will be chargeable, including any residential element funded by community services for placements at a residential college.

6.2 Capital over the threshold

The Council is not obliged to fund a person's needs in a care home if they have capital over the upper threshold but may choose to do so (see 8.1)

7. The Financial Assessment: charges in a care home

7.1 Overview of the financial assessment

7.1.1 People in a care home will contribute most of their income, excluding any earnings, towards the cost of their care and support. The person will, however, be left with a specified amount of their own income, which is known as the personal expense allowance (PEA) (see 7.3 below).

7.1.2 The assessment calculation is summarised as follows:

- Assessable Income (see 7.2)
 - Personal Expense Allowance (see 7.3)
 - Allowable expenses (see 7.4)
- = Assessed contribution

7.1.3 Where a person has capital this may affect the assessed contribution and this is explained in section 7.5

7.1.4 The treatment of jointly paid income and capital held in joint names is explained in section 7.5.

7.1.5 Examples of calculated contributions are provided at *Appendix 1*.

7.1.6 Where assistance is provided in applying for a benefit, the person will be notified of the effect of the new benefit on their assessed contribution, which will be backdated to the date of award.

Assessable Income

The assessment process will look at the total income a person has available to make a contribution and will follow the Care Act 2014 and the statutory guidance issued under it.

7.2.1 The income below will **not** be included in the assessment:

Armed Forces Independence Payments and Mobility Supplement

Charitable and voluntary payments made on a regular basis.

Child Support Maintenance Payments and Child Benefit

Child Tax Credit

Christmas bonus

Council Tax Reduction Schemes where this involves a payment to the person

Dependency increases paid with certain benefits

Disability Living Allowance (DLA) (Mobility Component) and Mobility Supplement

Discretionary Trust

Earnings (as per Care Act 2014 guidance.)

Gallantry Awards

Guardian's Allowance

Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme

Income frozen abroad

Income in kind

Pensioners Christmas payments

Personal Independence Payment (PIP) (Mobility Component) and Mobility Supplement

Personal injury trust, including those administered by a Court

Resettlement benefit

Social Fund payments (including winter fuel payments)

Statutory Sick Pay, Statutory Adoption Pay and Statutory Maternity Pay or Allowance.

War Disablement Pension or Armed Forces compensation Scheme: Guaranteed Income Payment and War Widows Pension or Armed Forces Compensation Scheme

War widows and widowers special payments

Any payments received as a holder of the Victoria Cross, George Cross or equivalent
Any grants or loans paid for the purposes of education; and
Payments made in relation to training for employment.
Payments referred to in paragraph 29 (y) of Annex C: Treatment of Income of the Care Act 2014 Care and Support Statutory Guidance

7.2.2 The sources of income below will only partially be included in the assessment:

- Survivors Guaranteed Income Payment (The first £10 per week will be disregarded)
- War Widows Pension (the first £10 per week will be disregarded)
- Up to 50% of any Private/Occupational Pension where a partner remains at home (although consideration needs to be given to the partners benefits)
- A savings disregard based on qualifying income is made to people as referred to in paragraph 33 (b) of Annex C: Treatment of Income of the Care Act 2014 Care and Support Statutory Guidance

7.2.3 Where a person has assets between the lower and upper capital levels the Council will apply a tariff income (see glossary of terms). This will assume 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 support.

7.2.4 Where a person is a temporary resident any element of Income Support or Pension Credit that is payable for a partner should not be included and the needs of the partner should be considered so that they are left with the single person's Minimum Income Guarantee (see glossary of terms). Any adjustment to the assessment under these circumstances will be shown as an expense.

7.3 Personal Expense Allowance

Someone whose capital is below the upper capital threshold must retain a personal expense allowance (PEA) from their income for personal items such as clothes and toiletries that are not part of their care. The PEA amount is set out in the charging regulations made under the Care Act 2014 and anything above this prescribed amount may be taken into account in determining charges.

7.3.1 WBC will apply a higher allowance in individual cases in the following circumstances:

- Where a person has a dependent child, the needs of the child should be considered
- Where a person is paying half their occupational or personal pension or retirement annuity to a spouse or civil partner who is not living in the same care home
- Where a person is temporarily in a care home and is a member of a couple (see 7.12.1)
- Where a person's property has been disregarded the local authority should consider whether the PEA is sufficient to enable the person to meet any resultant costs. For example mortgage, rent, Council Tax, building insurance, utility costs and reasonable property maintenance costs.
- Where a person has a deferred payment agreement (DPA) in place, the local authority should ensure that the person retains sufficient resources to maintain and insure the property.

7.4 Allowable expenses

Allowable expenses for temporary residents can include:

- Accommodation cost - rent less Housing Benefit
mortgage less any Housing Support benefit payment
- Service charges - Any charge for housing services not covered by benefit
- Water Rates/Charges
- Council Tax (less Council Tax Reduction)
- Household Insurance
- Partner's MIG - where a person is a temporary resident the needs of the person's partner should be considered so that they are left with the single person's Minimum Income Guarantee. This amount will vary and depend on the partner disclosing their finances during the assessment.

7.4.1 Where the expenditure is a joint expenditure then 50% of the expenditure will be allowed, unless it can be shown that only one person is responsible for 100% of the expenditure.

7.4.2 Permanent residents are not normally considered to have outgoings as they no longer have a home in the community. However, it maybe that a person still has outgoings for example, during the 12 week property disregard period (see 7.9) or during the notice period for a rented property. In these cases the expenses can be allowed.

7.5 Capital

The value of capital and assets is as defined in the Care Act 2014 regulations and guidance. Where capital is held jointly the value will be divided equally unless there is evidence to prove otherwise.

7.5.1 Capital and savings can include cash, funds held in a bank, building society and Post Office accounts, saving bonds, premium bonds, stocks and shares, ISAs, Peps, Value of land or property (other than the home in which they live). This list is not exhaustive.

7.5.2 Any person who has capital/savings in excess of the upper threshold level (see glossary of terms) as set out in the Care Act 2014 will be charged the cost of the service received. If savings/capital is held in joint names, an equal proportion will be assumed unless there is evidence to prove otherwise.

7.5.3 The capital limits will be reviewed annually in accordance with The Care Act 2014.

7.6 Temporary Resident/Trial Period

All temporary residents who are placed for a trial period will be financially assessed from their date of admission but will have allowable expenses included in their assessment.

7.6.1 Temporary residents who are in receipt of Attendance Allowance (AA), Disability Living Allowance (DLA) (Care component) or Personal Independence Payments (PIP) (Daily Living component) will have this benefit disregarded from any financial assessment while they are classed as a temporary resident.

7.7 Permanent Resident

Permanent residents may be subject to several financial assessments in the first few months of becoming resident. This is due to changes in benefit income which will result in the need for a new financial assessment for each change.

7.7.1 In the first four weeks any element of AA, DLA (care component) or PIP (Daily Living component) and the Severe Disability Premium of Income Support/ Employment Support Allowance/Pension Credit in payment will be included as income in the financial assessment. The Enhanced Disability Premium of Income Support will also be included.

7.8 Property

The treatment of property ownership will be in line with the Care Act 2014.

7.8.1 The value of a person's main or only home will be disregarded in the financial assessment when:

- 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.

- 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, this disregard only applies where the property has been continuously occupied since before the person went into a care home:
 - 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 within the Care Act 2014 of the person or member of the person's family who is:
 - a) aged 60 or over, or
 - b) is a child of the resident aged under 18, or
 - c) is incapacitated

7.8.2 Discretionary property disregard

The Council may also use its discretion to apply a property disregard in other circumstances. However this will be balanced with ensuring that a person's assets are not maintained at public expense. An example of where it may be appropriate to apply the disregard is where it is the sole residence of someone who has given up their home in order to care for the person who is now in a care home or is perhaps the elderly companion of the person. The Council will consider such cases on the individual circumstances of each case.

7.9 12 Week Property Disregard

The Council must disregard the value of a person's main or only home when the value of their non-housing assets is below the upper capital threshold for 12 weeks in the following circumstances:

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

7.9.1 The Council has discretion to choose to apply the disregard when there is a sudden and unexpected change in the person's financial circumstances, for example, a fall in share prices or an unanticipated debt. The Council will consider such cases on the individual circumstances of each case.

7.9.2 After 12 weeks any property that has been disregarded will either need to be subject to a continuing disregard where there is a remaining resident as defined in the Care Act 2014 or if the property has not been sold a revised assessment will need to be done and a deferred Payment under the Deferred Payment Scheme will be offered.

7.10 Deferred Payments

In accordance with the Care Act 2014 the Council operates a Deferred Payments Scheme to allow people to defer the sale of their home where it is needed to fund care home fees (see the Deferred Payment Policy).

7.11 Deprivation of assets

Deprivation of assets means where a person has *intentionally* deprived or decreased their overall assets in order to reduce the amount that 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.

7.11.1 There may be many reasons for a person depriving themselves of an asset. The Council will follow the guidance set out in the Care Act 2014 to decide whether deprivation for the purpose of avoiding care and support charges has occurred and whether or not to treat that person as still having the asset for the purpose of a financial assessment.

7.11.2 Where an asset has been transferred to a third party to avoid the charge, that third party is liable to pay the Council the difference between what it would have charged and has charged the person receiving care.

7.11.3 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. The Council will follow the guidance in the Care Act 2014 to make a decision on whether to treat someone as receiving a notional income in their financial assessment.

7.12 Couples

A couple is defined as follows:

- Two people who are legally married or in a civil partnership
- Two people who have lived together as though they are married or in a Civil Partnership for at least twelve months but who are not legally married or in a Civil Partnership

7.12.1 Where a person is a temporary resident any element of Income Support or Pension Credit that is payable for a partner should not be included and the needs of the partner should be considered so that they are left with the single person's Minimum Income Guarantee (see glossary of terms). Any adjustment to the assessment under these circumstances will be shown as an expense.

7.12.2 Where a person is a permanent resident for benefit and financial assessment purposes they are treated as individuals.

7.13 Contributions Payable and the Contribution Period

A charging week starts on a Monday and ends on a Sunday. Where a person enters or leaves a care home part way through a week the contribution will be apportioned over the number of nights of care.

7.13.1 Invoices will be raised four weekly in arrears.

7.14 Where the person is absent from the care home for a period, for example, in hospital they will still be liable to pay a contribution until the placement is terminated.

8. Non-disclosure of financial details

People have the right to choose not to disclose their full financial details. However if this right is exercised it will be assumed that they have capital in excess of the upper threshold.

8.1 The Council is not obliged to fund a person's care in a care home if they have capital over the upper threshold. Therefore if a request is made for the Council to fund a care home in this circumstance, sufficient evidence must be provided to show that a person can afford and continue to afford any charges due.

9. Common issues for all care settings

9.1 Delays in completing the Financial Assessment

9.1.1 The Council will commence the financial assessment process within 3 weeks of Care Management notifying the need for an assessment.

9.1.2 If a person unreasonably delays completing the financial assessment they will be required to pay the full cost of services supplied (or value of their Direct Payment) until a financial assessment is completed. If a financial assessment results in a lower contribution than this, consideration will be given to refunding the difference depending on the circumstances of the case.

9.1.3 'Unreasonable delay' will be determined on a case by case basis, however as a general rule the Council will expect a person or their representative to be available for a visit within 2 weeks of contact from the Financial Assessment & Charging Team. Where the person or their representative prefers to complete the financial statement by post, it is expected that this will be returned to the Council within 2 weeks. If further information is required for the financial assessment then it is expected that the person will provide this within 2 weeks of the date it was requested.

9.1.4 If the person concerned cooperates with the assessment within 28 days of service commencement, any reduction in contribution will be reimbursed or credited against future service costs.

10 Debt Recovery

New powers are provided under section 69 of the Care Act 2014 that provides equal protection to both the Council and the person receiving care in the recovery of unpaid care charges.

10.1 The Council will discuss with the person or their representative at the outset that care and support is a chargeable service and that where the person has been assessed as being able to do so, they will be required to contribute towards the cost of care.

10.2 As a first step, the Council will contact the person or their representative in an effort to ascertain why the contribution towards their care and support costs has not been made.

10.3 Where a person has capacity to make financial decisions, the Council can proceed to the County Court if an agreement regarding settlement of the debt cannot be reached.

10.4 Where a person lacks capacity to make financial decisions and has an attorney or a deputy for property and financial affairs the Council will negotiate with the attorney or deputy including if appropriate, taking legal action through the County Court.

10.5 Where a person who lacks capacity to make financial decisions has no attorney or deputy an application for a deputy is required. Where there are family involved with the person, they may make the application to become the deputy. However, where there is no family then the Council will make the application to become a deputy. During the application process the account for the accruing debt will be put on hold and no recovery action will be taken until it has been established who has the legal authority to make financial decisions.

11. Review of Financial Circumstances

11.1 People must inform the Council as soon as their financial circumstances change as this may affect their assessed contribution. This specifically includes receipt of additional income or if they believe that a change will result in a reduction to their financial assessment and want it to be applied immediately.

11.2 Following notification of a change or a review visit, a new financial assessment will be completed and written notification of the outcome will be sent.

11.3 If the revised assessment results in an increase in the weekly contribution, the revised contribution will be backdated to the date of the change in circumstance.

11.4 If the revised assessment results in a decrease in the weekly contribution, this will be backdated to one month before the date of the review or the date that the circumstances changed, whichever is the later date.

11.5 The assessed contribution may be reviewed at any time. Occasions that may instigate a review include:

- A request from the person receiving care or their authorised representative
- Following an award or withdrawal of a benefit
- When new information is received as to the person's income and expenditure
- When the Department of Work and Pensions increases benefits
- As a result of any changes to the cost of a service, for example, as part of the Council's budget setting process
- At the request of the appropriate Service Manager

12. Annual Review

In addition to the reviews described above, the financial assessment will be revised annually in April to take account of the annual changes in benefits and other incomes. Where a person is in receipt of benefits paid at standard rates, the revised amount will be used in the new financial assessment. Benefits paid at non-standard rates will be increased by the same rate used by the Department of Work and Pensions to increase benefits.

11.1 For other income components of the financial assessment, such as occupational pensions, a percentage increase linked to Consumer Price Index (CPI) will be applied unless another amount is agreed in the Council's annual budget setting process. Disability related expenditure, rent and Council tax will not automatically be increased.

11.2 Changes resulting from the annual increases or the application of a revised Minimum Income Guarantee will apply from the date assigned to these changes. An explanation and full details of the revised assessment will be sent to the person receiving care or their financial representative who will be asked to check the figures and contact the Council if they believe it is not an accurate representation of their circumstances.

12. Challenges to Financial Assessments

WBC aims to ensure all assessed contributions for services are fair and reasonable. The Council acknowledges that at times some people may experience difficulties or exceptional circumstances which should be considered on an individual basis and treated with dignity and respect. To ensure that people are provided with an opportunity to have any change in their individual circumstances taken into account, the Council offers two ways they can formally request that their assessed contribution is reconsidered, through:

- waivers; or
- reviews and appeals procedure.

12.1 Waivers

A waiver is a request to set aside the assessed contribution for a fixed period prior to any invoices being raised. A waiver will only be issued in exceptional circumstances where to apply a contribution would have a detrimental impact on the person or a family member. All waivers have to be agreed by the Head of Adult Social Care.

12.2 If it is decided that the contribution would have a detrimental impact the contribution will be suspended for up to three months and then reviewed. Each case will be considered on a case by case basis. Examples of reasons to issue a waiver may, in some circumstances, include but are not limited to:

- Vulnerable adults at risk of abuse and where Adult Social Care is closely monitoring the situation;
- People at risk of self-harm or neglect e.g. through drug or alcohol abuse or mental health problems;
- People who are experiencing trauma (e.g. bereavement of a close relative or family breakdown and where their financial or other circumstances are temporarily unstable);
- People in severe financial difficulty and to incur a further debt would have a detrimental impact on them.

12.3 Reviews and Appeals

The Council has robust processes for carrying out reviews and dealing with appeals to ensure people can express their views, request a review or lodge an appeal against their assessed contribution. The Review and Appeals Procedure is a separate document from the Charging Policy for Adult Social Care which is available on request.

12.3.1 The Review and Appeals procedure can be used where:

- A person is dissatisfied with their assessed contribution calculation
- They believe that they have insufficient funds to pay the contribution, or
- They believe that the contribution is incorrect

12.3.2 If a person is not satisfied with the outcome of the Review and Appeal procedure they can ask the Local Government Ombudsman to look at their case.

13. Independent Living Fund

The Independent Living Fund (ILF) was a national resource dedicated to the financial support of disabled people to enable them to choose to live in the community. This financial support was available to those who meet certain eligibility criteria but it closed on 30 June 2015.

13.1 From 1 April 2016 clients care packages will be wholly funded by Adult Social Care and any ILF contribution previously in payment will no longer be included in the financial assessment.

14. Privacy

Information will be collected to enable the calculation of contributions relating to services provided and assessment of welfare benefit entitlement. In accordance with the *Data Protection Act 1998*, this information will only be shared with other relevant people and agencies in accordance with the data protection principles. A person has the right to request to view their personal information held by the Council at any stage.

15. Equality Impact

An equality impact assessment has been undertaken for WBC's Charging Policy to understand the likely impact of this policy on vulnerable people with the protective characteristics outlined in Equalities legislation.

Appendices

Appendix 1 Example Contribution Calculations

Charges other than in a care home

In this Appendix, income means the total money a person receives that is taken into account in the calculations and allowances mean the minimum total income a person is allowed to keep before a contribution is required.

Examples use 2021/22 Benefit rates

Example 1 Single person pensionable age no disability-related benefit

| | |
|----------------|---------|
| Income | |
| State Pension | £134.25 |
| Pension Credit | £ 42.85 |
| ----- | |
| Total Income = | £177.10 |

| | |
|------------------------------|---------|
| Allowances | |
| Minimum Income Guaranteed | £189.00 |

As the income is less than allowances no contribution will be payable by the person

Example 2 Single person aged between 18 and pensionable age + DRE of £30.00

| | |
|----------------------|---------|
| Income | |
| ESA (Income related) | £114.10 |
| PIP (Daily Living) | £ 60.00 |
| ----- | |
| Total Income = | £174.10 |

| | |
|------------------------------|---------|
| Allowances | |
| Minimum Income Guaranteed | £131.75 |
| DRE | £ 30.00 |
| ----- | |
| Total Allowances = | £161.75 |

Assessed maximum contribution = **£12.35** per week (i.e. the difference between Total Income and Total Allowances)

Example 3 Single person over pensionable age + DRE of £5.50

| | |
|----------------------|---------|
| Income | |
| Retirement Pension | £135.00 |
| Occupational Pension | £ 25.00 |
| Attendance Allowance | £ 60.00 |
| Tariff income | |

(on Capital of £18,000) £ 16.00

Total Income = £236.00

Allowances

Minimum Income

Guaranteed £189.00

DRE £ 5.50

Total Allowances = £194.50

Assessed maximum contribution = **£41.50** per week (i.e. the difference between Total Income and Total Allowances)

Example 4 Single person over pensionable age, with Attendance Allowance + DRE of £32.20

Income

Retirement Pension £129.20

Pension Credit (Inc SDP) £115.20

Attendance Allowance £ 60.00

Total Income = £304.40

Allowances

Minimum Income

Guaranteed £189.00

DRE £ 32.20

Total Allowances = £221.20

Assessed maximum contribution= **£83.20** per week (i.e. the difference between Total Income and Total Allowances)

Charges in a care home

Example 1 Single person pensionable age

Income

State Pension £129.20

Pension Credit £ 47.90

Total Income = £177.10

Allowances

PEA £ 24.90

Total Allowances = £ 24.90

As the income is more than the PEA a contribution of **£152.20** per week will be payable by the person

Appendix 2 Equity Release Scheme

The most common form of Equity Release Scheme is a Home Reversion Scheme (HRS), where a home owner will transfer the ownership of all or part of their home to a commercial or 'not for profit' organisation. Depending on the terms of the HRS, the funds released may be paid to the home owner in full on the date of the transfer, or may be translated into an annuity, or a combination of these.

Where a HRS results in the home owner receiving an annuity or where payments are made by instalments be they for life or for a fixed period, then all such payments will be treated as income, unless any of the following provisions apply:

- a. Where certain detailed conditions set out in the Care Act 2014 relating to annuities are met, then specified amounts comprised within the gross income from the annuity can be disregarded, namely, the component of the gross income which represents the weekly amount of interest on the loan (net or gross of income tax, where applicable);
- b. Where any part of the income or capital derived from a HRS plan is used to fund capital developments or disability related works to the property in question, the income so used may be disregarded from the charge calculation. The service user must produce evidence to this effect in order to claim such a disregard;
- c. Where the released funds are paid in instalments the total value of all the instalments outstanding will be added to the total value of all other savings held by the service user. If this total exceeds the current upper capital limit, the instalments will be treated as income and taken into account over a period equivalent to that which it represents, e.g. a payment due to be made calendar monthly is taken into account for a calendar month; and
- d. If this total is less than the current upper capital limit, each instalment will be treated as capital.

Other forms of equity release schemes will be considered on an individual basis. Additional information about equity release schemes can be obtained from Adult Social Care on 01635 503050.

Appendix 3 Disability Related Expenditure – guide amounts

| ITEM | AMOUNT | EVIDENCE |
|--------------------------|---|--|
| Adaptations to property | Cost net of any Disabled Facilities Grant will be considered if they are critical to the persons assessed care need, will be taken into account where any capital uses does not have an affect on the assessment. If capital was below the lower threshold then the cost will be allowed over 5 years | Receipts |
| Bedding | Max £5.00 per week if need is identified by Care Management | Receipts |
| Care -privately arranged | Actual cost if included in care assessment to meet care need that is not met by West Berkshire Council | Signed receipts for at least 4 weeks using a proper receipt book |
| Chiropodist | Actual cost if identified in Assessment and NHS chiropodist not available. Based on 6 weekly visits. | Receipts |
| Cleaning | Cleaning will be limited to the rooms necessary for the use of the person receiving support and at an hourly rate of up to £15 per hour | Receipts |
| Clothing | If the need is identified by Care Management | Receipts |
| Community Alarm System | Actual cost unless included in Housing Benefit or Supporting People Grant. | Bills from Provider |
| Dietary needs | Additional costs of special dietary needs due to illness or disability that are identified in a care or medical assessment | Receipts |
| Gardening | Basic gardening will be limited to prevent the property from appearing as though a vulnerable person lives there; grass cutting and minimal hedge trimming at an hourly rate of up to £18 per hour | Receipts |
| Hair Washing | Actual cost of washing & drying allowed where service user is unable to wash their own hair and hair wash is not part of the care package. Actual average weekly costs up to £7.50/week | Receipts |
| Heating Allowance | Single Person – Flat / Terrace £1,159.07 per year Couple – Flat / Terrace £1,529.21 per year Single Person – Semi Detached £1,231.08 per year Couples – Semi Detached £1,625.22 per year Single Person – Detached £1,497.77 per year Couples – Detached £1,974.38 per year Difference between actual and average (above) will be divided by 52 to obtain a weekly expenditure. NB Where accommodation is shared, the allowance appropriate to the size of property needed will be used e.g. where 3 people share a property their share of the bills will be considered against those of a single person | Bills from Provider |
| Hoist | Actual cost divided over the expected life time of the equipment | Evidence of purchase without DFG input |
| Incontinence Aids | Not allowed unless identified in the care assessment that NHS supplies cannot be used or are inadequate. | Receipts |

| | | |
|----------------------------------|---|---|
| Laundry | £5 per week | Evidence of incontinence recorded in the care plan or confirmed by the care manager |
| Medical and pharmaceutical items | Consider items that should be made available via prescription. Allow cost of annual pre-paid prescription divided by 52 weeks or actual cost, whichever is lower. | Receipts. Request for future receipts to be kept if unavailable |
| Powered Bed | Actual cost divided over the expected life time of the equipment | Care manager or OT to confirm that this is an essential requirement. Evidence of purchase. |
| Powered reclining chair | Actual cost divided over the expected life time of the equipment | Evidence of purchase. |
| Stair-lift | Actual cost divided over the expected life time of the equipment | Evidence of purchase without DFG input |
| Travel costs | Costs net of any DLA Mobility Component may be allowed if they are incurred solely or mainly due to disability and the need has been identified in the care assessment. HMRC mileage rate will be used if claim is based on fuel usage. | Receipts |
| Turning Bed Actual | Actual cost divided over the expected life time of the equipment | Care manager or OT to confirm that this is an essential requirement. Evidence of purchase. |
| Wheelchair/Scooter | Actual cost divided over the expected life time of the equipment | Evidence of purchase. Care manager or OT to confirm that this is an essential requirement. No allowance if equipment is provided free of charge |
| Other Costs | Including those identified in the care assessment to meet unmet care needs. | Receipts |

Appendix 4

Legislative Context

The following is a brief outline of the legal framework relating to the contributions people can be asked to make towards the cost of their support.

Prior to 1 April 2015 the legislation for determining charging for care was set out as follows:

Where residential care was provided contributions were assessed within the framework of the National Assistance (Assessment of Resources) Regulations 1992 and the Charging for Residential Accommodation Guide (CRAG) issued by the Department of Health. The Council applied these rules to people in permanent residential care.

Where care was provided in a non-residential setting or respite care in a residential setting, contributions were assessed within the framework of the National Assistance (Assessment of Resources) Regulations 1992 and the Fairer Contributions Guidance issued by the Department of Health.

From 1 April 2015, the statutory framework for charging is set out in the Care Act 2014 and The Care and Support (Charging and Assessment of Resources) Regulations 2014 pursuant to the Care Act 2014. In October 2014 the Department of Health issued the Care and Support Statutory Guidance which gives guidance to councils on charging for all types of care under the Care Act. As statutory guidance, councils must have regard to the guidance.