

Proposed changes to the Social Care and Support Policy

1	Definitions used in the policy	Additional definitions have been added for the following; Administration Fee for non-residential care and support services, Capital Limits and Tariff Income. The term 'Service User' has been replaced by 'Person'.
2	Introduction	Additional wording to reflect that the policy is pursuant to the Council's discretion under Section 14 of the Care Act 2014.
3	Start date of care charges	<p>Highlights that the On-line Care Contribution Estimator is available to obtain an indicative contribution amount prior to agreeing any care and support services pursuant to paragraph 11.3 of the Care and Support Statutory Guidance and the report of the Local Government & Social Care Ombudsman 22 014 590, 13 June 2023. https://www.lgo.org.uk/decisions/adult-care-services/charging/22-014-590</p> <p>Reference regarding making arrangements for a payment plan with the Corporate Resources Finance Operations Team in line with the report of the Local Government & Social Care Ombudsman 19 008 359, 18 March 2020. https://www.lgo.org.uk/decisions/adult-care-services/charging/19-008-359</p>
4	Contribution towards the cost of care and support services	<p>An expanded section providing for a non-residential financial assessment where a person receives both short-term residential and non-residential care and support services in the same week. The discretion for this is set out in Annex F, Paragraph 8 of the Guidance and the requirement to ensure that a person's income is not reduced below their minimum income guarantee due to residential respite is outlined in the report of the Local Government & Social Care Ombudsman 19 020 393, 22 December 2020.</p> <p>This section also clarifies the current position where a person receives only residential care and support services, but this is for less than a full week (Monday to Sunday) they are charged only a proportion of their full weekly assessed contribution to residential services to ensure their income is not reduced to a level that prevents them meeting their usual weekly costs of living independently. The charges are 1/7th of the full weekly contribution for each night of a residential stay.</p>

5	Financial representatives & mental capacity	Additional wording to confirm that if a person lacks capacity to consent to a financial assessment but another person satisfies the Council that they have applied to register a power of attorney or applied for deputyship the Council will correspond with that person regarding the financial assessment, pursuant to the Mental Capacity Act 2005.
6	Financial Assessment overview	<p>Amended wording regarding charges for permanent Shared Lives placements in line with the report of the Local Government & Social Care Ombudsman 17 017 352, 18 September 2018.</p> <p>Also clarifies that following the death of a Service User the Council does not owe a duty to the person's estate to retrospectively re-assess the person's financial assessment, for example where the person refused to provide their financial information. But also, the Council does have a discretion to do so on request and such requests will be considered on their merits in line with the reports of the Local Government & Social Care Ombudsman 19 008 004 02 January 2020 and 19 021 185 13 July 2020.</p> <p>https://www.lgo.org.uk/decisions/adult-care-services/charging/19-008-004</p> <p>https://www.lgo.org.uk/decisions/adult-care-services/charging/19-021-185</p>
7	Disregarded income and capital	<p>Provision for disregarding as income and / or capital three new compensation schemes and any compulsory deduction from social security benefits for child maintenance:</p> <ul style="list-style-type: none"> • Compulsory reduction from social security benefits for child maintenance • Payment for compensation or support in respect of the Grenfell Tower fire • Payment for compensation or support in relation to the failings of the Post Office Horizon computer system • Payment under the vaccine Damage Payments Act 1979
8	Mandatory property disregard	Clarification of the meaning of 'incapacitated' for a qualifying relative for a mandatory property disregard for a residential financial assessment.
9	Deprivation of capital	<p>Detailing of the enquiry process undertaken where there is a potential deprivation of capital in line with the Local Government & Social Care Ombudsman's Deprivation of Capital: guidance for adult social care practitioners, August 2022.</p> <p>https://www.lgo.org.uk/assets/attach/6292/DoA-F.pdf</p>

10	Personal Expenses Allowance	Additional wording to clarify circumstances where a person may be allowed to retain additional income in a residential financial assessment in line with the paragraph 46 of Annex C of the Guidance.
11	Top-up agreement(s)	Clarification that the council can refuse a request for preferred choice accommodation in a care home where it determines that the top-up amount is unaffordable. Also, that if a top up arrangement breaks down the council will undertake a care and support assessment with a view to moving the resident to an alternative placement which does not involve a top up amount in line with paragraph 33 of Annex A of the Guidance.
12	Deferred Payment Scheme	Detailing of other types of security for a deferred debt that can be considered where it is not possible to obtain a first legal charge on a property at HM Land Registry in line with the report of the Local Government & Social Care Ombudsman 21 014 290 27 June 2022. https://www.lgo.org.uk/decisions/adult-care-services/charging/21-014-290
13	Non-residential financial assessment	Additional wording to clarify that the minimum income guarantee (MIG) applied to a non-residential financial assessment is the one applicable at the start of the assessment week (Monday – Sunday) and that any change affecting the MIG during the course of a week, such as a 25 th birthday, will commence at the start of the following week.
14	Housing costs	Clarification that to be included as an allowable expense in a non-residential financial assessment a person must have a legal liability to pay the housing costs and provide proof of payment in line with the reports of the Local Government & Social Care Ombudsman 16 015 034 20 August 2018 and 22 009 538 13 April 2023. https://www.lgo.org.uk/decisions/adult-care-services/charging/22-009-538
15	Partner's adjustment	Provides a new method of ensuring non-residential and residential financial assessments take account of the position of a partner, where the partner's income and capital details are disclosed as set out in Annex F paragraph 3 & Annex C paragraph 5 of the Guidance.
16	Disability-related expenditure	Adds to the list of potential disability-related expenditure Court of Protection deputyship fees and costs relating to professional appointeeship services, in line with reports of the Local Government & Social Care Ombudsman 19 008 474 13 May 2021 and Cornwall Council 20 005 073 10 September 2021. https://www.lgo.org.uk/decisions/adult-care-services/charging/20-005-073

		<p>Also wording to clarify that the Council may require additional evidence to consider potential disability-related expenditure and that if additional disability-related expenditure is allowed this will usually be backdated to the earliest date there is evidence to support the need for the expenditure.</p> <p>Clarification that if an item requested as disability-related expenditure could be considered as part of a person's personal budget a referral will be made for this to be reviewed in line with the report of the Local Government & Social Care Ombudsman 18 014 578, 8 August 2019. https://www.lgo.org.uk/decisions/adult-care-services/assessment-and-care-plan/18-014-578</p>
17	Absences	<p>Revised wording to clarify the position in relation to planned care and support services that are either not taken up or are not delivered.</p> <p>Any potential absence could only reduce a person's contribution if they are liable for the full cost of their care and support services or the cost of the services that are received is lower than their assessed weekly contribution. In any other case the person would still be liable for their usual assessed contribution, see section 8.1 of the policy 'Contribution towards the cost of care and support services'.</p> <p>The policy strives to strike a balance between the Care and Support Statutory Guidance which states that a local authority must not charge more than it costs to provide or arrange for the service, facility or resource, paragraph 2.59 and also to ensure that people are not charged more than it is reasonably practicable for them to pay paragraph 8.2.</p> <p>The policy details circumstances where planned care and support services that do not take place are still counted as part of a person's weekly care and support or are excluded. In particular:</p> <p>a. If the care and support is available as planned and a Person declines the service / or does not attend, without good reason, this will still count as part of the care and support received in that week as the council will be liable to pay the care provider.</p> <p>b. If the planned home or day service care and support cannot be provided due to an emergency hospital admission this will be considered a good reason for an absence and will not be counted as part of the care and support received in that week.</p>

		c. Long Term Shared Lives Leave Remission - If there is an absence from the Shared Lives Placement and no other chargeable care and support service occurs a 100% remission of assessed charge will be applied for up to 21 days during a year (April – March) a 50% reduction will apply to any further absences, over 21 days, in the same year.
18	Right to appeal and waivers	These sections have been separated out to clarify the difference between making an appeal against the financial assessment decision and consideration of any exceptional circumstances that might justify a temporary waiver of the assessed contribution, or part thereof.
19	Financial assessment factsheets	A list of the factsheets available on various aspects of financial assessments has been added as an appendix to the policy.

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