

Charging Policy Residential and Nursing Care Homes

Policy Summary

Charging Policy for Adult Social Care Residential and Nursing Home Care

Statutory Basis for the Guidance

Sections 14 and 17 of the Care Act 2014
The Care & Support (Charging and Assessment of Resources)
Regulations 2014 and the Care and Support Statutory
Guidance issued under the Care Act 2014 by the Department
of Health,

Version Control				
Version Number	Summary Of Change	Approved By	Author	Date
1.0	First Policy	Council Executive	Sarah Statham	March 2015
2.0	Full review to comply with the revised Care & Support Guidance (March 2016) and the increase in benefits from April 2016. Also clarifies what household expenses are allowed when working out charges.	Executive Member for Adult Social Care	Sarah Statham & Mark Frier	April 2016
3.0	General Update to take account of charges guidance updates since 2016 and other minor clarifications	Adult Social Care Senior Management Team	Steve Taylor	February 2019
4.0	Added link to leaflets (Section 9) Amendment to household expenses (Section 16) Amended link to Policy (Section 20 & 25) Amended invoices to 4 weekly following implementation of new computer system (Section 26) Amended information regarding date charges amended from (Section 29 & 30) General Review (Section 32)	Adult Social Care Senior Management Team	Clare Taylor	February 2021



ADULT SOCIAL CARE - SERVICES TO PEOPLE DIRECTORATE

CHARGING POLICY - FOR RESIDENTIAL & NURSING HOME CARE

INDEX

1. [Introduction & Legal Framework](#)
2. [Services covered by this policy](#)
3. [Services not covered by this policy](#)
4. [Services exempt from charging](#)
5. [Basis of Charging](#)
6. [Pre-assessment considerations](#)
7. [The Financial Assessment Form](#)
8. [Light Touch Assessments](#)
9. [Temporary Residents](#)
10. [The Financial Assessment Process](#)
11. [Income](#)
12. [Annuity and Pension Income](#)
13. [Mortgage Protection Insurance Policies](#)
14. [Notional Income](#)
15. [Capital/Savings](#)
16. [Household Expenditure](#)
17. [Property Disregard](#)
18. [12-week Property Disregard Scheme](#)
19. [Other Disregards](#)
20. [Deferred Payment Agreements](#)
21. [Deprivation of Capital and Property](#)
22. [Treatment of Couples](#)

- 23. [Personal Expenses Allowance](#)
- 24. [Choice of Accommodation](#)
- 25. [Top Ups](#)
- 26. [Collection of Charges](#)
- 27. [Methods of Payment](#)
- 28. [Annual Reassessments](#)
- 29. [Change of Circumstances](#)
- 30. [Benefits Check & Welfare Rights](#)
- 31. [Appeals](#)
- 32. [Data Protection & Confidentiality](#)
- 33. [Policy Review](#)
- 34. [Further Information](#)

[Back to top](#)

1. Introduction and Legal Framework

From April 2015 the Care Act 2014 and supporting regulations and statutory guidance replaced a raft of legislation that had been in place for many years. This included the National Assistance Act 1948, the National Assistance (Assessment of Regulations) regulations 1992 and the Department of Health's Charging for Residential Accommodation Guide (CRAG).

Local authorities have the power to make a charge for meeting needs under Section 14 of the Care Act, unless the service user has resources above the upper capital limit when the local authority is then precluded from paying towards the cost of care in a care home setting. Income from charging is an essential contribution to Adult Social Care's budget to help maintain front-line services

2. Services covered by this policy

The following are chargeable services under this policy:

Residential care homes¹

Residential homes provide accommodation with support available 24 hours a day for personal care such as dressing, eating a meal or taking a bath.

Nursing care homes²

¹ The term, 'residential care' does not exist in law anymore. Homes are either registered as either 'care home' or 'care homes with nursing'. However, for ease of reading this policy document will use the terms 'residential care homes' and 'nursing care homes'.

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In addition to the service provided at residential homes, nursing homes employ a registered nurse who is available at all times. They must have a doctor to supervise the medical care the nurse provides.

Both types of home are registered and inspected regularly.

The charges for these services will be reviewed every 12 months, normally in April to co-incide with the annual service user assessed charge re-assessments, but the Council reserves the right to review service charges at other times as and when appropriate.

3. Services not covered by this policy

- Advice and information about assessments and residential care services.
- Assessments of social care needs and care planning.
- All non-residential care services, which are covered by a separate charging policy

[Back to top](#)

4. Services exempt from charging

- After care services under Section 117 of the Mental Health Act 1983.
- Services provided to people who have Cruetzfeldt Jacob Disease (CJD).
- Services provided as part of Intermediate Care, including reablement, for up to the first 6 weeks.
- Community equipment (aids and minor adaptations). Aids are provided free of charge. A minor adaptation is one costing £1,000 or less
- Any service or part of a service which the NHS is under a duty to provide. This includes Continuing Healthcare and the NHS contribution to Registered Nursing Care.
- Any services which the local authority is under a duty to provide through other legislation which may not be charged for under the Care Act 2014.
- The processes for assessment of needs and care planning

5. Basis for charging

Following an assessment of needs by Adult Social Care if the need for a long term residential or nursing care placement has been identified, the local authority will exercise the discretion to charge as outlined in Section 14 of the Care Act.

A financial assessment will be undertaken in cases where the resident's capital is less than the upper capital limit, which is set by the Department of Health and

currently stands at £23,250. If a resident has capital in excess of the lower capital limit, which currently stands at £14,250, the financial assessment will determine if they should pay at a lower rate. There will be no administrative fee for the financial assessment or the arrangement of a person's care and support.

Where the resident's capital is above the upper limit, they will not be eligible for financial support from the local authority. However, they may choose to ask the local authority to arrange their care and support for them.

6. Pre-assessment considerations

Prior to the completion of a financial assessment, where a service user lacks capacity the Council will follow the Care Act guidance which states that where possible it will work with someone who has authority to deal with the resident's finances, which it will require evidence of, such as Power of Attorney, a Deputy appointed by the Court of Protection, Appointee for Social Security Benefits or someone has the legal right to access the residents bank accounts. If there is no such person then a Social Worker may carry out a decision specific capacity assessment to inform who the resident needs to involve in financial decision making.

[Back to top](#)

7. The Financial Assessment Form

In order to assess the resident's ability to contribute towards the cost of their care a Financial Assessment Form will need to be completed by the resident or their nominated representative. The form is available on the Council's website: <https://www.stockport.gov.uk/start/apply-for-assistance-with-social-care-costs>

8. Light-touch assessments

In some cases, the local authority may decide that a 'light-touch' assessment is more appropriate.

This could be because a service user confirms that they have the financial resources to meet their care and support needs and can provide evidence to support this. They may not wish to undertake a full financial assessment but recognise that the local authority can provide support to make the necessary arrangements for their care.

In some circumstances the Council may look to complete a financial assessment using information obtained from the Department for Work and Pensions (see section 32).

9. Temporary residents

Short term care placements of up to 28 days are not subject to a full financial assessment. If the service user has savings below the upper capital limit of £23,250 a fixed weekly charge will apply based on age bands. These charges will be reviewed each April in line with benefit changes as they are linked to Income Support & Pension Guarantee Credit rates and will be published on the

Council's website and in its charges information booklet entitled "paying for residential care"

If a resident has savings of over £23,250 that are in their name or they choose not to give the local authority details of their finances, they will be responsible for meeting the full cost of their stay in care, irrespective of the length of the stay.

Also, where a person chooses a more expensive temporary placement which requires the payment of a top-up, this will be met by a third-party. Any third party top-up will be in addition to the charges above which have to be met by the resident. Information on top-ups is available in the leaflet entitled "choice of accommodation and top-ups" The link to the page where both the Top up leaflet and paying for residential or nursing home care are stored is:

www.stockport.gov.uk/paying-for-residential-or-nursing-home-care

10. The Financial Assessment process

The financial assessment will be completed in accordance with the Department of Health's Care and Support Statutory Guidance.

11. Income

During the financial assessment process, the assessment of income will be in line with the guidance contained in Annex C in the Care and Support Statutory Guidance.

[Back to top](#)

Only the income of the cared for person will be considered as part of the financial assessment unless it is disregarded under the regulations. Disregarded income will be either partially or fully disregarded. Employed and self-employed earnings are disregarded. Where a cared for person receives income as one of a couple the starting presumption is that the cared for person has an equal share of the income. However, before including a share of joint income in the financial assessment the implications for the cared-for person's partner will be considered (see Paragraph 22 for more information)

Other sources of income such as benefits, pensions and payments from other products (subject to disregards) are included in the financial assessment.

The weekly income which is taken into account in all financial assessments is net of tax and national insurance and includes:-

- All DWP (social security) benefits, allowances and pensions.
- All private and occupational pensions.
- All 'tariff income'. (See Section 15)

Some types of income are ignored or disregarded when calculating the charge. The guidance contains a full list of the monies that are disregarded and the list includes the following:

- Earnings
- Child Tax Credit
- Disability Living Allowance Mobility Component
- Personal Independence Payment Mobility Component
- War Disability Pension
- War Widows Pension

- Savings Credit element of Pension Credit
- Personal Injury compensation/trust, including those administered by a Court
- Armed Forces Independence Payments and Mobility Supplement
- Child Support Maintenance Payments and Child Benefit

The financial assessment will not take account of Attendance Allowance or the care component of Disability Living Allowance (DLA) or Daily Living component of Personal Independence Payment (PIP) except for people who are long-term residents in care. However unless a resident is paying the full cost of their care or will retrospectively pay the full cost because they own a property these benefits will no longer be paid when they have been in a residential care setting for over 28 days. The mobility component of DLA/PIP will be disregarded from the financial assessment from Day 1.

12. Annuity and pension income

The rules surrounding annuities are complex but the financial assessment process will have full regard for Section 19 of Annex C in the Care and Support Statutory Guidance. In summary, in cases where a person has chosen to purchase a pension product known as an annuity at the point of retirement, the local authority will disregard the capital used to purchase the product but will take into account any income generated from an annuity, unless it is:

[Back to top](#)

- 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

13. Mortgage protection insurance policies

In line with the guidance outlined in Section 27 of Annex C in the Care and Support Guidance, the local authority will consider any income generated from mortgage protection policies. However, if the income is used to secure an interest in the resident's main home or to finance repairs or home improvements it will be disregarded. The financial assessment will take full account of the rules in relation to the assessment of income.

14. Notional income

The financial assessment will take account of any income that the resident does not have in their possession at the point of the application for assistance. This could be because they were not aware that they could apply for it; they have income owed to them; or they have deliberately deprived themselves of income to reduce the amount they are liable to pay for their care.

The local authority will take full account of Section 32-36 of the Care and Support Guidance in relation to the assessment of notional income.

15. Capital/Savings

Capital taken into account will be in accordance with the capital rules and disregards outlined in Annex B in the Care and Support Statutory Guidance.

Capital includes savings, current accounts, investments, property and land. The value of the asset (other than National Saving certificates) will be the current market or surrender value of the capital asset minus any outstanding debts secured on the asset and 10% of the asset if there are selling expenses. Surrender value of any life insurance policy and payments in kind from charities are disregarded.

There are also a number of time disregards set out in the guidance which must be taken into account.

Capital held by the care home resident is taken into account. If savings are held jointly, and the other person does not receive a care service, the amount of capital taken into account is usually halved.

A financial limit, known as the upper capital limit, exists for the purposes of financial assessment. The upper limit is currently set at £23,250. Below this level a resident can seek a financial assessment from the Council. In the financial assessment any capital below the lower limit, currently £14,250 is disregarded.

If the resident has capital between the lower and upper thresholds, then a 'tariff income' calculation will be applied of £1 per week for every block of £250 (or part of) between the two thresholds.

[Back to top](#)

A resident with capital of above the upper limit is not entitled to any financial assistance from the Council but can ask the Council to arrange their care and support for them but must pay the full cost of their care themselves until their capital falls below the upper limit.

16. Household Expenditure

If the stay in the care is expected to last 28 days or less, then a fixed rate charge will apply – please see section 9.

If the stay in care is temporary but expected to last more than 28 days then the following household expenses will be allowed when working out the charge:

- Mortgage (Proofs required)
- Loans secured against the property (Proofs required)
- Service Charge (Proofs required)
- Water rates (Usual to award our current fixed rate)
- Building Insurance (Usual to award our current fixed rate)
- Contents Insurance (Usual to award our current fixed rate)
- Gas (Usual to award our current fixed rate)
- Electricity (Usual to award our current fixed rate)
- Rent, less any Housing Benefit received
- Council Tax, less any Council Tax Support received

Access to Housing Benefit and Council Tax Support systems is given to financial assessors on the social care charging team, they verify clients rent and council tax liability whilst also obtaining the value for the financial assessment.

If the stay in the care home is going to be permanent but the resident does not own a property, the above expenses will be allowed (with the exception of

Council Tax) for six weeks from the date the placement is made permanent to give time to terminate a tenancy. Council Tax is not given as an allowance because the resident is not liable to pay it once the placement is made permanent.

If the stay in the care home is going to be permanent and the resident owns their own property all of the above expenses will be allowed (with the exception of Council Tax) for 12 weeks from the date the placement is made permanent. Council Tax is not given as an allowance because the resident is not liable to pay it once the placement is made permanent.

17. Property disregard

If a service user owns their own home or has an interest in a property, it will normally count as an asset which we will take into account when working out how much they have to pay for long term nursing or residential care. We cannot take account of the property to cover any nursing or residential costs if:

- The stay in a care home is a temporary arrangement and the service user intends to return to that property or are taking steps to dispose of the property in order to acquire more suitable accommodation
- The property is occupied by a husband, wife or partner as their main or only home (unless they are separated or divorced)
- A relative or member of the family occupies the property as their main or only home and who:

[Back to top](#)

- is aged 60 or over
- is a child of the resident aged under 18, or
- Is incapacitated

In considering whether a property should be disregarded when a qualifying relative enters a care home, the local authority will consider the circumstances and follow the guidance contained in Annex B of the Charging Guidance.

18. The 12-week Property Disregard Scheme

If the service user owns their own home but has savings or income below the upper capital limit of £23,250 for the full twelve weeks following the start of a long term placement, the local authority will disregard the value of the property when completing the financial assessment. This will give the service user time to make decisions about their future care and consider how they will be able to contribute to the cost of this. The service user will be expected to make a contribution towards their care home fees during the initial 12-week period based on their chargeable income and other capital.

Service users who have savings above the upper capital limit will not be eligible for the scheme and will be expected to fund their own long term placement until such a time that their available income falls below the upper capital limit, when a new financial assessment will be completed.

19. Other disregards

The financial assessment will take account of Sections 47-52 of Annex B of the Care and Support Statutory Guidance in relation to the treatment of capital assets and disregards.

20. Deferred Payment Agreements

Deferred Payment agreements are designed to prevent people from being forced to sell their home in their lifetime to meet the cost of their care or to allow more time to consider how to fund their care and the Council must offer them to people who meet the criteria for the deferred payments scheme and who are able to provide adequate security.

The Council has a separate policy document for Deferred Payments which gives more information on eligibility and the scheme itself. The policy is available on the Council's website:

www.stockport.gov.uk/care-act-charging-policies

In cases where a Deferred Payment Agreement has been offered by the Council but refused by the resident or their financial representative it is expected that alternative payment arrangements are made. If it has been decided that a property will be put up for sale to pay for a person's care home fees, timescales will need to be discussed and agreed with the Social Care Charging Team. If the property is not sold within the agreed timescales and the option to sign a Deferred Payment Agreement is not taken up, or the property is not put up for sale the Council will invoice the resident or their representative for the deferred debt and any future payments. If payment is not received, then the Council's debt recovery process will be followed.

[Back to top](#)

21. Deprivation of capital and property

If a resident has disposed of savings, capital or income in order to avoid or reduce their charge for accommodation in a care home, the local authority will treat the person as still having the asset. This means that they will be charged up to the full cost of their care home fees.

Where assets have been transferred to a third party or parties to avoid charges, the third party or parties become liable to pay the Council the difference between what it would have charged and did charge the resident. The local authority also reserves the right to take legal action against the person or the persons who receive the assets.

Disposal of assets can include:

- Transferring title deeds of a property to another person or into a trust
- Spending money on a valuable personal possession such as jewellery or a painting
- Making large gifts to relatives
- Paying off a debt that is not due to be paid by the service user

When deciding whether someone has deprived themselves of assets in order to avoid or reduce their care home charges we will take into account all the circumstances. This includes:

- The reasons for the disposal
- The date that it took place
- Whether the person was fit and healthy and did not foresee the need for a move to residential accommodation

The local authority will take into account the guidance outlined in Annex E of the Care and Support Statutory Guidance in relation to the deprivation of assets.

22. Treatment of Couples

Where a resident receives income as one of a couple the starting presumption is that the cared for person has an equal share of the income.

Capital held by the service user, who receives the service, is taken into account. If savings are held jointly the amount of capital taken into account is usually halved unless it can be shown that the assets are not owned equally.

If income paid as a couple, e.g. Pension Guarantee Credit is included in the financial assessment the starting presumption is that each member of the couple is entitled to an equal share; however, the Council will ensure that the person who remains at home has enough income to pay household bills.

Once a financial assessment has been completed the resident will be informed in writing of the charge and how it has been calculated and from which date the charge applies, which is normally from the date that the resident entered a care home or became liable for charging.

[Back to top](#)

23. Personal expense allowance

The majority of a service user's income, excluding any earnings, will be used towards the cost of their residential placement. However, a personal expense allowance (PEA), will be allocated in the financial assessment to ensure that the service user has some income available to cover the cost of personal items such as clothing, newspaper's, hairdressing etc. The PEA is set each April by the Department of Health.

The Council has discretion to vary the amount of PEA in individual cases and would follow the guidance under "Personal Expenses Allowance" in Annex C of the Care and Support Statutory Guidance when considering this discretion.

24. Choice of accommodation

The local authority will ensure that residents have a genuine choice of accommodation to suit the needs identified in their personal care or support plan and their personal preference. Whilst the choices of accommodation should be affordable and reflect the residents budget, in some cases alternative, more expensive accommodation may be considered, as outlined in section 26.

25. Top ups

In cases where a resident has opted to pursue more expensive accommodation, arrangements for payment of a 'top-up' payment will need to be agreed. The top-up may be paid by a third party or the resident but either party should be aware that they will be required to pay this for the life of the residential placement, or the resident may have to move to an alternative care setting.

During the first 12 weeks of a long term placement, the property disregard will apply so any top-up will need to be met by a third party, or the service user may decide to use their own money or savings for this purpose. After the 12-week property disregard period, it may be possible to use the equity in any property owned solely by the service user to meet the top-up cost. If the local authority agrees that this is an option, it will pay the full cost of the accommodation until such a time that the property is sold.

This is called a 'Deferred Payment'. The council has a separate policy on Deferred Payments which explains this in more detail www.stockport.gov.uk/care-act-charging-policies

The person who has agreed to meet the top-up costs will enter into an agreement with the local authority who will ensure that they receive the information and advice necessary to understand the implications and terms and conditions of the agreement.

For more information on top-ups, please refer to the Top-Up policy on the Council's website. www.stockport.gov.uk/care-act-charging-policies

[Back to top](#)

26. Collection of Charges

For respite and other short term stays in care homes the Council will issue regular invoices every 4 weeks to the resident or the persons financial representative.

For long-term residents, the Council will usually issue an initial invoice to the resident or their representative and then ask the resident to pay their weekly contribution directly to the care home. Care homes normally issue invoices on a monthly basis, payment terms and arrangements will need to be agreed with the care home.

27. Methods of Payment

Details of how to pay any invoices issued by the Council will be included on the back of the invoice.

28. Annual Re-assessments

The Council will aim to re-assess all service user contributions each year in April, to take account of changes in benefits, private pensions and the cost of living. The Council may choose to complete the annual re-assessment later than April subject to other prevailing circumstances.

For most residents an April re-assessment will be completed automatically by the Social Care Charging Team in line with benefits changes. However, some residents or their representatives may be asked to provide updated information at other times, dependent on the types of income and capital involved in their assessment.

29. Change of Circumstances

If the resident's financial circumstances change then they should inform the Social Care Charging Team and a re-assessment may need to be completed as it could result in a change to the charge.

Any re-assessed charge will normally apply from the start date of the next invoicing period however the Council will use discretion in deciding whether to backdate the re-assessed charge earlier than that, or re assess from the Monday following the date the change is processed by our financial assessment team. Each of the above is dependent on the individual circumstances

30. Benefit Checks & Welfare Rights

As part of the financial assessment a check will be made on whether the resident is entitled to certain additional benefits, such as Housing Benefit, Attendance Allowance/DLA/ PIP if they are not already in receipt of these. The resident will be notified that they may be entitled to claim additional benefit and given information on how to do so.

A financial re-assessment will be undertaken following the award of benefits to re-calculate the charges payable. Any revised charges due to the award of additional benefits will be applied from the start date of the next invoicing period; however, the Council will use discretion in deciding whether to backdate the re-assessed charge earlier than that, or re assess from the Monday following the date the change is processed by our financial assessment team. Each of the above is dependent on the individual circumstances.

31. Appeals

If a resident believes their charge would cause them unnecessary hardship or they have been assessed incorrectly they can ask for a review of their charge. If the resident or their representative is not satisfied with the review outcome then they should write to:

[Back to top](#)

The Senior Officer
Social Care Charging Team
Stockport Council
Stopford House Second Floor South End
Piccadilly
Stockport SK1 3XE

If the applicant is not satisfied with the outcome of the Appeal it will then be considered under Stage 2 of the appeals process by the Senior Officer and the Service Manager, Social Care Charging.

32. Data Protection and Confidentiality

The Council will store the information it collects from service users electronically. It will store and use this information in line with the requirements of the UK General Data Protection Regulation/Data Protection Act 2018. To find out more

about how we use your data, please visit our privacy notices found on the following link <https://www.stockport.gov.uk/privacy-notice/find-a-privacy-notice>.

The Council must also protect public funds and so it may use or share the information provided to prevent and detect fraud. It may also share this information, for the same purpose, with other organisations that handle public funds.

In some circumstances The Council will obtain details of benefits in payment to service users from the Department of Work and Pensions (DWP) in order to undertake a financial assessment. The Welfare Reform Act 2012 allows for the DWP to share information with Councils for the purpose of social care charging and the Council will ask for this information to complete assessments in the best interest of the service user and to ensure the charge is as accurate as possible. The information provided for a financial assessment may also be checked against that provided for any Housing Benefit or Council Tax Reduction or Support claim made to Stockport Council for the purpose of verifying information provided but also to enable the Council to check that the resident is receiving the correct benefits and to assist them with claiming extra benefits where appropriate.

The Council will only share information on individual charge assessments with the resident or their nominated representative, who has a legal capacity to deal with their finances or access to their bank accounts, such as Power of Attorney, Court appointed Deputy or Appointee, and the Council will require evidence of that legal capacity before it will share information with a 3rd party or the written consent from the resident to do so.

33. Policy Review

This policy will be reviewed on an annual basis, or at other times subject to changes in circumstances or legislation, in conjunction with any other policies relating to fees and charges. Any significant changes or extension of the charging policy, other than to the annual fees and charges, would normally be submitted to the Council's Executive Group for approval and may also require a period of consultation dependent on the changes involved.

[Back to top](#)

34. For further information

Write to:

The Social Care Charging Team
Corporate & Support Services
Stockport Metropolitan Borough Council
Second Floor South End
Stopford House
Piccadilly
Stockport
SK1 3XE

Telephone: 0161 474 4781

E-mail: socialcare.charging@stockport.gov.uk

[Back to top](#)