

**Isle of Wight Council
Adult Social Care**

**CHARGING POLICY
FOR RESIDENTIAL AND
NURSING CARE
ADULT SOCIAL CARE
SERVICES**

May 2020

1 Document Information

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3 Introduction

Many individuals currently supported by the council receive services in a residential or nursing care setting. Their needs have been agreed with them as a result of an assessment of need for care and support.

The council will require the individual to make a financial contribution subject to their ability to pay and this policy covers these circumstances.

This policy has been written in accordance with the Care Act 2014 and subsequent issue of the Care and Support Statutory Guidance and Regulations.

3.1 Legislative context

The Care Act 2014 (sections 14, 17 and 69-70), the Care and Support (Charging and Assessment of Resources) Regulations 2014 and the Care and Support and Aftercare (Choice of Accommodation) Regulations 2014 and the Statutory Guidance (chapter 8) give local authorities a discretionary power to charge adult recipients of residential and nursing care services such amounts as they consider reasonable.

Like most local authorities, the Isle of Wight Council is reliant on the income raised from charging for such services to fund a proportion of the costs. Without this income, service levels would be significantly reduced. Central government assumes that councils will partly fund services from charges from the individual when allocating funding each year.

The Isle of Wight Council Community Wellbeing and Social Care Directorate have developed this charging policy on the basis of equity, need and a duty to provide care.

The policy meets the statutory guidance and regulations set out in Care Act 2014 and the Care and Support (Charging and Assessment of Resources) Regulations 2014 and the Care and Support and Aftercare (Choice of Accommodation) Regulations 2014 and the Statutory Guidance (chapter 8).

3.2 Equality statement

This policy aims to be fair and implementation should not lead to anyone being unfairly disadvantaged. If an individual feels that this policy does not treat them fairly, they can ask for a review of their assessment.

The council aims to ensure equality of treatment and access to services for all. No person or groups of persons applying for services from the council will be treated any less favourably than any other person on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Information about council services will be accessible and where necessary, targeted to those who may otherwise have trouble accessing information or services.

4 Charges for Services

4.1 Services for which a charge may be made

- Residential care
- Nursing care
- Respite care provided in a residential or nursing care setting

This list is not exhaustive.

4.2 Exemption from charges

As of April 2018, no charges are payable for the following:

- After-care services provided under section 117 of the Mental Health Act 1983
- Services provided to sufferers of Creutzfeldt Jacobs Disease (CJD)
- Intermediate care (rehabilitation / reablement services) up to a maximum of a six-week period.

5 Capacity

At the time of the assessment of care and support needs, the council will determine whether a person has the capacity to take part in the assessment. If the person does not have capacity, the council will establish if the person has any of the following as the appropriate person will then be involved:-

- Enduring Power of Attorney (EPA)
- Lasting Power of Attorney (LPA) for Property and Affairs
- Lasting Power of Attorney (LPA) for Health and Welfare
- Property and Affairs Deputyship under Court of Protection or
- Any other person dealing with the person's affairs (for example someone who has been given appointee-ship by the Department of Works and Pensions (DWP) for the purpose of benefit payments)

If it is identified that a person lacks capacity and does not have any of the above, the council will consider the appointment of a Deputy. This could be a family member if they are willing, or the council can apply if there is no family member willing or involved in the care of the person.

A person who lacks capacity will not undergo a financial assessment until an appropriate person has been identified and this person has gained the appropriate authority to be involved in their affairs.

6 Financial Assessments

A financial assessment will be offered to everyone receiving a residential or nursing adult community care service.

6.1 Non-disclosure / Non-engagement

If a person receiving a chargeable service does not wish to have a financial assessment or either refuses or chooses not to disclose their financial circumstances, they will be required to pay for the full cost of the service provided to them.

6.2 Financial Assessment Process

The financial assessment process is an assessment of financial means. This will be in addition to an assessment of need made under the Care Act 2014. A charge will be made based upon information provided by the individual on a Financial Statement form and assessed in accordance with this Charging Policy.

6.3 Key Elements

The financial assessment is broken down into four key elements:

- Income and capital
- Allowable expenditure and disregards
- Disposable income
- Charge calculation

6.4 Income and Capital

6.4.1 Capital limit

The financial assessment will apply the capital limits determined each year by the Secretary of State issued by the central government Department of Health.

The upper capital limit is currently £23,250 as set in April 2020. This is subject to annual review each April by the central government Department of Health. This will be reviewed in April 2021.

If the total sum of the individual's capital (excluding the value of the property in which they live) is above the current upper capital limit, they will be required to pay the full cost of any service they receive directly to the provider.

Individuals who have capital above the upper limit are not eligible for financial assistance from the Isle of Wight Council. The full cost of any care will vary depending on the provider and the nature of the service provided. Individuals should discuss these costs directly with the care provider.

6.4.2 What counts as capital?

The council will take account of central government guidelines regarding what can be considered as capital as set out by the Care and Support Statutory Guidance. Capital includes, for example:

- Money in any bank / building society current and deposit account
- Post Office / National Savings and Premium Bonds, Income Bonds
- PEPs, TESSAs and ISAs
- Stocks, Shares and Unit Trusts
- Trust Funds
- Any other cash savings
- Capital held on the person's behalf by another party, Court of Protection, spouse / partner (where capital is held by one partner but the other has a beneficial interest).
- Property / Land

Note: the above list is not exhaustive and will be subject to an assessment of individual circumstances.

6.4.3 What counts as income?

The council will take account of central government guidelines regarding what can be considered as income as set out in the Care and Support Statutory Guidance. Income includes, for example:

- State benefits (e.g. Retirement Pension, Pension Credit, ESA, Income Support and / or Universal Credit, Disability Benefits including Attendance Allowance, Disability Living Allowance Care Component and / or Personal Independence Payment.
- Occupational and private pensions or other regular income from investments
- Tariff income on savings above £14,250 (this assumes £1 for every £250 of capital, or part thereof, between the lower and upper capital limits as stated in the Care and Support Statutory Guidance)
- Any other income from other sources, e.g. rental from property

6.4.4 The following income will be disregarded, in line with Department of Health Care and Support Statutory Guidance and Regulations

- Earnings from employment
- Mobility Component of Disability Living Allowance / Personal Independence Payments
- Attendance Allowance or Disability Living Allowance Care component *for temporary residents only*
- The first £10 of any War Pension
- War Widows Special Payments
- War Disablement Pension
- 50% of an occupational or private pension for a spouse of the individual who remains living at home

6.5 Allowable Expenditure and Disregards

Allowable expenditure is money that is not taken into account when assessing how much income individuals have available that can be used to pay charges. There are two main types of allowable expenditure:

- Personal Expenses Allowance (PEA)
- Housing costs

6.5.1 Personal Expenses Allowance (PEA)

The purpose of the PEA is to ensure that a person has money to spend as they wish. The PEA is not a benefit but is the amount of a person's income that they must be left with after charges have been deducted. This is currently £24.90 as set by the Government.

The PEA amount is set by central government and set out in regulations on an annual basis each April.

It is expected that the PEA will cover costs such as:

- Clothing
- Toiletries
- Newspapers

6.5.2 Housing Costs

Allowable housing costs are as follows:

- Rent payable under a formal tenancy agreement (less any Local Housing Allowance received)
- Council Tax (less any Council Tax Support received)
- Mortgage Payments (both interest only and interest and capital repayments)
- Ground Rent and / or Service charge (these generally apply to leasehold properties)
- Insurance (buildings and contents)

The amount of housing costs to be treated as allowable expenditure will be the total amount as prescribed above divided by the number of adults in the household.

6.6 Charge Calculation

In order to assess the amount payable towards a person's residential or nursing care and support, the following calculation is undertaken:

INCOME
<i>Minus</i>
PERSONAL EXPENSES ALLOWANCE / HOUSING COSTS / OTHER DISREGARDS
<i>Equals</i>
DISPOSABLE INCOME

Total income (outlined above) **less** personal expenses allowance, housing costs, other disregards (outlined above). The resulting figure is the net disposable income and this is the amount that is considered as available for paying towards residential or nursing care and support.

6.7 The Chargeable Amount

The person will then be asked to pay their disposable income amount.

6.8 When do charges start from?

The charge will be applied from the date of admission to the residential or nursing care placement. Charges will be backdated where this applies.

Individuals with capital over the upper limit (£23,250 in April 2020) will be charged the full cost of their services with effect from the date of admission.

Any verbal communication to advise the person of the contribution will be followed by written confirmation.

6.9 Benefit maximisation

Councils are required to ensure that those who undergo a financial assessment are offered benefits advice and assistance in order to ensure the income of the financially assessed person and also their carer is maximised.

All financially assessed persons will be offered a benefits maximisation check and given assistance with claiming benefits irrespective of whether this has an impact on contributions or not.

If claiming additional benefits will result in an increase of charge the assessed person will be informed of the fact and wherever possible, be given an indication of the amount of additional contribution.

6.10 Change of Circumstances

Individuals are required to notify the council's Financial Assessment and Charging Team as soon as possible of any change in circumstance which they might reasonably be expected to know might affect their assessed charge for residential or nursing care services. (Telephone 01983 823479 or email fac.team@iow.gov.uk)

Changes to be notified include changes to personal details, such as a change of address, as well as changes in financial situation, i.e. a change in their income, capital or expenditure.

6.11 Re-assessments

Contributions towards the cost of care and support services will be reviewed annually to take into account increases in benefits, private pensions and the cost of living. This is known as a financial re-assessment and individuals will be informed of the changes to their contributions. This revised charge will be effective from each April, in line with the governments benefit review.

6.12 People who refuse to pay

The assessment of care needs is very different to the assessment of finance and contributions. A service may not be withdrawn because the individual refuses to pay the charge. However, failure to pay the assessed contribution is likely to result in the council pursuing the outstanding debt through the usual debt recovery procedures in the civil courts.

6.13 Appeals and Complaints

When an individual indicates they are dissatisfied with the outcome of the financial assessment process and / or any resultant charge, they have the right to ask the council to review their assessment or charge.

According to the Care Act 2014 a person has the right to ask the council for a review of the charge which has been assessed, if they consider that they cannot pay. The statutory guidance states that “a person may wish to make a complaint about any aspect of the financial assessment or how the local authority has chosen to charge”.

On receipt of a request for a review, a different financial assessment officer from the one who completed the work will review the original financial statement and check that the assessment has been carried out fully in line with this policy and the treatment is consistent with other customers. A new financial statement may need to be completed to ensure that all relevant details were considered at the initial assessment.

If the financial assessment officer is unable to resolve the query to the satisfaction of the individual or their representative, the person will be informed of their right to appeal the decision via the council’s complaints procedure which can be found on our website; www.iow.gov.uk

Any complaints about the level of charge levied by the local authority are subject to the usual Care and Support complaints procedure as set out in the Local Authority Social Services and NHS Complaints (England) Regulations 2009 that can be accessed; http://www.legislation.gov.uk/ukxi/2009/309/pdfs/ukxi_20090309_en.pdf

6.14 Information Help and Advice

An individual will be supported to access independent information, help and advice about their circumstances (for example, paying for their care, Lasting Power of Attorney, Court of Protection).