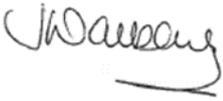


Adult Care Services



ACS Charging for Adult Residential Care Policy

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This policy has been agreed and authorised on the recommendation of the ACS Management Board.

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1. Introduction

Hertfordshire County Council's (HCC) policy is to charge for care and support services within the provisions of the Care Act 2014, which provides a single framework for charging for care and support. This charging policy takes into account corporate guidelines on charging and follows the Care Act 2014 and related regulations, statutory guidance and the Equality Act 2010.

HCC will apply this charging policy equitably and fairly and ensure that people are given information as to how their contribution to the cost of care has been calculated.

This policy applies to residential care services provided or arranged by HCC's Adult Care Services (ACS), including any residential services arranged or provided by its partners. This does not cover community-based care and support services which are covered in our [Charging for community based care policy](#).

This document sets out the policy and guidance for staff for the financial assessment and charging process for people receiving residential care services in Hertfordshire. These policy also applies to Hertfordshire Partnership Foundation Trust (HPFT). It replaces any previous revisions.

2. Principles for charging

2.1.1. Chargeable services

HCC will charge for all residential care services unless they are exempt under provisions of the Care Act 2014 regulations.

Services that are exempt from charging are:

- Intermediate care (reablement services provided for up to 6 weeks after a hospital discharge);
- Discharge to Access
- Cases where residential services are commissioned in order to prevent a hospital admission.
- Carer's services

Individual fees for each residential service are revised annually and the applicable rates are published in the council's [Charging for Residential Care booklet](#) and on www.hertfordshire.gov.uk/payingforcare.

Any services not currently referred to in the policy, or those that may develop in the future, will be chargeable, unless:

- The local authority has chosen to exercise its discretion not to charge, or
- Not charge the full amount for that service, or

- Where that service is exempt under statute.

2.1.2. Circumstances where a charge will not be made

Charging for residential services does not apply to individuals under the age of 18. Certain other individuals are exempt from charges. These are :

- People who are provided with services under section 117 of the Mental Health Act 1983.
- A person in the end stages of a terminal illness, defined as in a progressive state of decline; for example, their life expectancy is less than three months.
- Individuals who suffer from Creutzfeldt-Jacob Disease

3. Services provided for by a compensation package

Compensation payments, which include an element to meet some or all of the costs of care and support needs, are taken into account accordingly in assessing an individual's ability to pay for care. HCC will still provide information, advice and guidance, as required under the Care and Support regulations and statutory guidance.

The responsibility to pay for care and support services will remain with the trustees or authorised third parties in line with the terms of the trust. It is only under exceptional circumstances that HCC may intervene to arrange and pay for care, for which it would seek to recover any costs incurred in full.

4. Determination of charges

4.1. Capital limits

Capital is assessed in accordance with the Care and Support (Charging and Assessment of Resources) Regulations 2014, and Care and Support Statutory Guidance. Capital limits are set in line with the following regulations:

- A person with care and support needs with capital above the upper capital limit (currently £23,250) is expected to pay the standard (full) cost of the service.
- Capital between the lower (currently £14,250) and upper capital limit (currently £23,250) will be subject to a charge, referred to as tariff income, set out in statutory charging guidance (see 4.2 below). Income and outgoings are included in the financial assessment calculation.
- Capital below the lower capital limit (currently £14,250) is disregarded from the assessment and therefore the financial assessment calculation only takes into account eligible income and expenses.

4.2. Financial assessment calculation and welfare benefits check

4.2.1. Financial assessment calculation

If a person is not exempt from charges and does not have capital over the upper capital limit, a financial assessment should be carried out to determine the individual's ability to pay towards the cost of their care and support services.

The financial assessment determines if a person is required to make a contribution to the cost of their care, and if so, what the weekly charge will be.

The financial assessment process identifies the person's overall income and then deducts a [Personal Expense Allowance](#) as laid out in the Care and Support (Charging and Assessment of Resources) Regulations 2014 and the Care and Support Statutory Guidance (October 2014). The Regulations and Guidance also set out any income and/or capital amounts disregarded in this calculation.

Where a person has capital above the upper capital limit of £23,250 but this is expected to deplete within a short period of time, then the person must approach ACS at least three months before the capital limit is reached if they wish to seek funding towards the cost of their care. In these circumstances, the person will be expected to complete a financial declaration form and provide evidence of their financial circumstances and details on how their capital has depleted.

If a person chooses not to provide information to complete a financial assessment, they will be liable to pay the full cost of the service.

4.2.2. Available income and welfare benefits check

Care and Support Statutory Guidance sets out how various types of income and state benefits are to be considered in a financial assessment, such as whether they should be fully or partially disregarded. Income disregards are applied in line with the statutory regulations.

As part of the financial assessment process, the welfare benefits check service is provided by HCC to identify unclaimed benefits to which a person may be entitled to. The person or their representative will be advised accordingly if the financial assessment reveals any unclaimed benefits to which they may be entitled.

4.2.3. Tariff income

Tariff income applies where a person has capital that falls between the lower and upper capital limits. The amount of tariff (notional) income is added to the person's overall income for the financial assessment.

Tariff income is calculated by taking the actual amount of capital that a person has, then deducting the value of the lower capital limit and dividing the result by 250. The

result is then rounded up to the nearest £1. As an example, assuming a person has £16,455 and the lower capital limit is £14,250, their tariff income would be £9 as shown below:

- $£16,455 - £14,250 = £2,205$
- $£2,205 \div 250 = £8.82$
- £8.82 rounded up to nearest £1 = **£9** per week

4.2.4. Personal Expenses Allowance

Personal Expenses Allowance is an amount a person in a residential nursing care is allowed to retain from their income each week for their personal expenses such as toiletries. This amount is set by the Department of Health and Social Care under the provisions of the Care Act 2014, and it is normally reviewed annually in April. This amount can be varied at the discretion of the Local Authority under exceptional circumstances such as financial hardship and for further information please contact the Income and Financial Assessments Team.

4.2.5 Deprivation of assets

If a person has intentionally deprived themselves of capital or income in order to reduce or avoid a charge, then they may be treated as still possessing the asset. The [Care Act 2014 Regulations](#) and [Care and Support Statutory Guidance \(Annex E\)](#) are followed when making decisions on whether the person has deprived themselves of capital or income and whether or not to pursue the recipient(s) of those funds.

Where a person needing care which is met by HCC has transferred their assets to another person (a transferee) in order to avoid care applicable care charges, HCC will take measures under Section 70 of Care Act 2014 [Care Act 2014 \(legislation.gov.uk\)](#) to transfer liability to the transferee or transferees if the asset was transferred to more than one person.

4.2.6 Couples

The definition of a couple for the purposes of this policy is a married couple or two people who live together as if married. It includes couples, civil partners, and co-habiting couples. It does not include separated or divorced couples unless they live together as if married.

Where only one member of a couple receives services, charges are based on only that person's income and capital, not the income or capital of their partner or any other members of the household. On entering residential care, the individual is assessed as a single person.

Any capital held jointly will be assumed to be held in equal shares. The capital limits will apply to the individual's share of the capital. It will be assumed that the person is entitled to a share of any benefits or income paid for the joint benefit of the couple.

4.2.7 Minimum/maximum charges and standard costs

There is no maximum or minimum weekly charge for residential care. However, the charge cannot be more than the actual cost paid by ACS for the services received, including administration charges (where applicable).

If a person is assessed as needing permanent residential or nursing care they may be entitled to a 12-week property disregard. This is where the person's main or only home will be disregarded in the financial assessment for the first 12 weeks of care. They will still need to pay any assessed financial contribution during this period and any top up payment that has been agreed.

4.2.8 Commencement of charges

HCC aims to notify individuals of assessed charges promptly, before the first invoice for charges is issued. Charges will normally apply from the date of commencement of services in line with the Care Act 2014 statutory guidance and regulations.

4.2.9 Notification of change in financial circumstances

The person (or their representative) must inform ACS of any changes in their financial circumstances that could affect the amount they pay towards the cost of care.

Any changes to the person's circumstances must be reported promptly. In the event of late notification of a change of circumstances, charges will be backdated to the date that the change occurred.

5. Deferred Payment and Letter of Undertaking agreements

A 'deferred payment' is when you can use the value of your house or property to pay for your care. HCC is required to enter into a Deferred Payment Agreement when the person meets the criteria set out under Section 9 of the Care and Support (Deferred Payment) Regulations 2014. A Letter of Undertaking (LOU) agreement may be possible. Further information on deferred payment and LOU is provided in ACS' [Deferred Payment and Letter of Undertaking Factsheet](#).

Deferred Payment Agreements incur a variable interest rate set by the Department of Health and Social Care. This rate is revised on the 1st of January and the 1st of July each year. The interest will be calculated on a daily basis and compounded each calendar month.

5.1. Deferred payments and Letter of Undertaking agreements

If the application is successful, HCC will send the person a deferred payment agreement to sign and return. HCC will then pay the agreed amount towards the costs of their care. Care costs generally increase each year in April; care costs may also change if the level of care received changes. HCC will inform the person in writing of the new amount when the cost changes.

6. Top-up payments and choice of accommodation

If care and support needs assessment determines that care that a person's needs are eligible for care and support in a residential setting in order to meet the person's needs (e.g. care/residential/nursing homes), the person has a right to choose the accommodation under [The Care and Support and After-care \(Choice of Accommodation\) Regulations 2014 \(legislation.gov.uk\)](#). The person should be offered a choice of accommodation that meets their assessed needs and is within their personal budget. If they choose to reside in a care home where the costs exceed their personal budget, this can be paid for with a top-up payment.

There are rules around top-ups; people whose care is arranged by the Council and have been financially assessed to pay a contribution towards the total weekly cost are not permitted to pay a top-up from their own resources. They must have a third party willing and able to pay the top-up amount, which is called a third-party top-up.

Individuals who have capital above the upper capital limit are permitted under certain circumstances to pay a top-up from their own resources, known as a first party top-up. These would mainly apply to individuals who own their own properties in which capital is tied, and those receiving care under Section 117 of the Mental Health Act 2008. For further information please contact the Income and Financial Assessments Team.

7. Invoicing and payments for care charges

Invoices are usually raised every four weeks in arrears where the council provides or has arranged care services on behalf of the individual.

Payments can be made by Direct Debit standing order, cheque, online, or telephone. The Council's preferred payment method is by Direct Debit and all people who require support will be given the opportunity to complete the Direct Debit mandate form, which will be sent together with the financial assessment notification letter.

8. Non-payment of charges and recovery

Local authorities are empowered to recover outstanding charges summarily as a civil debt (Section 69 of the Care Act 2014). HCC will robustly pursue payment of any outstanding care debts, including taking legal action.

People in receipt of care and support services (or their representatives) are advised to inform HCC at the earliest opportunity if they are experiencing difficulties in paying for their care.

8.1.1. Financial hardship and remissions

People in receipt of care and support who have been assessed to make a contribution to the cost of their care can request a discretionary reduction of an assessed charge if they are unable to pay due to financial hardship. The request must be supported by a social care worker. The final decision as to whether to apply the reduction or waiver will be made by the relevant Head of Service or Deputy Head of Service and countersigned by the Head of Income and Charging. For further information about waivers please contact the Income and Financial Assessments Team.

8.1.2. Non-Payment of Care Charges

The County Council will exercise its right to take steps to recover the costs for the services it has provided and for which it can charge.

However, the County Council will seek to engage with the person responsible for meeting the charge before taking any enforcement action.

9. Reviews and complaints

Charges are normally reviewed annually in line with benefits uprating or will be carried out where there is a change of circumstances, or there is a request for a formal review by the person themselves or their representative. A person can request a review of their charge if their financial circumstances change at any point during the year. They are also responsible for informing HCC whenever their financial circumstances change. Failure to inform of any change in circumstances may result in backdated charges. A new financial assessment may also take place at the point of a care review.

If a person disagrees with the outcome of the financial assessment they can contact the Income and Financial Assessment Team in the first instance to discuss the issue and may request a review of the assessed contribution. If they still disagree with the outcome of the review, they have the right to make a complaint under the Adult Care Services Complaints Procedure. Details about how to complain can be found at: www.hertfordshire.gov.uk/complaint, or by contacting the Complaints Team at the following address:

Complaints Team (Adult Care Services)
Customer Service Team
County Hall
Hertford
SG13 8DF

Email: acs.complaints@hertfordshire.gov.uk

Telephone: 01992 556 685

Textphone: 0300 123 4041

After this stage, the person will have recourse to the Local Authority Ombudsman if they still disagree with the outcome of the complaints process.

10. Information for individuals who need support

A public leaflet named [Charging for Residential Care \(hertfordshire.gov.uk\)](#) booklet, which is the guide to charging for Adult Care Services, is available online at: www.hertfordshire.gov.uk/leaflets

A paper copy can be obtained by contacting the Income and Finance Team at:

Income and Financial Assessments Team

SFAR 225

Farnham House

Six Hills Way

Stevenage

SG1 2FQ

Email: acs.income@hertfordshire.gov.uk

Telephone: 01438 843 032