

HEALTH & COMMUNITY SERVICES



HCS 901

Charging for adult residential care

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Issue 1

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Signature:

A handwritten signature in dark ink, appearing to read "I. MacBeath", written over a light grey rectangular background.

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Comments and enquiries about this document to acs.documentmanager@hertsc.gov.uk

Summary

This new policy is to bring Hertfordshire County Council in line with the Care Act 2014. This document sets out the policy, guidance for staff, and procedures for the financial assessment and charging process for service users receiving residential care services in Hertfordshire. This policy and procedure applies to HPfT and HCS and Serco. This supersedes the Charging for Residential Accommodation Guide.

Introduction

The legal basis for Local Authorities to be able charge for social care is laid out in Sections 14 and 17 of the Care Act 2015, the Care and Support (Charging and Assessment of Resources) Regulations 2014 the Care and Support Statutory Guidance (October 2014).

This charging policy takes account of corporate guidelines on charging and follows the framework set out in legislation and national guidance. As part of its preparation and Equality Impact Assessment has been undertaken. The charging arrangements for home care are not covered in this guidance. For information on these, see HCS 736 Charging for Community Based Services.

2. Principles for charging

2.1 Chargeable services

This charging policy applies to residential services provided by Hertfordshire County Council's Health & Community Services (HCS) department and to those commissioned by HCS but provided or delivered by other organisations. HCS will charge for all residential services unless otherwise stated.

Section 4 contains guidance on determining if a service is chargeable.

There is a presumption that any new services not referred to in the policy, currently or those that may develop in the future will be chargeable unless:

The Council has chosen to exercise its discretion not to charge or not charge the full amount for that service

2.2 Circumstances where a charge will not be made

2.2.1 Exemption from charges

The charging policy for HCS residential services does not apply to service users aged under 18. Certain other service users are exempt from charges. These are:

- Service users who are provided with services as after care under section 117 of the Mental Health Act 1983. This is a legal requirement.
- Service users who are in the end stages of terminal illness, defined as being in a progressive state of decline, for example, with a life expectancy of less than three months.

Services that remain excluded from charging are:

- Intermediate care
- Prevention of Hospital Admission

3. Services provided for by compensation package

Where a service user has received a compensation payment which included a sum to cover care needs, this should be covered in the needs assessment. Where a current unmet need has been identified in an assessment and a compensation payment has been made in respect of that need then the expectation is that those sums should be used to meet that need. In these cases Hertfordshire County Council (HCC) should act as an assisting agency, providing advice and guidance on the availability of services. Payment for the services arranged should be the responsibility of the Trustees of the compensation fund.

It is for the Trustees/family to bring to the attention of the County Council any reasons why this cannot occur and these will be given due consideration and in appropriate circumstances the County Council will fund those services.

Where these sums can be considered they are assessed in accordance with the Care and Support (Charging and Assessment of Resources) Regulations 2014 and the Care and Support Statutory Guidance (October 2014) as follows:-

- Where capital consists of any payment made as a result of personal injury and a Court has specifically identified that this payment is to cover the cost of providing care, it will be taken into account
- Where the Court has **NOT** specifically identified that this payment is to cover the cost of providing care, then the value of that capital is disregarded for a period of up to 52 weeks from the date of receipt of the first payment. Subsequent payments after the 52 weeks are taken fully into account unless they themselves cannot be considered.
- Where capital consists of any payment made as a result of personal injury and is placed in the Court of Protection then both the capital value of the payment and the income which arises from it **cannot** be considered in a charging assessment.
- Where capital consists of any payment made as a result of a personal injury and it is placed in a Trust Fund then the capital value of the payment cannot be considered but the income which arises from it is included in the assessment of income.

4. Determination of charge

4.1 Capital limits

Capital is assessed in accordance with the Care and Support (Charging and Assessment of resources) Regulations 2014, Care and Support Statutory Guidance (October 2014).

Capital limits are set in line with the above regulations. Service users with capital above the upper limit are expected to pay the standard cost of the service. Service users with capital above the lower limit will be assumed to have some income from capital.

4.2 Charging assessment and benefit check

A financial assessment establishes whether the service user must pay a charge, and if so, the amount of the weekly charge.

The charging assessment takes the service user's income then deducts a Personal Expense Allowance as laid out in the Care and Support (Charging and Assessment of resources) Regulations 2014, Care and Support Statutory Guidance (October 2014)

Income and capital disregards are applied in line with the above Regulations and Statutory Guidance

If a service user is not exempt from charges, and does not have capital over the upper limit, a financial assessment should be carried out. Information for the assessment is collected at a visit and directly input onto ContrOCC.

Service Users or their financial agents who do not wish to be visited by a representative from Hertfordshire county Council have the option to complete an HCS8pa form (postal assessment) and provide evidence to allow a financial assessment to be carried out.

Service Users who approach Health and Community Services to inform us that their capital has declined below the upper capital limit and wish to request Health and Community Services funding will be asked to complete an HCS8sf form (self-funder) by post and provide evidence.

Service users who choose not to provide information for a financial assessment are liable to pay the full or standard cost of the service.

A welfare benefits check is provided by the Community Finance team as part of the financial assessment. Service users are advised if the financial assessment reveals any unclaimed benefits to which they may be entitled and may be referred to the Money Advice Unit or Pensions Service (Department of Work and Pensions) for assistance with claiming benefits.

If a service user has intentionally deprived themselves of capital or income in order to reduce or avoid a charge then the service user may be treated as still possessing the asset. The Care and Support (Charging and Assessment of Resources) Regulations 2014 and the associated Care and Support Statutory Guidance will be followed when making decisions on whether the person has deprived himself or herself of capital or income.

Housing costs are deducted from the service user's available income for charges for the first 4 weeks of a permanent placement in residential care or for the full duration of a temporary placement in care. Housing costs include gas, electric, water charges, or buildings and contents insurance.

The charge that is to be paid by the Service User is the lower of the following:

- 100% of the service users income above their personal expenses allowance or
- the total cost of all the chargeable services received.

Service users are notified in writing of the assessed charge, how it has been calculated, and what to do if they disagree with the charge.

4.3 Couples

The definition of a couple for the purposes of this policy is a married couple or two people who live together as 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.

On entering residential care the individual is assessed as a single person.

4.4 Minimum / maximum charges and standard costs

There are no maximum or minimum weekly charges for residential care provided by Health & Community Services. However, the charge cannot be more than the usual cost paid by the County council for the services received. HCS standard bed rates are revised annually in line with inflation.

Clients pay one charge for HCS services, even if they receive more than one service.

4.5 Backdating

HCS aims to notify service users of assessed charges promptly, before the first invoice for charges is issued. Charges will apply from the date of commencement of services.

5. Deferred Payments

Hertfordshire County Council is required to enter into a Deferred Payment Agreement with any individual meeting the criteria in the Care and Support (Deferred Payment) Regulations 2014. Please refer to the Care and Support Statutory Guidance issued by the Department of Health - Section 9 for further guidance.

Hertfordshire County Council also has the discretion to enter into Deferred Payment agreement with people in certain other circumstances as covered in Care and Support (Deferred Payment) Regulations 2014. Please refer to the Care and Support Statutory Guidance issued by the Department of Health for further Guidance.

Where there is discretion the final decision on eligibility for a DPA will be made by a Senior Finance Manager together with a Senior Operational Manager and the individual will be informed of this decision in writing.

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

6. Reduction and waivers

Service users can apply for a reduction or waiver of an assessed charge if they are unable to pay, which will need to be supported by the social worker and a decision as to whether to apply the reduction or waiver will be made by the relevant Area Manager and countersigned by the Head of Payments and Income HCS.

7. Invoicing and payments

Hertfordshire County Council will request that Care Homes invoice the Service User directly on a regular basis.

Where Hertfordshire County Council invoice direct to the Service User we will invoice calendar monthly.

8. Non payment of charges

Local authorities are empowered to recover outstanding charges summarily as a civil debt (Section 69 of the Care Act 2014).

If a service user has care debt to Hertfordshire County Council as a result of services in residential care and owns a property they are entitled to be considered for a Deferred Payment Agreement subject to them meeting the normal criteria. The final decision on eligibility for a Deferred Payment Agreement is at the discretion of the County Council. This decision will be made by a Senior Finance Manager together with a Senior Operational Manager.

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, 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 reviewed annually in line with benefits uprating. Service users can request a re-assessment of the charge if their financial circumstances change at any point during the year, if there has been significant change. A new financial assessment may also take place at the point of the care review.

A service user who is dissatisfied with an assessed charge can request that it is reviewed. A financial review will be carried out by the Income Section and the service user's circumstances considered by the care management team to determine if the charge should be reduced or waived.

10. Appeals process

If a service user or their representative is unhappy with the assessed charge that they are asked to pay they have the right of appeal on the grounds of financial hardship.

If the service user remains dissatisfied with the charge, or any other aspect of the service, s/he can make a complaint under the County Council's Complaints Procedure which can be found on link www.hertsdirect.org/adults

11. Information for service users

A public leaflet 'Charging for adult residential care services' which is the guide to charging for Health & Community Services is available from:

Income Team
Health & Community Services
SFAR 222
Farnham House
Six Hills Way
Stevenage
SG1 2FQ

[link to leaflet](#)

Link to leaflets

- Charging for adult residential care
- [Charging](#) for community based care services