

# Adults & Family Wellbeing Service

**Title:** Buckinghamshire County Council - Charging for Non Residential Care Services Policy

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**Electoral Divisions Affected:**

All

## 1. Introduction, Update Record & Policy Contents

- 1.1 This document outlines Buckinghamshire County Council's policy relating to charging individuals who are in receipt of non residential care services.
- 1.2 The Council's Cabinet approved the initial charging policy on 22 July 2002. The Council's charging policy was further updated and agreed by Cabinet on 8 December 2003 following further Department of Health guidance.
- 1.3 The Council updated charging rates with effect from October 2005.
- 1.4 The Council's Cabinet Member for Adults and Families approved a fuller review of the Council's charging policy and an update of charging rates with effect from 12 April 2010.
- 1.5 The Council's Cabinet Member for Adults and Families approved a review of the Council's charging policy and an update of charging rates with effect from 11 April 2011.
- 1.6 The Council's Cabinet Member for Adults and Families approved a review of the Council's charging policy and an update of charging rates with effect from 9 April 12.

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## **2. Aims and Objectives of the Charging for Non Residential Care Services Policy**

2.1 The aim of the policy is to:

- ensure that charges for services are made in a fair and equitable way to service users able to pay
- ensure that an individual's financial assessment of ability to pay is easily understandable
- ensure that the Council operates procedures and has working practices which are efficient and effective for assessing ability to pay charges and for the Council to recoup income
- provide clear criteria against which an individual can be financially assessed and charged in a consistent manner which meets the Council's policy on equality and diversity issues.
- ensure that there is an efficient and clear appeals procedure

### **3. Legislation / Regulations**

- 3.1 Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA Act 1983) gives the Council discretionary power to charge adult recipients of non-residential services. The Council may recover such charges as are reasonable in respect of relevant services
- 3.2 Section 7 of the Local Authority Social Services Act 1970 allowed the Secretary of State to issue guidance to Councils on the exercise of their social services functions, including those which are exercised under discretionary powers. In exercising those functions, Councils must have regard to guidance issued under section 7. In 2003, The Department of Health issued guidance entitled 'Fairer Charging Policies for Home Care and other non-residential Social Services. This policy is based on the relevant provisions of that guidance.
- 3.3 Local Authorities may charge for services provided directly to carers under the provisions of the Carers and Disabled Childrens Act 2000.
- 3.4 Where the Department of Health's 'Fairer Charging Policies for Home Care and other non-residential Social Services does not provide clarity in a general area, the Council also observes the Department of Health's Charging for Residential Accommodation Guide (CRAG) for fairness, clarity and consistency reasons.

#### **4. Non Residential Services for which charges are/are not made**

- 4.1 All needs assessed services will form part of a regular pre-planned package of care. The Council's charging policy covers all cases where care needs are assessed by the Council and where non-residential services are provided or purchased by the Council to meet those needs, irrespective of where that service is purchased or provided from. The Council's charging policy also covers cases where care needs are assessed by the Council and where an individual opts to arrange their own care meeting agreed outcomes.
- 4.2 A package of non residential care may include a variety of services, some of which are included in the financial assessment and some of which are currently exempt.
- 4.3 Charges are made for the following non residential services:
- Personal care
  - Home Care
  - Assisted Shopping
  - Domestic Care
  - Cleaning
  - Extended Cleaning
  - Time for You
  - Laundry
  - Rehabilitation Service (including Mental Health Adults and Older people)
  - Supported Living
  - Day Care ( including all services i.e. Older people, Learning disabled, Physically disabled, Mental Health (Adults and Older people)
  - Telecare
  - Live in Care
  - Shared Lives
  - Transport
  - Sleep over
  - Waking nights
  - Direct Payments recipients will be liable to a financially assessed contribution applied to 100% of their individual budget which is paid net of their assessed contribution.
  - Meals - Flat rate charges for meals whether at home or in day care will apply. The charge will not involve a financial assessment of ability to pay as the charge substitutes ordinary living expenses.
  - Respite care – residential or nursing
  - Care arranged under Carers Funding

4.4 Charges are not made for the following services:

- Equipment and minor adaptations
- After care services provided under Section 117 of the Mental Health Act 1983 (Section 17 of the HASSASSA Act 1983)
- Any Non Residential care required by individuals suffering from Creutzfeldt Jacob Disease
- Re-ablement

## **5. Welfare Benefit Check**

- 5.1 As part of financial assessment process, the Council can support individuals by reviewing their individual entitlement to welfare benefits. The Council's Welfare Benefits Team will make claims for eligible welfare benefits on an individual's behalf.

## **6. The Financial Assessment Process**

- 6.1 Subject to para.6.11 below every individual in receipt of non residential care services will be financially assessed to determine how much they should pay towards the cost of their care package. Individuals will be required to complete a Statement of Financial Circumstances Form (SFC) to support the means tested financial assessment process.
- 6.2 The financial assessment of charges is based on 'net disposable income'. This is calculated by assessing income and capital, deducting the "basic allowance" which is Income Support or the Guaranteed Credit element of Pension credit plus a "25% buffer", other standard allowances and any applicable disability related expenditure.
- 6.3 The financially assessed charge is 100% of "net disposable income" or 100% of the notional cost of the care package, whichever is the lower. The Council does not have a ceiling rate/cap for charges (removed with effect from 12.April.2010) The Council currently applies a notional cost to non residential care services. The notional cost equates to the average cost of non residential care providers within the County with a reduction built in to take into account bank holidays and the odd occasion when a service is not provided in full or part i.e. when a carer stays for less time than usual.
- 6.4 An individual will be required to pay for the full cost of non residential care services received if they have capital or savings over a set limit. The Council assesses capital and savings in accordance with the annual guidance issued by the Department of Health on Charging for Residential Accommodation (CRAG) Para 58. The guidance sets a maximum capital limit currently of £23,250 for the 2012/2013 financial year.
- 6.5 Where financial information has not been provided when requested by the Council, a 'non-disclosure' financial assessment will be completed resulting in the individual being required to contribute 100% of the notional cost of the care package. If the individual subsequently supplies financial information, the financial assessment will apply from the date the information was provided and will not be backdated.
- 6.6 Notional charging will apply to all individuals and the Council will not make any cost adjustments if the actual cost of care

provided to the individual by a care provider is lower.  
(Paragraph 79 of the Department of Health Fairer Charging Policies for home care and other non residential Social Services)

- 6.7 All individuals will be charged from the date of notification of their specific financially assessed charge.
- 6.8 An individual's financially assessed charge will be reviewed if their care package changes. This is to ensure that any changes in service and charges do not reduce income below the minimum income level i.e. the "basic allowance "as defined in 6.2 above.
- 6.9 If an individual's circumstances or income changes, they can request a review of their financially assessed charge.
- 6.10 Individuals who receive an Independent Living Fund (ILF) will not be financially assessed for Non Residential services as they will already have been subject to a financial assessment in determining their personal contribution towards their ILF. (Paragraph 74 of the Department of Health Fairer Charging Policies for home care and other non residential Social Services)
- 6.11 Paragraph 8.3 advises that 100% of Disability Living Allowance (Mobility Component) is disregarded within the financial assessment process. Individuals are expected to utilise their Disability Living Allowance (Mobility Component) to fund travel costs relating to their disability.

## **7. Charges from 9 April 2012**

- 7.1 Appendix A shows the Council's notional charges for non residential care services from 9 April 2012.
- 7.2 The Council will adjust notional charges at least annually to apply with effect from the Department of Work and Pensions welfare benefit up rate dates.
- 7.3 The Council will adjust notional charges having regard to both the level of the Retail Price Index (excluding mortgages) (the annualised average for the previous January through to December providing the figure is greater than zero) and income expectations included in the Council's Medium Term Plan.
- 7.4 The Council will notify all those in receipt of non residential care services either commissioned by the Council or personally (and receiving a Direct Payment to fund the care) of the annually adjusted notional charge as soon as it has been calculated and agreed. Notification will be prior to the revised charges taking effect observing Paragraph 96 of the Department of Health's guidance.
- 7.5 The Council will review charges if the cost of providing non residential care significantly changes as a result of changes in contracts managed by the Council or any legislative changes impacting on the Council. Significant charging changes will involve public consultation.

## 8. Basic Process for Calculating Charges

- 8.1 Following full completion of the Statement of Financial Circumstances Form, the Council will review the financial details provided by every individual to determine how much money is available to pay towards the cost of care each week. This is known as determining the weekly “net disposable income”. The calculation used to determine net disposable income is:

**Income (including Tariff income from Capital) minus allowable Expenditure minus Allowances = Net Disposable Income**

- 8.2 Income - this is money received by the user. The following list is intended as a guide and is not exhaustive.

Pension Credit - Guarantee  
Occupational Pensions paid by previous/past employer/s  
Income Support  
State Retirement Pension  
Job Seekers Allowance  
Incapacity Benefit  
Severe Disablement Allowance  
Exceptionally Severe Disablement Allowance  
Attendance Allowance - lower rate only taken into account  
Disability Living Allowance - care component. Middle rate only taken into account  
Industrial Injuries Disablement Benefit  
Disability Working Allowance  
Carer's Allowance  
Widow's Benefit

- 8.3 The following types of income are disregarded in full / part as indicated:

- 100% of all earnings
- 100% of Disability Living Allowance (Mobility Component)
- 100% War Disability Pensions
- 100% War Widows Supplementary Pension
- 100% War Pensioner's Mobility Supplement
- The first £10 of War Widows Pension

The Council observes both the Department of Health Fairer Charging Policies for home care and other non residential Social Services and the National Association of Financial Assessment Officers (NAFAO) guidance in determining the disregards.

## 8.4 Capital

Examples of capital taken into account are shown in the following list, the list is intended as a guide and is not exhaustive (refer to Charging for Residential Accommodation Guidelines Section 6.002)

- Buildings \*
- Land \*
- National Savings Certificates and Ulster Savings Certificates
- Premium Bonds
- Stocks and Shares
- Investment Bonds
- Capital held by the Court of Protection or a Deputy appointed by that Court

Any savings held in:

- Building Society accounts
- Bank current accounts, Deposit accounts or Special Investment accounts, including savings held in the National Savings Bank
- SAYE schemes
- Unit Trusts
- Co-operative Share Accounts
- Cash
- Investment Bonds / Bonds
- Trust Funds
- ISA's

\* The value of the individual's home will normally **not** be taken into account in the financial assessment where the individual continues to occupy the dwelling as their home.

The value of the individual's home will be taken into account as capital where they no longer occupy the dwelling as their home and will not return to the dwelling under any circumstances. Where the individual does not occupy a dwelling as their home, the value will only be disregarded if a partner/lone parent/relative lives there (relative as defined in Charging for Residential Accommodation guidelines (CRAG) paragraph 7.

If an individual owns/ has a share in a second property or land, this will be included in the means tested financial assessment as a capital asset. If the ownership or share in second property or land is valued at more than the capital limit for the financial year i.e. £23,250 for 2012/2013 financial year, the second property share or land will be included in the means tested financial assessment as a capital asset and will mean the individual is responsible for the full notional cost of their care package.

If the individual has joint capital/savings with another person, only half will be considered as their share and used in the means tested financial assessment unless there is documented evidence acceptable to the County Council that the capital/savings are not held equally.

Where the Council considers that an individual has deprived them self of a capital asset in order to reduce their assessed contribution charge, the Council may treat the individual as still being in receipt of the capital asset. The Council will observe the Department of Health's Charging for Residential Accommodation Guidelines (CRAG) when considering deprivation i.e. Section 6.062.

#### 8.5 Capital Limits from 9 April 2012

upper limit £ 23,250  
lower limit £ 14,250

Capital below £14,250 is disregarded.

For capital levels over £23,250 the individual will be required to pay the maximum notional cost of the services received.

#### 8.6 Tariff Income.

For capital levels between £14,250 and £23,250 tariff income is calculated as equivalent to £1 a week for every £250 (or part of £250) above £14,250 and this is treated as income.

#### 8.7 Deductions

##### i. Basic Allowance

This allowance represents the basic levels of Income Support or the Guarantee Credit of Pension credit plus a 25% buffer that is money considered essential by the Department of Health for basic day to day living requirements.

ii. Household Expenses

Mortgage payments/Rent - Full amount less any Housing Benefit paid is considered in the means tested financial assessment.

Council Tax - Full amount less any Council Tax Benefit paid is considered in the means tested financial assessment.

iii. There is no allowance for:

Water rates

Insurances

Loans including Hire Purchase and catalogues

Pets

Normal fuel bills, TV licences, etc.

iv. Disability Related Expenditure

Where an individual receives a Disability Benefit from the Department of Work and Pensions, from 11 April 2011, the Council has applied the following rates of disability related expenditure allowance to all new and existing financial assessments in receipt of non residential services or Direct Payments to self commission care depending on the level of Department of Work & Pensions Benefits received:

- For those receiving Disability Living Allowance or Attendance Allowance at the High Rate – £24 per week disability related expense allowance will be made.
- For those receiving Disability Living Allowance at the Low or Middle Rate or those receiving Attendance Allowance at the Low Rate - £16 per week disability related expense allowance will be made.

The disability related expenditure allowance will remain at 2011/2012 levels for 2012/2013.

The disability related expense allowance is in addition to the standard allowance included within the financial assessment to cover normal living expenses.

If an individual requests a tailored disability related expenditure assessment, they must supply all receipts and details of expenditure incurred relating specifically to the disability for the current financial year. Any 'extraordinary' expenditure must be made known to Adults & Family Wellbeing Care Management who will consider it's inclusion in the financial assessment process. The Council will observe annually reviewed limits proposed by the National Association of Financial Assessment Officers (NAFAO)

where requests for disability related expenditure assessments are made. The Council is not obliged to accept all requests/claims for disability related expenses to be included within financial assessments whether receipted or not. All tailored disability related expenditure assessments will be reviewed annually with updated receipts and details of expenditure incurred relating specifically to the disability.

If receipts / evidence are not submitted, the appropriate level of standard disability related expense allowance will be made.

vi. Other

An allowance for the actual weekly costs of the following will be considered where full evidence is supplied:

- Maintenance payments made under current Court Orders
- Child Support Agency payments
- Payments towards a private / occupational pension

8.8 The cost of services received:

The County Council considers the cost of all externally provided non residential services in determining notional costs. See Section 6.3 for a definition of notional cost and Section 7 for details of how notional charges are reviewed.

Where an individual requests that the County Council commissions their services, Care Management will determine how many units of care and which services are appropriate to meet care needs and outcomes.

Where an individual opts to commission their own services, the Council will determine the gross Personal Budget through the Resource Allocation System (RAS) which transfers the points determined by the individuals Support Plan needs/outcomes to a monetary amount.

The cost of services to an individual are:

**Notional charge of each element of the package of care X the number of units determined as required for the individual per week**

8.9 Breaks In Service

As indicated in Section 6.3, the County Council charges individuals based on a notional rate. The notional cost has a

15%-20% reduction built in specifically to take into account bank holidays and occasions when the individual does not require a service or when a carer stays for less time than usual.

The Council will only apply a break to an individual's full package of care if the break is 7 consecutive days or more. A break starts from the first day of service missed and a break ends the day before the next episode of care is received.

If a break in service is due because an individual goes into short term residential or nursing care i.e. Respite, the non residential service charge is replaced immediately with charging for residential services for the duration of the Respite episode.

#### 8.10 Respite – residential or nursing

With effect from 9 April 2012, the County Council will apply annually reviewed flat rates for respite contribution charges to all new and existing service users who have capital below £23,250:

Aged 60+	£17.03	per night
Aged 25-59	£11.12	per night
Aged 18-24	£9.01	per night
In receipt of Incapacity Benefit/ Employment Support Allowance	£12.48	per night

Individuals can request a full means tested tailored financial assessment and will be required to supply evidenced details with their completed Statement of Financial Circumstances Form. Where an individual has capital in excess of £23,250, they will be required to pay the full cost of their respite care.

#### 8.11 How much will an individual be required to pay from 9 April 2012?

If an individual's means tested financial assessment gives a net disposable income of £45 per week and the total weekly notional cost of their package of care = £36.00, the individual will be required to pay £36.00, i.e. they are not required to pay more than the weekly notional cost of their care package.

If an individual's means tested financial assessment gives a net disposable income of £10 per week and the total weekly notional cost of their package of care = £18.00, the individual

will be required to pay £10 per week. i.e. they are not required to pay more than their net disposable income.

If an individual has more than £23,250 in savings/capital and the total weekly notional cost of their care = £360.00, the individual will be required to pay £360.00 per week. i.e. they are required to pay the full weekly notional cost of their care package.

#### 8.12 Communicating Assessed Charges

The Council will notify the individual of their means tested financially assessed charge in writing together with the date the charge applies from. The date charges will be effective from will usually be the date of the notification letter. The notification will include a breakdown of how the charge has been calculated.

Individuals are obliged to notify the County Council, in writing, when their financial circumstances change and the date the change/s were effective from. The Council will review this notification and undertake a financial reassessment from the date of notification however, the Council will backdate a financial assessment effective date when information regarding any increases in income/savings/capital has been withheld from the Council.

If there are changes to an individual's care package, a financial reassessment will be conducted and the effective date of the reassessment will be the date the care package change was authorised on the Council's database.

#### 8.13 Review of Charges

The Council observes Section 17(3) of the HASSASSA Act 1983 which entitles individuals to ask for a review of their means tested financial assessment if the individual considers the amount is unaffordable.

Under this legislation the Council will need to be satisfied that the individual's means are insufficient to afford the assessed charge. The Council will therefore require the individual to indicate, in writing, any additional facts that the individual wishes to be considered and submit any evidence of additional expenditure etc to explain why they feel the charge is not affordable.

Any requests for a review should be submitted to the Financial Assessment Officer conducting the financial assessment in the first instance. If the individual is still not

satisfied with the outcome of the review, the review will be passed onto the Financial Assessments Team Leader who will make the final decision or co-ordinate a response on behalf of the Council. The Review Process will be conducted within 28 days of the individual requesting a review and submitting all additional facts and evidence of expenditure etc.

#### 8.14 The County Council's Non Residential Charges Appeal Process

If an individual disagrees with their means tested financial assessment and is still unhappy with the outcome of the review of their charges the Council operates the following Appeals Process:

Stage 1: The appeal against the assessed charge will be referred to two Officers for a review. The individual will need to make the appeal in writing with full details of why they disagree with the assessment and what they feel should additionally be considered. The Officers will respond to the individual, in writing, within 28 days of receiving the appeal.

Stage 2: If the individual is unhappy with the outcome from Stage 1, they need to write to the Service Centre Manager within 28 days of receiving the outcome from Stage 1 indicating the reason for another appeal to be considered and again supplying full details of any further areas to be considered. A Service Director will consider the appeal and respond to the individual, in writing within 28 days of receiving the Stage 2 appeal.

Stage 3: If the individual is unhappy with the outcome from Stage 2, they need to respond to the Service Director involved in Stage 2 within 28 days of receiving the outcome indicating the reason for a further appeal. This final appeal will be considered by an independent panel comprising of an Officer that has not been involved in the appeal to date and two Council Members. The individual is able to attend the independent panel hearing which should be arranged within 28 days of the request to proceed to Stage 3. The panel will confirm their final decision, in writing, within 7 days of the hearing.

8.15 Complaints Process

The Council operates a complaints process and any individual wishing to complain about the financial assessment is able to utilise the process as indicated below:

[Buckinghamshire County Council - Feedback and complaints](#)

## **9. Direct Payments / Personal Budgets / Self Directed Support**

- 9.1 Direct Payments are available if an individual has been assessed as needing a care package and would like to receive money from Adults & Family Wellbeing Services to meet agreed care outcomes through employing staff and/or managing their own care budget directly, instead of receiving care commissioned by the Council.
- 9.2 If individuals receive an Individual Budget they will be assessed and charged as though they were receiving the equivalent Council commissioned services.
- 9.3 The Council makes Direct Payments net of the assessed contribution and the individual is expected to make the contribution payment (equivalent to the individual's assessed charge) into their nominated Direct Payment bank account to enable the purchasing of care services to meet agreed outcomes.

## **10. Health Funding**

- 10.1 If a care package is fully funded by Health/ a Primary Care Trust (PCT) under the NHS Continuing Care Policy, the individual will not have to contribute towards the cost of their care package. If the care package is partly funded by Health/PCT and the Council, the Council will financially assess the individual based on the Council's proportion of funding only.

## **11. Managing unpaid charges**

- 11.1 If an individual refuses to pay their means tested financially assessed charge the Council will pursue the recovery of debt resulting from unpaid charges.
- 11.2 The Council may agree repayment terms with an individual who has accumulated debt as a result of unpaid charges.
- 11.3 The Council may pursue debt arising from unpaid charges through the legal process and take Court action as it deems necessary. Where a Court has awarded in the Council's favour then as well as the unpaid charges legal costs and interest may be claimed from the individual in the legal proceedings.

## **12. Waivers**

- 12.1 The Council observes Paragraph 100 and 101 of the Department of Health's guidance where, in exceptional circumstances, an Adults & Family Wellbeing Service Director may waive charges for a specific period of time only.
- 12.2 Waiving of charges may be operated within delegated powers of authority by the Adults & Family Wellbeing Service.
- 12.3 Any waived charge periods will be reviewed by the Financial Assessments Team with updates provided to the Adults & Family Wellbeing Service Director.

### **13. Funding of Non Residential Services**

- 13.1 From 11 April 2011, the Council has considered its current usual weekly price levels for residential/nursing care when agreeing funding for non residential care and may choose to apply the usual price as a guide to the limit to funding. The usual weekly price is reviewed annually.
  
- 13.2 Usual weekly price levels for the financial year 2012/2013 are currently being reviewed and will be updated as soon as they are available. Funding levels will be agreed on a case by case basis until the usual weekly price levels are confirmed.
  
- 13.3 Where the Council has chosen to apply a funding limit and an individual wishes to remain at home and requires a higher level of funding than the Council has agreed to, the individual or their family may need to arrange and pay for the financial 'top up' privately.

## Appendix

### A Non residential charges applying from 9.4.2012

<b>Service</b>	<b>Episode</b>	<b>Cost from 11.4.2011</b>	<b>Cost from 9.4.2012</b>
Home Care - 1 carer per visit	per hour	£18.00	£18.00
Home Care - 2 carers per visit	per hour	£36.00	£36.00
Community Laundry	per load	£12.00	£12.00
Day Care - General	per day	£32.00	£32.00
Day Care - Specialist	per day	£64.00	£64.00
Transport (charge will apply following individual case review)	per day (return trip)	£8.00	£8.00
Telecare	per week	£4.00	£4.00
Meals on Wheels (Hot)	per meal	£3.60	£3.80
Meals on Wheels (Frozen)	per meal	£2.80	£2.90
Day Care – Meal at Day Centre	per meal	£3.60	£3.80
Meals on Wheels (Tea Box)	per meal	£2.00	£2.10

## **Background Papers**

Department of Health

Fairer Charging Policies for Home Care and other non-residential Social Services

[Fairer charging policies for home care and other non-residential social services: Guidance for Councils with Social Services Responsibilities \(September 2003\) : Department of Health - Publications](#)

Buckinghamshire County Council's Cabinet Member decision 16.3.2010

[http://www.buckscc.gov.uk/moderngov/Published/IssueDocs/9/3/3/6/I00016339/\\$AF0410Rept.doc.pdf](http://www.buckscc.gov.uk/moderngov/Published/IssueDocs/9/3/3/6/I00016339/$AF0410Rept.doc.pdf)

Department of Health

Charging for Residential Accommodation Guidelines

[http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/@ps/documents/digitalasset/dh\\_114329.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_114329.pdf)