

## Adults & Family Wellbeing Service

**Title:** Buckinghamshire County Council's Charging for Residential Services Policy - supplement to the Department of Health's Charging for Residential Accommodation Guide (CRAG)

**Date:** Updated 9 April 2012

**Author:** Halinka Rands - Service Centre Manager

**Contact Officer:** Halinka Rands - 01296 382547

**Electoral Divisions Affected:** All

### 1. Introduction, Policy Updates & Policy Contents

- 1.1 This document outlines Buckinghamshire County Council's Policy relating to charging individuals who are in residential / nursing accommodation and should be considered in addition to the Department of Health's Charging for Residential Accommodation Guide.
- 1.2 The Council's Cabinet Member for Adults & Families approved a review of the Council's charging policy and charging rates with effect from 12.4.2010.
- 1.3 The Policy has been further updated with effect from 11.4.2011.
- 1.4 The Policy has been further updated with effect from 9.4.2012.
- 1.5 Policy Contents:

1. Introduction, Policy Updates & Policy Contents.....	1
2. Aims and Objectives.....	2
3. Legislation .....	3
4. Personal Expenses Allowance .....	4
5. Deferred Payment Scheme .....	5
6. Third Party Agreements .....	6
7. Third Party Payments and Top Ups .....	7
8. Respite (Short Term Care) .....	8
9. Residential Colleges.....	9
10. Residential Expenses.....	10
Appendix .....	11
Background Papers.....	13

## **2. Aims and Objectives of the Charging for Residential Services Policy - supplement to the Department of Health's Charging for Residential Accommodation Guide (CRAG).**

2.1 The aim of this policy is to:

- clarify areas of CRAG which are not fully defined enabling the Council to operate in a fairer and more equitable manner.

### 3. Legislation

- 3.1 The Council observes the Charging for Residential Accommodation Guide (CRAG) issued by the Department of Health. The guide has been reviewed annually since it was first introduced in 1993.
- 3.2 CRAG is issued under Section 7(1) of the Local Authority Social Services Act 1970 which requires local authorities to exercise Social Services functions under guidance of the Secretary of State.
- 3.3 Paragraph 1.006 of CRAG provides that where a person is provided with accommodation under Part 3 of the National Assistance Act 1948, section 22 of that Act provides for the person to be charged for the accommodation.

## **4. Personal Expenses Allowance**

- 4.1 In assessing an individual's ability to pay for their accommodation, the Council is required to ensure that they retain an amount for personal expenses.
- 4.2 The amount allowed in the financial assessment for personal expenses is laid down each year in the National Assistance (Sums for Personal Requirements and Assessment of Resources) Regulations and is the same for every individual resident in care homes supported by the Local Authority. From 9.4.2012, the allowance is £23.50 per week

## 5. Deferred Payment Scheme

- 5.1 Section 55 of the Health & Social Care Act 2001 permitted Councils to operate a Deferred Payment Scheme. Further guidance and instructions were then issued in the form of LAC(2001)25 and CI(2002)12 (See Background Papers)
- 5.2 Paragraph 7.004 of CRAG states that in the case of an individual who becomes a permanent resident on or after 9 April 2001, the value of any dwelling which the individual would otherwise normally occupy as their only or main residence should be disregarded for the first 12 weeks of a permanent stay, subject to meeting the qualifying conditions which can be found in paragraph 12 of the Annex to LAC(2001)10. This may not be their first permanent admission to permanent residential care.  
The individual will still be required to make a contribution towards their care costs during these initial 12 weeks – their income and savings/investments are used for this calculation.
- 5.3 From 11.4.2011, the Council has considered it's current usual weekly price levels for residential/nursing care when agreeing funding for individuals looking to participate in the Council's Deferred Payment Scheme and 12 week disregard period. The usual weekly price is reviewed annually.  
Please also read Section 6 : Third Party Agreements and Top Ups.
- 5.4 The Council's usual weekly price levels for the financial year 2012/2013 are currently being reviewed and will be updated as soon as they are available.
- 5.5 From 11.4.2011, the Council has required an annual review from new and existing service users utilising the Deferred Payment Scheme of the value of any property on which a debt is accruing and being secured against. The Council will not require a formal surveyor's valuation.
- 5.6 The Council will review a placement when the accrued debt secured on a property equals 75% of the service user's equity in that property. The review will consider the Council's future funding strategy as well as the service user's care needs and requirements.
- 5.7 See Appendix for Deferred Payment Agreement Form

## **6. Third Party Agreements**

- 6.1 The Council will continue to operate a Third Party Top Up process.
- 6.2 From 11 April 2011 the Council will review it's Third Party Agreements annually and may uplift Third Party contributions in line with fee adjustments awarded to residential / care home providers.  
The Council will write to Third Party Agreement holders prior to any changes being made with existing Agreements.
- 6.3 From 11 April 2011 the Council has conducted an annual financial review with all new and existing Third Party Agreement holders.
- 6.4 From 11 April 2011, the Council has considered its current usual weekly price levels for residential/nursing care when agreeing funding levels. The Council may apply a limit to funding. Should an individual choose a care home requiring care fees in excess of these amounts, a Third Party Top Up may be required. The Council's usual weekly price is reviewed annually or as required.
- 6.5 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.
- 6.6 See Appendix for Third Party Agreement Form

## 7. Third Party Payments and Top Ups

- 7.1 An individual may top up care fees exceeding the Council's usual weekly price levels from their own resources only where there is a Deferred Payment Agreement being arranged, where there is sufficient funds/equity to meet the assessed financial contribution and top up for a period of not less than 36 months from the date Local Authority support was agreed and where all terms/conditions for a Deferred Payment Agreement can be fully satisfied.
- 7.2 An individual wishing to top up care fees exceeding the Council's usual weekly price levels from their own resources where there is a Deferred Payment Agreement being arranged may only top up from earnings, income or capital disregarded by the Charging for Residential Accommodation Guidelines (CRAG) or other capital resources including the value of the property subject to the Deferred Payment Agreement providing that their capital limit does not reduce below £14,250 (capital limit for the financial year 2012/2013)
- 7.3 An individual may top up care fees exceeding the Council's usual weekly price levels from their own resources where the individual is subject to the 12 week property disregard.
- 7.4 An individual wishing to top up care fees exceeding the Council's usual weekly price levels from their own resources where the individual is subject to the 12 week property disregard may only top up from earnings, income or capital disregarded under CRAG (with the exception of the value of the property subject to the 12 week disregard) The individual can only top up to the value of the lower capital limit i.e. £14,250 (2012/2013) Where an individual has capital in excess of the lower capital limit and uses these resources to top up care payments, the level of tariff income applying to their financial assessment during the 12 week period would be the same as if the individual were not using the capital for their top up.
- 7.5 Any applications from individuals who wish to top up care fees exceeding the Council's usual weekly price levels from their own resources (where there is a Deferred Payment Agreement being arranged) but there are insufficient funds/equity to meet the assessed financial contribution and top up for a period of not less than 36 months from the date Local Authority support was agreed will need to be agreed by a Service Director (Adults & Family Wellbeing Service)

## 8. Respite (Short Term Care)

### 8.1 Respite – residential or nursing

With effect from 11.4.2011, the County Council has applied 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.

## **9. Residential Colleges**

- 9.1 From 11.4.2011 all new and existing service users attending residential colleges have been financially assessed.
- 9.2 Service users whose income equates to Income Support/ State Retirement Pension levels will be financially assessed as making a nil (£0.00) contribution towards their residential costs.
- 9.3 Service users with income/capital in excess of Income Support/ State Benefit levels will be required to make a financially assessed contribution but consideration will be given to any educational expenses required to support the course they are undertaking. Full details of these expenses and receipts will be required to support the financial assessment.

## **10. Residential Expenses**

10.1 From 11.4.2011 individuals who move from rented accommodation to respite or permanent residential care can request expenses to be considered as detailed below. These must be fully evidenced and receipted.

a) individuals or couples (but only 1 partner can make an expense request) moving into permanent residential care may have their rental housing costs i.e. rent or utilities allowed for a maximum of 4 weeks.

b) individuals requiring respite care may have expenses (not restricted rental housing) allowed for the duration of the respite period.

c) the capital limit currently set at £3000 for these assessments will be increased annually in line with the Department of Work & Pensions 'Lower Capital Threshold' i.e. £14,250 (2012/2013).

## Appendix

### A) Deferred Payment Agreement Form

[Deferred Payment Agreement Final.doc](#)

### B) Third Party Agreement Form

[Third Party Agreement Final.doc](#)

### C) Deferred Payment Scheme :

#### Health And Social Care Act 2001

#### 2001 Chapter 15 – *continued*

#### **Section 55: Power for local authorities to take charges on land instead of contributions**

264. The effect of this section is to make it possible for people going into care to defer selling their homes in order to pay for their care. In effect the local authority will make a loan to the resident and recover the money either from the estate when the resident dies or from the resident if he decides to make a full repayment during his lifetime.

265. Subsection (1) enables local authorities to enter into deferred payments agreements. Subsection (2) allows directions to be made setting out the circumstances in which an authority must enter into these arrangements. Subsection (3) sets out the nature of the deferred payment arrangement. In essence it is an agreement whereby during a certain period of time (the exempt period) a resident will not be required to make the payments, or the whole of the payments, he would otherwise have to make under the means testing regime. Instead the resident will grant the authority a charge over land in respect of such payments. Subsection (4) defines the exempt period. Subsection (5) allows the local authority to determine the provisions of the arrangement subject to any directions given by the Secretary of State or the National Assembly for Wales and provides that the arrangement must allow the resident to terminate the agreement at any time by giving notice and paying the full amount owing.

266. Subsection (6) provides that interest is not to be charged during the exempt period but that a local authority may charge interest after that period at a reasonable rate set out in directions given by the Secretary of State or the National Assembly for Wales or, if no such directions are given, at such a rate determined by the local authority.

267. Subsection (7) enables regulations to define how much of a resident's contributions in respect of his accommodation is to be subject to a deferred payment agreement. It also ensures that additional payments under section 54 (that is, payments to cover the cost of more expensive accommodation) are regarded as contributions in respect of his accommodation for the purposes of this section.

268. Subsection (8) provides that any directions given under the Section are to be given to local authorities generally.

LAC (2001)25: Charges for residential accommodation: CRAG amendment number 15 : Department of Health - Publications

[CI \(2002\)12: Charges for residential accommodation deferred payments scheme : Department of Health - Publications](#)

[http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh\\_4012681.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4012681.pdf)

## **Background Papers**

### **Charging for Residential Accommodation Guide**

[CRAG 31 - 2012 final 2012-03-14.doc](#)