

Royal Borough of Kingston upon Thames

Adult Social Care Charging Policy

2017 (updated July 2019)

1.0 Policy Statement

1.1 This charging policy applies to all adult social care services and support provided or arranged by the Royal Borough of Kingston upon Thames.

1.2 The policy provides details about:

- i. The legal and regulatory context for charging;
- ii. How different types of services and support are charged;
- iii. The financial assessment process, including the review and appeals process;

iv. The technical rules for financial assessment calculations.

1.3 The policy applies from 2 January 2017 and supersedes all adult social care charging policies practiced before this date; namely, the **RBK** Fairer Contributions Policy and the national Charging for Residential Accommodation Guide (CRAG).

1.4 The key aim of the policy is to ensure that where an adult is charged for care and support, that they are charged in accordance with the Care Act and the associated statutory guidance

1.5 The policy aims to be as clear, transparent and comprehensive as possible so people know what they will be required to pay towards the costs of their care and support and are able to understand (with support if necessary) any charges or contributions they are asked to make;

1.6 The policy aims to be consistent and equitable so that those with similar needs and in similar financial circumstances

2.0 The Legal and Regulatory Context

2.1 Sections 14 and 17 of the Care Act 2014 (“the Act”) provide a single legal framework for charging for adult social care and support.

2.2 Section 14 of the Act provides a local authority with the power to charge for meeting needs under sections 18 to 20 of the Act.

2.3 Section 17 of the Act creates a duty for a local authority to carry out a financial assessment which would arise where the local authority thinks that if it were to meet an adult’s needs for care and support, or a carer’s needs for support, it would charge the adult or carer under section 14(1) of the Act.

2.4 The Care and Support *Charging and Assessment of Resources Regulations* are issued *annually and* describe the limitations on local authority powers to make a charge for meeting needs under section 14 of the Act. These regulations provide details about the requirements for carrying out financial assessments for the purposes of section 17 of the Act.

2.5 Section 2(1) of the Act requires a local authority to provide or arrange for the provision of services, facilities or resources (or take other steps) which it considers will contribute towards

preventing, delaying or reducing the needs for care and ² support of adults or for support in relation to carers.

2.6 The Care and Support *Preventing Needs for Care and Support Regulations 2014* describe the rules permitting and prohibiting a local authority for making a charge for the provision of services, facilities and resources under section 2 of the Act.

2.7 The 'Care and Support Statutory Guidance' (CSSG), issued and regularly updated by the Department of Health in support of the Care Act sets out how a local authority should go about performing its care and support responsibilities. This includes details about interpreting and applying the rules relating to charging and financial assessments as defined in both the Act and regulations.

2.8 This policy has been written in accordance with the CSSG and related primary and secondary legislation.

3.0 About RBK adult social care fees and charges

3.1 The Council will arrange support with a suitable provider at the negotiated market rate. and this will be recharged to those service users deemed as self funders

3.2 The Council operates three charging categories for adult social care:

- i. Charging following either a residential (care home) financial assessment or a non-residential financial assessment;
- ii. Flat-rate charges payable without a financial assessment;
- iii. Services or care and support provided free of charge (exempt from charging).

Charging following a financial assessment

3.3 A financial assessment will be carried out for all care and support provided or arranged by RBK that is subject to charging.

3.4 The financial assessment will calculate how much, if anything, a person can afford to pay towards the cost of their care (or contribute towards their personal budget) on a weekly basis. This amount is referred to as the "maximum weekly assessed charge".

3.5 The charge payable by the person will be the *lower* of the cost of care and support

and their “maximum weekly assessed charge”.

3.6 RBK will not charge more than the cost incurred in providing or arranging any care and support which is subject to charging

3.7 The technical rules for the financial assessment differ between care and support provided in a residential care setting (‘care home’) and care and support provided in all other settings (‘non-residential’). Details of the technical rules can be found in later sections of this policy.

3.8 A ‘light-touch financial assessment’ (i.e. treating a person as if a full financial assessment has been completed) can be carried out if either a person signs a declaration to agree to pay the full cost for their care and support or if the person is in receipt of benefits which would demonstrate that they would not be able to contribute towards their care and support. .

3.9 A person who has agreed to a light-touch financial assessment can at any time ³ request a full financial assessment to be carried out.

3.10 Whenever a light-touch financial assessment has been carried out, RBK will advise the person that this is the case and remind them of their right to request a full financial assessment.

3.11 All documentary evidence requested by RBK to complete the financial assessment must be provided. RBK will only ask for documentary evidence that is necessary to complete the financial assessment accurately and comprehensively.

Charging in a residential care setting

3.12 Where The Council carries out a financial assessment for care and support provided in a care home, information and advice will be provided to enable the person to identify options of how best to pay any charge. This may include offering the person a deferred payment agreement. RBK operates a deferred payments policy where further details can be found in the Deferred Payment Policy dated 1 February 2015 .

3.13 A person may choose a care home that is more expensive than the amount identified in their personal budget (i.e. the amount of money RBK would pay towards an appropriate residential placement). In such cases an arrangement will need to be made to ensure that the difference in cost is met and remains affordable. Such an arrangement will be referred to as a “top-up” arrangement or an additional payment . The difference between the actual cost

of the placement and the amount specified in the personal budget is the amount of 'top up' payment required. Refer to the Council's Additional payment procedures for further details

3.14 Where a person receives respite care the Council will, apply the charging rules for clients living outside of a care home (non-residential services).

3.15 Care Homes include educational placements where residential services are also being provided.

Temporary Residents

3.16 A temporary resident is defined as a person whose need to stay in a care home is *intended* to last for a limited period of time and where there is a plan to return home. The person's stay is unlikely to exceed 52 weeks,

3.17 In some cases a person may enter a care home with the intention of a permanent stay but a change in circumstances may result in it being temporary. In such cases the Council may consider treating the person as temporary from the date of admission for the purposes of charging.

3.18 Similarly a stay which was initially intended to be temporary could become permanent. In such cases, the financial assessment of the person as a permanent resident will only be from the date that the care plan is amended and agreed with the person and/or their representative.

3.19 All temporary residents who are placed for a trial period will be financially assessed from their date of admission but will have allowable expenses included in their 4 assessment .

Permanent Residents

3.20 Permanent Residents may be subject to several financial assessments in the first few months of becoming resident. This is due to changes in benefit income which will result in the need for a new financial assessment for each change.

3.21 In the first four weeks any element of AA, DLA (care component) or PIP (Daily Living

component) and the Severe Disability Premium of Income Support/ Employment Support Allowance/Pension Credit in payment will be included as income in the a financial assessment. The Enhanced Disability Premium of Income Support will also be included.

Charging in a non-residential care setting

3.22 Care and support received outside of a Care Home setting and includes support in a person's own home or in other community based accommodation such as Supported Living, Day Care, Transport Services or Adult Placement Scheme.

3.23 Respite care of less than 8 consecutive weeks is treated as a non-residential service for financial assessment purposes.

3.24 The financial assessment for non-residential services will **exclude** the value of the property in-which the service users lives as their main or only home.

3.25 Any *additional* property owned or partly owned by the client will be taken into account in the financial assessment.

Flat rate charges

3.26 The Council provides and arranges services that are charged at a flat-rate amount, paid by everyone regardless of their financial means (i.e. not subject to Financial Assessment). These include (prices applicable April 2019)

i). A one off administration charge for deferred payment agreements (£621) excluding valuation fee

ii) An Initial Set up Fee of 275 plus VAT introduced from 2 January 2017. The set up fee is applicable to non residential care service users who are required to pay the full cost for their care .and have the capacity to manage their finances (i.e self funders)

iii) An ongoing weekly management fee (£10 + VAT) introduced on 2 January 2017 , The management fee is applicable to non residential care service users who are required to pay the full cost for their care and have the capacity to manage their finances (i.e self funders)

iv) A set up fee for all interim funding arrangements

Services or care and support provided free of charge

3.27 Care and support provided to meet eligible needs that are normally subject to charging will be provided free of charge if one of the following circumstances applies:

- i. The person is suffering from a variant of Creutzfeldt-Jakob disease (CJD);
- ii. The person is eligible for aftercare services or care and support provided under section 117 of the Mental Health Act 1983;
- iii. The person's income is equivalent to or less than basic income support or the Guarantee Credit of Pension Credit levels, plus a 25% buffer.

3.28 The Council does not charge for the following types of services:

- i. The provision of community equipment (aids and minor adaptations) with a value or cost of less than £1,000;
- ii. Up to the first 6 weeks of the provision of intermediate care and/or reablement care and support services. This exemption does not apply to any care and support that was already in place prior to the commencement of a period of intermediate care and/or reablement;
- iii. Any service or part funded service which the NHS is under a duty to provide. This includes Continuing Healthcare and the NHS contribution to Registered Nursing Care;
- iv. Any assessment of needs and care planning;
- v. Any advice or assessments, occupational therapy or welfare benefit checks.
- vi) Services or a Direct Payment provided to unpaid carers.

4 Unplanned changes to services

4.1 The service user's contribution continues to be payable for as long as the support is

commissioned. However there are scenarios where the weekly contribution is not payable.

These are:

- Suspension of care packages commissioned by the Council
- A move into a residential care home for a period of more than 2 weeks or permanent placement
- Following notice of change in financial circumstances which demonstrates an inability to pay the assessed contribution

The customer should therefore inform the Council of any changes in their personal circumstances which are likely to affect their liability or ability to pay the assessed contribution.

4.2 Service users who are not required to pay the actual cost of their care and support are required to pay their contribution for the duration of their costed support plan. Users will continue to pay the same contribution irrespective of whether the services delivered to meet the support plan change

4.3 Service users paying the full cost of their service (i.e self funders) will be required to pay the actual cost of the service paid by the Council . An administration fee is also applicable together with an initial set up fee (see paragraph 3.27)

4.4 If RBK incurs additional costs where planned services were not used or cancelled in advance, these costs will be deemed to be services that have been delivered in accordance with the service user's support plan. Such costs are therefore subject to normal charging rules applicable to self funders. The Council may waive these charges where the circumstances that led to the non-delivery of service were unforeseen and beyond the control of the service user.

4.5 RBK may, in some circumstances, increase the level of care and support on a temporary basis in addition to an individual's personal budget. This could be for example, where an individual's needs or circumstances have unexpectedly changed for a short time period, and/or where an individual is awaiting a reassessment following a change in needs or circumstances. These services will be subject to charging rules in the normal way for those users who are deemed to be self funding

5 About the financial assessment

5.1 The client is deemed to be an individual. The Care Act 2014 states that a local authority has no power to financially assess couples or civil partners according to their

joint resources and each person must be assessed as an individual. Therefore where capital is held and income is received on a joint basis the council will regard this as being held or received equally and apply a 50:50 split. If there is information to the contrary (e.g where the only income received to a bank account is from one source) then the council will treat the capital or income according to that information and explain the rationale behind any decision made (e.g to include 100% of the balance of a joint account within the financial assessment) Where a recipient of non residential care is living with a partner the thresholds applied by the DoH will be applied in the charge calculation For this policy a couple is defined as two people living together as spouses or partners

5.2 A financial assessment is based on the person receiving the care and support. This means that only finances relating to the person are considered in the financial assessment. Only the income of the service user can be taken into account in the financial assessment.

5.3 If both members of a couple receive a service they will be assessed as a couple, with the appropriate disregards for a couple.

5.4 Couples include married, registered civil partners and co-habiting couples who would be treated as such by the DWP for benefit purposes. If two people maintain separate financial arrangements and would not be treated as a couple by the DWP then they will be treated as individuals for the purpose of the financial assessment.

5.5 Where only one member of the couple receives services, the Council's will ask for details of where he or she is in receipt of joint income only for example ESA/Income Support / Pension Credit.) *Where a service user receives income as one of a couple the starting assumption is that the user has an equal share of the income*

When assessing one member of a couple the following is taken into account

- 100% of solely owned and 50% of all jointly owned capital and savings
- All assessable income appropriate to the service user
- An allowance will be made for 50% of the couple's total joint basic household
- expenditure by applying half the Couple's Minimum Income Guarantee (MIG) for the appropriate age band

5.6 The Minimum Income Guarantee (MIG) allowance that is used in the financial

assessment where that individual is part of a couple will be that shown in the Care and Support (Charging and Assessment of Resources) Regulations relating to an adult who is part of a couple. However if the partner of the individual is on a low income, the couple may request an 'affordability check' to ensure that the Minimum Income Guarantee allowance is sufficient to maintain the couples' joint financial resources above Department for Work and Pensions minimum benefit levels

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5.7 Where a service user is resident in a care home and is paying half their occupational or personal pension or retirement annuity to a partner who is not living in the same care home, the Council will disregard this money.

5.8 If the service user's charge calculation has the potential to detrimentally affect the partner's finance and living circumstances a review of the charge via a full couple's assessment can be considered. This will mean that the service user's partner will be required to make a full declaration of his/her finances via completion of a financial assessment form

Mental capacity

5.9 Where a person lacks capacity, The Council will still financially assess the person to determine if they can contribute towards the cost of their care. In these circumstances, The Council will work with the individual who has the legal authority to make financial decisions on behalf of the person who lacks capacity.

For example:

- a. Enduring Power of Attorney (EPA);
- b. Lasting Power of Attorney (LPA) for Property and Affairs;
- c. Lasting Power of Attorney (LPA) for Health and Welfare; d. Property and Affairs Deputyship under the Court of Protection; or
- e. Any other person dealing with that person's affairs (e.g. someone who has been given appointee-ship by the Department for Work and Pensions (DWP) for the purpose of benefits payments).

5.10 If a person is found to lack capacity with respect of their financial assessment and there is no such person who has the legal authority to make financial decisions on their behalf,

then an approach to the Court of Protection will be made by RBK, if there is no other suitable third party to do this.

5.11 Where a person has mental capacity, they may declare their consent for another person to act as their financial representative. Where consent has been given, The Council will work with the financial representative on matters concerning the person's financial affairs.

Benefits check

5.12 The Council will offer a welfare benefits check as part of the financial assessment process. If this is not possible it will signpost users to partner organisations who can assist in making benefit claims and completing Financial Assessments

These partner organisations are

- Staywell (formerly Age Concern) - for older people
- Citizens Advice Bureau - for working age people
- Kingston Carers Network - for Carers

5.13 If agreed, the Council will check to ensure that the service users is in receipt of all benefits to which they may be entitled. If it is identified the service user is entitled to additional benefits, the council will offer to help the person to complete the appropriate forms or signpost to the partner organisations listed above in paragraph 5.7

5.14 Charge assessments will include underlying benefit entitlement. For non residential care services benefit income will be included from the first date of payment

Financial assessment rules

5.15 This section describes some of the key rules for carrying out of a financial assessment.

5.16 The treatment of capital is made in accordance with Annex B of the Care Act Statutory Guidance

Capital limits and tariff income

5.17 Capital limit thresholds are issued by the Department of Work and Pensions (DWP) annually.

These will also be published annually as part of RBK's schedule of adult social care fees and charges.

5.18 If the value of a person's combined qualifying capital is in excess of the *upper capital limit*, a financial assessment will deem that they pay the full cost for the care and support services they receive. These users are deemed as self funders

5.19 If the value of a person's combined qualifying capital is below the *lower capital limit*, their capital is disregarded in their financial assessment. Service users with savings below the lower threshold are free to spend their savings as they see fit (for example on funeral plans)

5.20 If the value of a person's combined qualifying capital is between the *lower capital limit* and *upper capital limit*, a tariff income of £1.00 is calculated for each £250.00 in savings between these limits. Tariff income is treated as weekly income in the financial assessment.

5.21 Where a person is benefiting from a 12-week property disregard and has chosen to pay a "top-up" fee from their capital resources, the level of tariff income that applies during those 12 weeks is the same as it would be if the person were not using the capital to "top-up".

Property

5.26 The value of a person's main home in which they live is disregarded in a non-residential financial assessment. However, any property ownership that is additional to the person's main home, will be treated as available capital in the financial assessment. Where additional property is taken into account in a non-residential financial assessment, the same rules used to determine the treatment of property in a residential financial assessment will be used.

5.27 For permanent residential financial assessments, all property owned by the person, either in part or in full, will be treated as available capital when calculating an assessed charge.

12 Week Property Disregard

5.28 The Council must disregard the value of a person's main or only home when the value of their non-housing assets is below the upper capital threshold, for 12 weeks in the following circumstances:

- When they first enter a care home as a permanent resident; or
- When a property disregard other than the 12 week property disregard unexpectedly ends because the qualifying relative has died or moved into a care home.

5.29 The Council has discretion to choose to apply the disregard when there is a sudden and unexpected change in the person's financial circumstances, for example, a fall in share prices or an unanticipated debt. The Council will consider such cases on the individual circumstances of each case.

5.30 After 12 weeks any property that has been disregarded will either be subject to an ongoing mandatory disregard as defined in the Care Act 2014 or if the property has not been sold a revised assessment will need to be finalised and a Deferred Payment offered. (see the Deferred Payment Policy dated 1 February 2015)

5.31 There are certain conditions when the Council can apply a discretionary property disregard. These are outlined in Annex B paragraph 42 of the Statutory guidance

Deprivation of assets

5.32 Deprivation of assets means where a person has *intentionally* deprived or decreased their overall assets in order to reduce the amount that they are charged towards their care. This means that they must have known that they needed care and support and have reduced their assets in order to reduce the charge they are asked to make towards the cost of that care and support.

5.33 There may be many reasons for a person depriving themselves of an asset. The Council will follow the guidance set out in the Care Act 2014 to decide whether deprivation for the purpose of avoiding care and support charges has occurred and whether or not to treat that person as still having the asset for the purpose of a financial assessment.

5.34 Where an asset has been transferred to a third party to avoid the charge, that third party is liable to pay the Council the difference between what it would have charged and has charged the person receiving care

5.36 It is possible for a person to deliberately deprive themselves of income. For example they could give away or sell the right to an income from an occupational pension. The Council will follow the guidance in the Care Act 2014 to make a decision on whether to treat someone as receiving a notional income in their financial assessment

5.37 Decisions regarding deprivation will be based on the Care Act Statutory Guidance (annex E) it will be the responsibility of the Service user to demonstrate that the decision to deprive his or herself of an asset was made other to avoid paying for care and support

5.38 In all cases of a dispute it is up to the service user to prove to the Council that they no longer possess an income or asset.. The council will use provisions detailed in the Care Act and any other relevant legislation including the Regulation of Investigatory Powers Act 2000 should any issues of deprivation of capital arise

Safeguarding and the Financial Assessment Process

5.39 Under sections 42-47 of the Care Act 2014 the Council has a duty to safeguard adults at risk of abuse or neglect. This includes financial abuse. In these circumstances in accordance with the council's safeguarding procedures the Council may need to share information with the Office of the Public Guardian or the Department of Work and Pensions in relation to any state benefits received

5.40 The Council recognises that Financial abuse will not occur in most circumstances but reserves the right to make these checks in order to protect service users from yje risk of potentially significant impact

Full cost charging

6.1 A "full cost" financial assessment means that the person is required to pay the full amount of all qualifying charges for any care and support they receive. Otherwise known as self funders The Council will treat a person as a self funder and being able to pay the "full cost" of their care where the service user:

- i. choose not to disclose their financial information to enable a full financial assessment;
- ii. fail to co-operate and/or do not provide a completed financial assessment form within 14 days 10 of agreeing a support plan or the commencement of chargeable services (whichever is sooner);
- iii. Sign a declaration that they are happy to pay the full cost of services received;
- iv. Have in excess of the upper capital limit in savings and/or capital assets; or
- v. Receive a full financial assessment that deems they are assessed to contribute the full cost for their care and support

Income

6.2 Full treatment of different types of income in the financial assessment, including any capital treated as income, is treated in accordance of the Care Act Statutory Guidance (annex C)

- I. Income is calculated on a weekly basis for the purpose of the financial assessment.
- II. Income will always be taken into account unless otherwise stated.
- III. Income includes tariff income (see section 5).

Backdating charges

6.3 Charges will commence from the date that the Council commences funding. Charges will not be collected from the service user until a financial assessment has been carried out. Service Users unable to pay any arrears in one go will be permitted to pay these these in instalments during a period negotiated and agreed with the Council's Accounts Receivable Team

7.0 Financial assessment calculation

7.1 Once the financial assessment form is completed and the Council is satisfied that all supporting documentation has been supplied and verified, a calculation of income, expenditure and allowances will be made to work out how much money the person can afford to contribute on a weekly basis towards the costs of their care and support.

The calculation

7.2 The assessment calculation for non residential care is summarised as follows

- Assessable Income
 - **Less**
 - Daily living allowance
 - Housing Costs
 - Disability Related Expenditure
 - Other allowable expenses =
- Assessed Charge**

Certain items of expenditure will be offset against income, in addition to the daily living allowance providing that satisfactory evidence is provided for the assessment.

Housing and other allowable expenses include:

- Rent net of Housing benefit
- Council tax net of Council Tax Benefit
- Mortgage Payments
- Child Support Agency Payments
- Court Imposed maintenance
- House Insurance – buildings
- Ground Rent and Service Charges for Leasehold properties
- Disability Related Expenditure Allowance
- Payments in respect of County Court Judgements (CCJ's)

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Please see Annex B for information regarding Disability Related Expenditure

As part of the financial assessment, any calculation that results in a fraction of a penny will be rounded either up or down to the advantage of the person.

7.3 The Assessment Calculation for Residential Care is summarised as follows

Assessable Income less Personal
Expenses Allowance (PEA) =
Assessable Income

Expenditure in care homes

7, 4 Where the person is living permanently in a residential care home, it is not anticipated that expenditure is allowable within the financial assessment beyond the standard PEA. This is because the care provided within the care home setting is deemed to cover all of the person's general living costs.

Expenditure in non-residential settings

7.5 Expenditure in non-residential settings (i.e. any setting other than a care home) refers to any housing-related costs which the person is liable to meet in respect of their main or only home. or disability related expenditure

7.6 All expenditure is calculated on a weekly basis for the purpose of the financial assessment.

7.7 Each type of expenditure will be considered on its own merits depending on the circumstances of the person's situation. However, the following types of expenditure will normally be allowable within the financial assessment:

i. Rent – the full amount payable less any Housing Benefit, less ineligible service charges, divided by the number of adults eligible for payment;

ii. Council Tax – the full amount payable less any Council Tax Benefit, divided by the number of adults occupying the property;

iii. Mortgage repayments – the full amount payable divided by the number of adults eligible for payment;

iv. Ground rent and maintenance for leaseholders – the full amount payable excluding costs already allowed under the basic allowance such as water, electricity, etc., divided by the number of adults occupying the property;

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7.8 The Council will make allowances Disability related expenditure in accordance with the Care Act Statutory Guidance (See Appendix B for further details). Receipts will be requested in support of all expenses claimed. If receipts have not been kept prior to the initial financial assessment, receipts should be kept in support of future expenses.

Allowances in care homes

7.9 An allowance in a care home (whether a permanent or temporary stay) is often referred to as a Personal Expenses Allowance (PEA). The PEA is intended to leave the person with a minimum guaranteed level of income to spend as they wish, and so is disregarded in the financial assessment.

7.10 If a person has signed a deferred payment agreement, the level of PEA will be agreed between The Council and the person, up to the maximum PEA level of £144.00 per week in accordance with the current Deferred Payment Policy dated 1 February 2015. The Council will

publish the PEA amount as part of its annual review of fees and charges.

7.11 In some exceptional circumstances, The Council may agree to a higher PEA than the published amount either on a temporary or indefinite basis. An ASC Care Manager can make a recommendation to alter the PEA in a financial assessment where deemed necessary. The recommendation will be considered by the Head of Service and ratified if in agreement.

7.12 The Council may consider making allowances for ongoing housing costs for the period of notice applicable to a tenancy agreement. A 4 week " Notice to Quit " must be given once a resident is deemed as requiring permanent residential care. Allowances of additional housing costs can therefore be made for this period of notice

Daily Living Allowance applied in a non-residential setting

7.13 A daily living allowance in non-residential settings (i.e. any setting other than a care home) is the amount of money required to meet day-to-day living costs. The allowance is therefore disregarded in the financial assessment.

7.14 The allowance must be at least the amount of the Minimum Income Guarantee set out in the Care and Support (Charging and Assessment of Resources) Regulations published annually The amount depends on a person's age .

7.15 RBK will publish a list of allowances with qualifying criteria as part of its annual Fees and Charges review. There are as updated in accordance The Care and Support Charging and Assessment of Resources Regulations annually

Confirmation of assessed charge

7.16 Once the financial assessment has been processed, The Council will send a written record to the person or their appointed financial representative. The written record will show:

- I. any figures used within the calculation;
- ii. The method of calculation;
- iii. The maximum weekly assessed charge calculated by the financial assessment;
- iv) . details about paying charges

8 Review of Financial Circumstances

8.1 A financial assessment can be reviewed at any time. This can be initiated by either the Council or the person. In general, a review is normally triggered:

- i. Annually at the start of each financial year;
- ii. Following a change in the person's financial circumstances;
- iii As part of the annual financial Health Check
- iv. Where a person feels that their assessed charge has not been calculated properly

8.2 Service Users should inform the Council as soon as their financial circumstances change as this may affect their assessed charge or at the time of the annual review process when a review form is issued for completion. This specifically includes receipt of additional income or if they believe that a change will result in a reduction to their financial assessment and want it to be applied immediately.

8.3 Following notification of a change or a review, a new financial assessment will be completed and written notification of the outcome will be sent.

8.4 If the revised assessment results in an increase in the weekly charge, the revised charge will be backdated to the date of the change in circumstances (E.g. Benefit Award) or from the start of the new financial year as part of the annual review process

8.5 If the revised assessment results in a decrease in the weekly charge, this will be backdated to one month before the date of the review or the date that the Circumstances changed, whichever is the later date.

8.6 The assessed charge may be reviewed at any time. Occasions that may instigate a review include:

- A request from the person receiving care or their authorised representative following an award or withdrawal of a benefit
- When new information is received as to the person's income and expenditure

8.7 A financial Health Check will be undertaken annually as part of the Care Needs Review. This may identify any changes in benefit entitlement or increases in allowable expenditure (e.g. Disability Related Expenditure). The Finance Health Check may necessitate a review of the current charge assessment

9.0 Collection of Charge

9.1 When an individual chooses to take their personal budget as a form of direct payment, assessed charges are deducted from the personal budget amount and a net payment is made. Direct payments are paid 4 weekly in advance

9.2 When an individual chooses for RBK to provide or arrange services using their personal budget, *either an* invoice is sent to clients requesting the payment of their personal contribution *or in some exceptional cases, providers may be paid net of the contribution*. This will include any charges ¹⁴ associated with any other financially assessed services and/or any flat-rate charges where applicable.

9.3 Where a client has entered a deferred payments agreement the agreed level of weekly charge will be paid by the client directly to the care provider, unless otherwise agreed. The agreed level of deferred fees will be secured and collected in accordance with RBK's deferred payments policy.

9.4 Invoices can be paid by various payment methods and details of these are shown on the back of the invoice.

9.5 RBK has a policy of pursuing settlement of outstanding invoices. The Council's payment terms are payment within 30 days from date of invoice

9.6 If payment is not made for an invoice a reminder and recovery/enforcement process is initiated in accordance with RBK's Adult Social Care Debt Recovery Procedures following best practice as outlined in Appendix D of the Care Act Statutory Guidance.

10.0 Review and Appeals Process

10.1 If an individual is unhappy about the outcome of their financial assessment, they may start the review and appeals process which is described below.

Stage 1 - Review

10.2 At the review stage a Senior Finance Support Officer will review the issue(s) raised by the individual and consider any new financial information provided. The Officer will also check to ensure the Charging Policy has been applied correctly.

Stage 2 – Appeal

10.3 If the complainant still disagrees with the reviewed charge or personal contribution, an appeal can be requested.

10.4 At the appeal stage a Service Manager from ASC will review the charge calculation seeking clarification from the ASC Finance Manager as required

10.5 The appeal process can take up to 28 days from the time the completed appeals form is received, to the time the individual is informed of the outcome.

About the review and appeal process

10.6 Confirmation of the outcome at each stage of this process is communicated with the individual.

10.7 The individual will continue to be charged the original assessed amount during the review and appeal process.

10.8 If after the review and appeal the Council asks the person to pay a different weekly charge or personal contribution, the difference will be backdated. Any overpaid charges or contributions will be refunded.

10.9 If a waiver of the assessed charge is recommended this will need to be ratified by the Executive Director Adult Social Care. Waivers should be reviewed regularly so the circumstances under which the decision was originally made remain.

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10.10 If an individual is still unhappy with their assessed charge following a review and appeal, the can still access the statutory complaint procedure and are advised to contact the Local Government Ombudsman.

10.11 There are three Local Government Ombudsman in England. Each of them deals with complaints from different parts of the country, but all new complaints will go to the LGO Advice Team. Complaints can be made over the telephone or sent to:

The Local Government Ombudsman PO Box
4771 Coventry CV4 0EH Tel: 0300 061 0614
Fax: 024 7682 0001 Enquiries by email to
advice@lgo.org.uk

Appendix A

Example Contribution Calculations

Charges other than in a care home

In this Appendix, income means the total money a person receives that is taken into Account in the calculations and allowances mean the minimum total income a person is Allowed to keep before a charge is required.

Examples use 2016/17 Benefit rates

Example 1 Single person pensionable age no disability-related benefit

Income State Pension
£115.95 Pension Credit £
35.25 Total Income =
£151.20

Allowances Pension Credit Guarantee
£151.20 Plus 25% Buffer £ 37.80 Total
Allowances = £189.00

As the income is less than allowances no charge will be payable by the person

Example 2

Single person aged between 18 and pensionable age + DRE of £30.00

Income ESA (Income related) £109.30
Disability Living Allowance £ 55.10
Total Income = £164.40

Allowances Basic Income Support
£105.45 Plus 25% Buffer £ 26.36

DRE £ 40.00 Total Allowances =
£171.81

As total income is less than allowances no charge will be payable by the person

Example 3

Single person over pensionable age + DRE of £5.50

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Income Retirement Pension
£135.00 Occupational Pension £
25.00 Attendance Allowance £ 55.10
Tariff income (On Capital of
£18,000) £ 16.00 Total Income =
£231.10

Allowances Basic Pension Credit
£151.20 Plus 25% Buffer £ 37.80
DRE £ 5.50 Total Allowances =
£194.50

Assessed maximum charge = **£36.60** per week (i.e. the difference between Total
Income and Total Allowances)

Example 4

Single person over pensionable age, with Attendance Allowance + DRE of
£32.20

Income Retirement Pension £115.95 Pension Credit (Inc.
Severe disability Premium) £ 97.10 Attendance Allowance
£ 55.10 Total Income = £268.15

Allowances Basic Pension Credit
£151.20 Plus 25% Buffer £ 37.80
DRE £ 32.20 Total Allowances =

£221.20

Assessed maximum charge= **£46.95** per week (i.e. the difference between Total Income and Total Allowances)

Charges in a care home

Single person pensionable age

Income State Pension

£115.95 Pension Credit £

35.25 Total Income =

£151.20

Allowances PEA £ 24.90 Total

Allowances = £ 24.90

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As the income is more than the PEA a charge of **£126.30** per week will be payable by
The person

Disability related expenditure

1. Expenditure allowable in a non-residential financial assessment can include any living costs associated with an individual's disability or infirmity. This may reduce the person's maximum weekly assessed charge.

2. This list is not exhaustive and any reasonable additional costs directly related to a person's disability should be included:

1. payment for any community alarm system
2. costs of any privately arranged care services required, including respite care
3. costs of any specialist items needed to meet the person's disability needs, for example:
 - (i) Day or night care which is not being arranged by the local authority
 - (ii) specialist washing powders or laundry
 - (iii) additional costs of special dietary needs due to illness or disability (the person may be asked for permission to approach their GP in cases of doubt)
 - (iv) special clothing or footwear, for example, where this needs to be specially made; or additional wear and tear to clothing and footwear caused by disability
 - (v) additional costs of bedding, for example, because of incontinence
 - (vi) any heating costs, or metered costs of water, above the average levels for the area and housing type

- (vii) occasioned by age, medical condition or disability

- (viii) reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by the individual's disability and not met by social services

- (ix) purchase, maintenance, and repair of disability-related equipment, including equipment or transport needed to enter or remain in work; this may include IT costs, where necessitated by the disability; reasonable hire costs of equipment may be included, if due to waiting for supply of equipment from the local council

- (x) personal assistance costs, including any household or other necessary costs arising for the person

- (xi) internet access for example for blind and partially sighted people

- (xii) other transport costs necessitated by illness or disability, including costs of transport to day centres, over and above the mobility component of DLA or PIP, if in payment and available for these costs. In some cases, it may be reasonable for a council not to take account of claimed transport costs – if, for example, a suitable, cheaper form of transport, for example, council-provided transport to day centres is available, but has not been used

- (xiii) in other cases, it may be reasonable for a council not to allow for items where a reasonable alternative is available at lesser cost. For example, a council might adopt a policy not to allow for the private purchase cost of continence pads, where these are available from the NHS

Appendix C

Glossary of Terms

Income Support refers to the basic level of Income Support **or** guarantee level of Pension credit (for people over pensionable age). The amount considered 'basic' is determined annually by the Department of Work and Pensions.

Capital Thresholds levels are set by Government and reviewed annually. A person with capital above the upper threshold will be deemed to be able to afford the full cost of their care. Any capital below the lower threshold will be disregarded

Care Home refers to either a residential home, nursing home or residential college.

Day Care Services are for the elderly and people with disabilities and offer a range of activities and college tutored courses.

Deferred Payment is a means of delaying the cost of care and support until a later date.

Direct Payments are payments made to a person to allow them to arrange their own support needs rather than services being provided directly by the Council

Guarantee Credit (Pension Credit Guarantee) Replaced Income Support for people over pensionable age. If your income is below a certain level, the guarantee credit makes up the difference.

Income Support A benefit for people with a low income. It can be paid on its own if you have no other income or it can top up other benefits or earnings to the basic amount the law states people need to live on.

Personal Budgets are an allocation from the Council to a person eligible for social care support based on an assessment of need. The person can use this allocation in the most appropriate way to meet his support needs, either by deciding what services the Council should provide or, if they would like to obtain the services themselves, by receiving a Direct Payment.

Personal Expense Allowance is the level of income set by Government that someone

in a care home must be left with after charges have been deducted

Minimum Income Guarantee (MIG) is the level of income set by Government that someone in a non care home setting must be left with after charges have been deducted. Applicable to people who have capital below the upper capital threshold level, the MIG ensures that a person is left with a level of income at least equal to the *basic income support* (explained above) plus a 25% buffer.

Tariff Income is the where a person with capital between the lower and upper capital level (£14,250 and £23,250 based on the 2014 - 2015 rates) will be deemed as able to make a Contribution known as “tariff income” from their capital

