

# **London Borough of Merton** **Charging Policy for Adult Social Care** **April 2018**

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## **1. Introduction**

Local Authorities have discretionary powers to charge adults receiving care services under section 14 of the Care Act 2014.

Section 14 of the Care Act 2014 gives councils the power to charge adults for care and support. This applies where adults are being provided with care and support to meet needs identified under Section 18, Section 19 or Section 20 of the Care Act 2014. These needs are sometimes referred to as 'identified needs' or 'eligible needs'.

Councils are required to carry out a financial assessment to work out what an individual can afford. This policy will be used when calculating an individual's contribution to their social care package, including their personal budget allocation or traditional social services.

The legislation, regulations and guidance that apply within this policy are;

- Care Act 2014
- The Care and Support (Charging and Assessment of Resources) Regulations 2014.
- The Care and Support and After-care (Choice of Accommodation) Regulations 2014
- Care and Support Statutory Guidance Chapter 8 and Annex A-F

## **2. Principles of the Policy**

A key principle applied in this policy is that charges will be based on the full cost of the services being received and a person will pay 100% of this charge where they have been assessed as being able to do so.

The following aims and principles are adopted to ensure a person pays the correct charges:

- Individual financial assessments will ensure that a person contributes in line with their ability to pay. This will be calculated using national guidelines and this policy.
- The full financial assessment will ensure that a person will retain some income. This level is set by the Department of Health and is known as the Personal Expense Allowance (PEA) when in residential care and the Minimum Income Guarantee (MIG) when receiving non-residential care.

- Merton Council will carry out a welfare benefit check on every customer at the time of assessment to ensure income maximisation.
- A person has the right to decline a full financial assessment. If they do, they will be required to pay the full cost of their care.
- Where a person does not provide the Council with sufficient information to determine how much they can pay towards their care, they will be required to pay the full cost of their care.

### **3. Chargeable services**

In summary residential care and most non-residential services funded by the Council to meet assessed social care and support needs.

The following list of services provides examples of services that are chargeable, subject to a completed financial assessment, and is not intended to be a comprehensive list of all chargeable services.

- Permanent residential and nursing care accommodation
- Respite stays
- 24 Hour live in care
- Short term breaks
- Home care services  
For example: Personal assistants to enable the person to maintain their independence in their own home.
- Day Centre attendance
- Day Centre Transport
- Supported Living and Extra Care Housing
- Assistive Technology/MASCOT
- Adaptations to the home costing £1,000 or more
- Deep Clean services
- Sitting services
- Shared Lives
- Deferred Payment Agreements (Set-up fee, Administration costs)

### **3.1 Exemptions from the Charging Policy**

In accordance with the Care Act, care and support provided to meet eligible needs that are normally subject to means tested charging will be provided free of charge if one of the following circumstances applies;

- The person is suffering from a variant of Creutzfeldt-Jakob disease (CJD);
- The services are aftercare services and support provided under section 117 of the Mental Health Act 1983;
- 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 (may be frozen at any financial year).

The local authority must not charge for the following types of care and support which must be arranged free;

- The provision of community equipment (aids and minor adaptations) with a value or cost of less than £1,000;
- Intermediate and reablement care is free for a maximum of 6 weeks but in certain circumstances may be for a longer period
- 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;
- After-care services provided under section 117 of the Mental Health Act 1983
- Any costs associated with carrying out social care assessment of needs including the provision of advocacy services, care planning and review.

## **4. Financial Assessments for Home Care services**

A financial assessment is a way of looking at the person's financial situation to decide how much you can afford to pay towards your care and support. We won't ask you to pay more than this amount. The financial assessment will follow the requirements of the Care and Support (Charging and Assessment of Resources) Regulations 2014 and Care and Support Statutory Guidance and requires a person to supply appropriate information. This information is used to calculate what, if anything a person may have to pay towards a service.

The financial assessment will be undertaken in accordance with Sections 14 and 17 of the Care Act 2014 and will comply with the detailed guidance set out in Annex B and C of the Care Act statutory guidance.

If a customer does not wish to have a financial assessment, they will be expected to contribute the full amount of their personal budget.

#### **4.1 Providing information to the Council**

Customers will be asked to complete a financial assessment form (fc2a) detailing their income, savings and expenditure. Customers will need to provide related documents including six months' bank statements. Customers will be offered support to complete the form and assist with welfare benefit checks.

The collection of information for the financial assessment may be undertaken in different ways including:

On-line	Sent a link to an on-line form to give information
Post	Sent a form to give information and return by post
Telephone	Information may be given over the telephone
Face to face - Council Offices	Appointments are available daily at the Civic Centre offices to assist with completion of the form
Face to face – Home Visit	Where there are complex circumstances or customers would have difficulty in using other forms of assessment, customers may be given an appointment and an officer will visit to collect information

Customers have the right not to provide details about their financial circumstances, in such cases they will be deemed as able to pay for their care costs in full.

#### **4.2 Failure to provide information**

The onus is on the person or their representative to provide all information required for a financial assessment.

Following the National Care and Support Statutory Guidance Section 8 Paragraph 18; *At the time of the assessment of care and support needs, the local authority must establish whether the person has the capacity to take part in the assessment. If the person lacks capacity, the local authority must find out if the person has any of the following as the appropriate person will need to be involved:*

- *enduring power of attorney (EPA)*
- *lasting power of attorney (LPA) for property and affairs/health and welfare*
- *property and affairs deputyship under the Court of Protection*
- *any other person dealing with that person's affairs (for example, someone who has been given appointeeship by the Department for Work and Pensions).*

The Financial Assessment Team will liaise with social services to ensure we are working with the correct person or representative.

A person who has mental capacity to manage their finances or their authorised representative who is responsible for their finances is considered to have refused to co-operate with a financial assessment if he or she without good cause, fail to participate in the assessment process within a stated time scale. This includes where a person;

- Does not agree an appointment to allow the Council to obtain necessary information for an assessment or review despite there being two requests to do so.
- Fails to keep a pre-arranged appointment for the purpose of obtaining information for an assessment or review.
- Fails to provide satisfactory proof of income, capital, expenditure or other information following a written request from the Council.
- Fails to complete and return a financial form either by post or on-line where requested to obtain necessary information for an assessment or review.

In these cases, the 28-day full cost procedure will be applied.

#### **4.3 Full costing due to non-compliance/Light Touch Assessments**

In line with the Care and Support (Charging and Assessment of Resources) Regulations 2014 - *Circumstances in which an authority is to be treated as having carried out a financial assessment (including light touch assessments)*

*10.—(1) A local authority is to be treated as having carried out a financial assessment in an adult's case and being satisfied on that basis that the adult's financial resources exceed the financial limit(17) where—*

*(a) the adult has refused a financial assessment; or*

*(b) the authority has been unable to carry out a full financial assessment because of the adult's refusal to co-operate with the assessment and the local authority nevertheless decides to meet some or all of the adult's needs for care and support, or for support.*

The timeline is as follows;

1. FC2A Financial Assessment form sent to customer for completion.
2. Customer will be given a phone call reminder after 7 days.
3. A chase letter will be posted after a further 7 days.
4. During this time, The Financial Assessment Team will contact the allocated Social Worker/Team to enquire about mental capacity or any circumstances that may be delaying the return of the form.
5. Assess at Full Cost - If there is still no response to our requests after 28 days, we will write to inform the customer that a light-touch assessment has taken place due to the refusal to co-operate with the assessment, and they have been deemed able to pay the full amount for their services. The letter will make clear that they have the right to request a full financial assessment should they so wish.

#### **4.4 Calculating Charges**

The financial assessment will consider the person's income, capital and in some cases appropriate expenses.

Where capital included is above the upper limit the person will pay the full cost of the care.

Where capital is below the upper capital limit the basic principles of the financial assessment calculation are:

Income *minus* Expenditure *minus* Allowances *equals* Client contribution

We use this information to calculate the person's 'Assessed Maximum Weekly Contribution'. This is the most the person would be asked to pay towards their care and support. If their care and support costs less than their 'Assessed Maximum Weekly Contribution', the person would pay the lower amount.

#### **4.4 Income**

The treatment of capital and income will be undertaken in accordance with Sections 14 and 17 of the Care Act 2014 and will comply with the Care Act Regulations and the detailed guidance set out in Annex B and C of the Care Act statutory guidance

We will need to have details of the person's income from all sources such as;

- Personal Independence Payment (PIP)
- Income Support
- Pension Credit
- Job-seeker's Allowance
- Retirement pension
- Occupational pension
- Attendance Allowance
- Disability Living Allowance (care component)
- Employment Support Allowance (ESA)
- Incapacity Benefit
- Income from current employment (earnings)
- Child Tax Credit
- Working Tax Credit
- Universal Credit
- Rental Income
- Severe Disablement Allowance.

Everyone will have a certain level of income protected so the person can continue to meet basic living expenses. This is called the Minimum Income Guarantee (MIG).

The level of Minimum Income Guarantee varies depending on a person's circumstances and these amounts are determined within the Care and Support (Charging and Assessment of Resources) Regulations and published by the Department of Health.

This means we can treat people consistently in the financial assessment and make sure that the person has a reasonable amount of money to meet their necessary expenses before the council works out how much the person can contribute towards the care and support services received.

Further information on income, including how different benefits are treated and what is disregarded, are included in Annex A.

## 4.5 Capital

Capital resources are assets such as money in a bank or building society account, investments, stocks and shares, buildings, land, and so on.

The levels of capital considered with a financial assessment are:

- Capital **below £14,250** will be disregarded (not included) for financial assessment purposes.



- Capital **between £14,250 and £23,250** will be taken into account and a person will be required to pay £1 per week for every £250 of capital owned between £14,250 and £23,250.
- Capital **over £23,250** will be taken into account and a person will be required to pay the full cost of the care package.

A customer's main home or property will be disregarded in accordance with the Care and Support (Charging and Assessment of Resources) Regulations 2014 and Statutory Guidance. The value of any other property owned or part owned by the customer will be regarded as capital and any rental income will be considered as income for the purpose of the assessment.

If a person is in temporary or respite care the property they normally live in will be disregarded (not included as a capital asset) where they intend to return to it.

#### **4.6 Disability Related Expenditure**

Disability related expenditure is considered as a necessary additional expense to meet needs that are not being met by the Council that a person incurs due to a disability or condition.

An allowance of £10 will be made for Disability Related Expenditure for customers in receipt of disability benefits such as Attendance Allowance and Disability Living Allowance (care component) and submits on the financial assessment form that they incur disability related expenses.

Customers who feel they have DRE's over £10 per week will be able to submit evidence for each cost and these will be considered on a case by case basis.

Expenditure must be reasonable and verified with receipts. Where expenditure cannot be verified or where reasonable alternatives are available at a lower cost or for free, the expense may not be taken into account or may be restricted to a lower cost determined by the Council.

Information on outgoings and Disability Related Expenses are included in Annexes A and C.

#### **4.7 Joint Accounts**

Financial assessments will still be undertaken on an individual basis regardless of whether one half of a couple is receiving a personal budget, or both parties are.

Only the income of the customer will be taken into account in the financial assessment. However, the customer is required to identify any income or capital (such as a welfare benefit) that both members of a couple are entitled to jointly.

When assessing one member of a couple:

- 100% of solely owned and 50% of all jointly owned capital and savings will be taken into account (excluding the value of the main home)
- All assessable income appropriate to the cared-for person will be considered
- An allowance will be made for 50% of the couple's total joint basic household expenditure;

## **5. Financial Assessments for Residential placements**

As with Home Care services, the financial assessment for residential care considers a person's income, capital and in some cases appropriate expenses.

The financial assessment will be undertaken in accordance with Sections 14 and 17 of the Care Act 2014 and will comply with the detailed guidance set out in Annex B and C of the Care Act statutory guidance.

### **5.1 Calculating Charges**

Where capital included is above the upper limit the person will pay the full cost of the care.

Where capital is below the upper capital limit the basic principles of the financial assessment calculation are:

Income    LESS    Personal Expense Allowance    = **Charge**

If a customer does not wish to have a financial assessment, they will be expected to contribute the full amount of their personal budget.

### **5.2 Income**

We will need to have details of the person's income from all sources such as;

- Personal Independence Payment (PIP)
- Income Support
- Pension Credit
- Job-seeker's Allowance

- Retirement pension
- Occupational pension
- Attendance Allowance
- Disability Living Allowance (care component)
- Employment Support Allowance (ESA)
- Incapacity Benefit
- Income from current employment (earnings)
- Child Tax Credit
- Working Tax Credit
- Universal Credit
- Rental Income
- Severe Disablement Allowance.

### 5.3 Capital

Capital resources are assets such as money in a bank or building society account, investments, stocks and shares, buildings, land, and so on.

The levels of capital considered with a financial assessment are:

- Capital **below £14,250** will be disregarded (not included) for financial assessment purposes.
- Capital **between £14,250 and £23,250** will be taken into account and a person will be required to pay £1 per week for every £250 of capital owned between £14,250 and £23,250.
- Capital **over £23,250** will be taken into account and a person will be required to pay the full cost of the care package.

### 5.4 Property

Property is a capital asset and may either be included or disregarded within a financial assessment in accordance with Annex B of the Care and Support Statutory Guidance.

The property a person lives in as their main or only home will be disregarded (not included as a capital asset).

However, a property that is not the main or only home that a person lives in, for example, a second property will be included in the financial assessment.

## **5.5 Personal Expense Allowance**

The Personal Expense Allowance (PEA) included in the financial assessment is an amount a person may retain for personal expenditure. The amount is set by the Department of Health each year.

For temporary residents an additional Personal Expense Allowance may in some circumstances be considered if the person is unable to meet a particular expense from their capital or income.

Some examples that may be considered include:

- Rent (less Housing Benefit)
- Mortgage costs (less any benefits or assistance payments)
- Water rates and charges
- Council Tax (less Council Tax Support)
- Building insurance (not including contents insurance)

Where expenditure is joint expenditure then it will be divided equally between the liable individuals when considering any additional Personal Expense Allowance.

Permanent residents are not normally considered to have property related outgoings when living in the care home. However, it may be that a person still has outgoings e.g. while a property is for sale, subject to 12-week property disregard or during the notice period for a rented property. In these cases, an additional Personal Expense Allowance may be considered at the discretion of the Council if evidence of actual expenditure is supplied and where a person has no other means to meet the costs for example from their capital.

An allowance for other expense commitments and debts may be made in the financial assessment, if a person incurs unavoidable payments under a court order e.g. child maintenance. All other debts will be looked at on a case by case basis.

## **5.6 Deferred Payment Scheme**

Where a property is included within the assessment a person may be eligible for the Council's Deferred Payments Scheme. The Deferred Payments Scheme is to help those who have been assessed as having to pay the full cost of residential care but cannot pay the full amount because their capital is tied up in a property.

The Council may accept a property as security and the person pays a weekly contribution towards care based on their income and savings only. The part that the person cannot pay will be paid by the Council and a debt builds up called a deferred payment. This debt will then have to be paid at a later date. For many

people this will be done by selling the property or payment may be made from other sources.

The Council has a separate policy for deferred payments that gives more information on eligibility and the scheme itself. This can be requested from the Financial Assessments Team.

### **5.7 Independent Financial Advice**

Local authorities have a duty to signpost customers to independent financial advice and support (advice that is independent of the council). This is because paying for care is a long-term commitment and customers need to be sure that they can afford the arrangements that are put in place.

Independent financial advisers are impartial and unbiased. Their role is to give the best advice possible about using savings or assets to pay for long term care.

Some services are free and provided by not-for-profit organisations, such as:

- **Money Advice Service** –0300 500 5000
- **Morden Citizen's Advice Bureau** – 0344 243 8430 or at [www.mlcab.org.uk](http://www.mlcab.org.uk)
- **The Society of Later Life Advisers** – [www.societyoflaterlifeadvisers.co.uk](http://www.societyoflaterlifeadvisers.co.uk) or call 0845 303 2909.

There are also more formal 'independent financial advisers' (IFA), who charge for advice on financial matters and can recommend suitable financial products.

## **6. Deprivation of income or assets**

Deprivation is the attempt to avoid or reduce charges by removing income or assets from a person's ownership in order to avoid them being included in the financial assessment.

Questions of deprivation of capital or income will be considered in accordance with Annex E of the Care and Support Statutory Guidance. For example, if:

- A person ceases to possess capital assets or income which would otherwise have been taken into account for the purpose of assessing charges for care;
- A person deprives themselves of capital assets or income which would otherwise have been available to them, i.e. ownership of a property other than their main residence is transferred to another person or the beneficiary of an insurance policy is changed so that the monies are not available to the person.

Where deprivation is established the person will be treated as still possessing the capital asset or income and this will be known as notional capital or notional income within the financial assessment. This means that the person will be assessed as if they still have the income or capital.

If the asset has been transferred to someone else, that person may become liable to pay the difference between what has to be paid and what the person can pay from their remaining income and capital.

## **7. Operation of the Council's Fairer Contributions Policy**

Any charge will start from the day that service commences.

Customers spending their personal budget on services directly provided by the council or arranged by the council will usually receive a four weekly invoice for their contribution, which can be paid by Direct Debit.

Customers assessed as able to contribute to their services will be required to make a financial contribution up to the whole amount of their personal budget subject to their financial assessment.

Where a customer spends their personal budget on two paid carers at the same time, they will be expected to pay the full charge of both carers up to their maximum contribution as calculated in the financial assessment. This is called a double up service.

There will be no maximum charge: customers will pay up to the value of the personal budget subject to their financial assessment.

Where a customer does not pay the invoices for assessed contributions the Council will follow the principles outlined in the Care Act 2014 in seeking recovery of the debt, including initiating court proceedings where appropriate.

If the financial assessment works out the customer contribution to be less than £3 per week, the customer will not have to contribute towards their personal budget.

The charging rules also apply equally to people in prison. Whilst prisoners have restricted access to paid employment and benefits (and earnings in prison are to be disregarded for the purposes of the financial assessments), any capital assets, savings and pensions will need specific consideration as set out in Chapter 8 of the Care and Support Statutory Guidance.

The Council will consider the treatment of debts on a case by case basis and will exercise discretion in certain or exceptional circumstances. For example, payments that have to be made pursuant to an order of the court.

## **8. Complaints, Reviews and Appeals**

### **8.1 Complaints**

If a customer wishes to complain about the level of service received from the Financial Assessment Team, we ask that where possible, the person send a written complaint. We will then investigate what went wrong and why. If the person is not able to put their complaint in writing, he/she can contact us by phone or email. We aim to provide the person with a written response within ten working days and ensure that the complaint is dealt with fairly and efficiently.

If the complaint is relating to the person's financial assessment but is not about the level of service received from the Financial Assessment Team, please see the 8.2 & 8.3 for the reviews and appeals process

### **8.2 Reassessments and Reviews**

Reassessments will be carried out annually every April in line with the Department for Work and Pensions. Most customers will not be required to submit information to the Financial Assessment Team every year, but will be informed of their new contribution amount in writing. If no response is received, then the customer will be deemed to be in agreement with the new assessed contribution.

A customer may request a review of a financial assessment, for example due to revised information or a change in their financial circumstances, at any time by notifying the Financial Assessments Team and providing the appropriate information.

### **8.3 Appeals**

If a customer disagrees with their assessed contribution calculation, or feels that they have insufficient funds to contribute to their personal budget, they have the right to appeal. This should be done in writing to the Financial Assessments Team.

## **9. Contact Details**

If someone requires this policy in easy read format, braille, large print or any other language, please contact us either by writing or by phone using our contact details below.

Financial Assessments Team  
Merton Civic Centre  
Morden  
SM4 5DX

Tel: 020 8545 3632

Email: [financial.assessment@merton.gov.uk](mailto:financial.assessment@merton.gov.uk)