

Cheshire West & Chester Council


Integrated Adult Social Care and Health: Residential Charging Policy



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Cheshire West
and Chester

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Residential Charging Policy

Cheshire West and Chester

Author	Charlotte Wynn
Owners	Charlotte Walton & Debbie Hall
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1. Introduction

1.1 The aim of this Residential Charging policy is to provide a consistent and fair framework for charging all service users who receive either temporary or long-term Residential care placements, following an assessment of their individual needs, and their individual financial circumstances. The policy sets out the principles and procedures used by Cheshire West and Chester Council (CW&C) when assessing service users' contribution towards the cost of their Residential care services.

1.2 The policy applies to older people, adults with learning disabilities, adults with physical disabilities and adults with mental health needs who are assessed as having 'eligible needs' within the meaning of the Care Act 2014. For the purposes of this policy an adult is a service user aged 18 and above.

1.3 Cheshire West and Chester Council have a duty to meet eligible care and support needs of people who require Residential care where they meet the threshold for financial assistance and are either ordinarily resident in Cheshire West and Chester or are present in its area but of no settled residence.

1.4 This policy uses the term 'Service User' as a broad phrase to refer to those who are in receipt of services provided by Adult Social Care.

1.5 This policy will be reviewed annually and be updated to take best practice guidance and changes in statute.

2. Charging for Care - Legislative Framework

2.1 Cheshire West and Chester's Residential charging policy correlates with the statutory guidance on charging for care and support under the Care Act 2014 provided in the Department of Health Care and Support Statutory Guidance (CASS) published in October 2014. The Care Act came into force on 1 April 2015.

2.2 Section 14 of the Care Act 2014 gives Local Authorities 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 or assessed needs'.

2.3 Section 17 of the Care Act requires Local Authorities to undertake an assessment of an individual's financial resources to determine the amount, if any that they will be required to pay towards the cost of their care if charges are to be made. The amount a service user is calculated to be able to pay is known as the assessed contribution.

2.4 Local Authorities must follow the regulations and guidance issued under the Care Act 2014 and ensure policies on charging and financial assessment comply with



'The Care and support (Charging and Assessment of Resources) Regulations 2014' which sets out:

- How a Local Authority is to carry out a financial assessment if the Local Authority is to charge for care and support.
- Rules on treatment and calculation of income and capital within a financial assessment (including notional income and notional capital where a person has deliberately deprived themselves of an asset)
- Rules on minimum allowances to be given within a financial assessment.
- The power to charge the costs of putting arrangements into place in specific situations.

2.5 Further information relating to the Care Act 2014 can be found by following the links below to the Government website:

[Care Act 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

3. Principles of the Residential Charging Policy

3.1 Revenue received from service users' financial contributions for the cost of the services, is reinvested to enable the Council to provide care and support for more people within the Borough. Income from charging is an essential contribution to Adult Social Care's budget to support the delivery of services to help people live and age well.

3.2 The Council's approach to charging individuals for Adult Social Care is laid out in the following:

- the Council's Residential Charging Policy (with reference to the separate Deferred Payment policy and the Management of Top Ups policy).
- the Council's Non-Residential Charging Policy (approved by Cabinet in 2021)
- the Fees and Charges report and Scheme of Delegated Charges (SoDC) which is updated annually and provides details on the annual Care Provider rates and the basis of charging service users.

3.3 As service user charges are intrinsically linked with care provider rates, this residential charging policy sets out the relationship between those two elements. The Scheme of Delegated Charges (SoDC) sets out the Care Home provider agreed contract rates – this forms the basis of charging in that the service user is assessed against, and the financial means testing will determine how much they pay. Following a financial assessment, the service user's assessed charge is based on the lower of the actual charge rate payable or what the user can afford to pay.

3.4 The Council operates a gross payment scheme for Residential care i.e., the Council will pay the care provider the total (100%) amount for care and then, if the service user is financially assessed to pay a contribution towards the cost of care, the Council will then invoice the service user to recoup their contribution.



3.5 Local Authorities must follow the regulations and guidance issued under the Care Act 2014 and ensure policies on charging and financial assessment comply with 'The Care and support (Charging and Assessment of Resources) Regulations 2014' which sets out how a Local Authority is to carry out a financial assessment if the Local Authority is to charge for care and support, and also the rules on treatment and calculation of income and capital within a financial assessment (including notional income capital).

3.6 The financial assessment is a means tested assessment which is undertaken to determine if someone is able to contribute financially to the cost of their care. As part of this the Council needs to look at all of the individual's income and expenditure and determine if the individual can afford to pay a contribution towards the cost of their care – this is called their assessed charge. For example, if there has been a sale of a property or amounts of money that have been spent or gifted prior to the financial assessment, the Council is required to investigate this to ensure no deprivation of capital or property has occurred (this is purposely reducing income or assets such as property to avoid paying for care charges).

3.7 The financial assessment, charging and collection process is undertaken by the Client Finance Team (CF) within the Finance Service. Adult Social Care (ASC) make referrals to Client Finance when it has been identified that the service user is likely to receive a chargeable service from ASC. Client Finance will undertake financial assessments – encouraging the use of the online Financial Assessment tool, but may also by telephone, email and visit as required and appropriate. Client Finance Financial Assessment Officers will also identify any missing welfare benefit entitlement.

3.8 The overarching principles of the Council's Residential charging policy are to:

- ensure that people are not charged more than it is reasonably practical for them to pay.
- be comprehensive and equitable, to reduce variation in the way people are assessed and charged so those with comparable needs or services are treated similarly.
- be clear and transparent, so people know what they will be charged.
- Promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice, and control.
- be sustainable for the Council in the long term.
- ensure people receiving Local Authority arranged care and support in a care home retain a certain level of income to cover their living costs. Under the Care Act 2014, charges must not reduce people's income below a certain amount. This is a weekly amount and is known as the Personal Expenditure Allowance (PEA). For 2024-25 this is currently set as £30.15 per week.
- any charge for care and support services will not exceed the cost that the Council incurs in meeting the assessed needs.



4. Scope and Exclusions

4.1 Services covered by the Residential Charging policy

4.2 All Residential Care Home services that fall within the scope of this policy and include:

- **Residential** - if care at home is not appropriate for the individual, residential care may be required. Residential care refers to long-term care given to adults who stay in a residential setting rather than in their own home or family home. There are various residential care options available, depending on the needs of the individual.
- **Residential plus EMI (Elderly and/or Mentally Infirm)** - specialist homes for people who are elderly and /or mentally infirm, who have dementia and who are no longer able to be looked after at home. To be eligible for Residential EMI care, the service user must have care and support needs relating to mental health or dementia - but do not require 24-hour oversight by a registered nurse.
- **Nursing** - for individuals with complex conditions that need specific support by registered nurses who are highly trained in dealing with complex clinical cases.
- **Nursing plus EMI - (Elderly and/or Mentally Infirm)** – specialist homes for people who are elderly and /or mentally infirm, who have dementia and who are no longer able to be looked after at home. To be eligible for Residential EMI care, the service user must have care and support needs relating to mental health or dementia and require 24-hour oversight by a registered nurse.
- **Short breaks in residential/nursing homes** – A short break (previously referred to as respite care), is when an individual goes into a care home for a defined amount of time, usually booked in advance. This could be to provide the service user with support whilst their main carer is on holiday or unable to provide care to them for a period and the service user is unable to remain at home on their own.

4.3 Services not covered by the Residential Charging Policy

4.3.1 Continuing Health Care

Continuing Health Care (CHC) funded packages – this is a service funded by NHS and is the responsibility of the local Integrated Commissioning Board (ICB). If a decision is taken to backdate CHC services, then any charges collected will be reimbursed from the date CHC was awarded.

If someone qualifies for NHS Continuing Health Care, whether in the community or in a residential/nursing care placement, the NHS is responsible for paying all of these fees and no financial assessment will be needed. Continued entitlement to CHC funding will be reviewed by the Integrated Commissioning Board (ICB).

4.3.2 NHS Funded Care



The NHS pays for the nursing care component (FNC) of a person's care home fees. This element of care is not chargeable and will be disregarded as part of a person's financial assessment.

If someone needs short-term rehabilitation care within a registered nursing home following a stay in hospital, the NHS will arrange and fund the placement for the duration of the rehabilitative period.

4.4 Services we do not charge for

The Council must not charge for the following services as they are legally exempt from charging under the Care Act 2014:

- any services provided as After Care Services under section 117 of the Mental Health Act.
- reablement service/Intermediate Care services – which are short term interventions to avoid inappropriate admissions to hospital or facilitate discharge from hospital - for a period of up to 6 weeks.
- services provided to people suffering from Creutzfeldt Jakob disease.
- providing any information and advice about the availability of services or for an assessment of need.
- services for children and young people under 18 years.
- any services which the local authority is under a duty to provide through other legislation may not be charged for under the Care Act 2014
- Aids and minor adaptations and community equipment costing below £1k are to be provided free of charge

5. Consent to Share Financial Information

5.1 The Council has a data sharing agreement with the DWP and HMRC via a portal called Searchlight which enables the Financial Assessment team to access information relating to Service Users' personal, relationship (where relevant) and financial information for the purpose of:

- helping to ensure an accurate financial assessment of charging for care services
- verifying HMRC income details held in Searchlight to determine what occupational/private pensions or income a person is in receipt of
- supporting any application for DWP benefits
- local Council Tax Reduction (LCTR) scheme
- any other welfare provisions.

5.2 Searchlight also reduces the level of evidence needed from the service user.

5.3 In order to improve the quality and timeliness of social care financial assessments and in some cases carry out a light touch financial assessment, the Council will share information within its own systems regarding service users who are also in receipt of housing benefit or council tax reduction.



5.4 The Council is under a duty to protect the public funds it administers and may use the information provided from the financial assessment for the prevention and detection of fraud. We may share this information across the Council's services and also other bodies responsible for auditing and administering public funds.

6. Mental Capacity to Manage Finances

6.1 The Mental Capacity Act 2005 sets out people's rights and what happens when a person has lost capacity to manage or make decisions about their finances. It also sets out how service users can plan ahead to appoint someone, while they still have capacity, to make decisions for them in the future if they lose capacity.

6.2 If a person is legally appointed to act for someone the Council is arranging care and support for, who lacks mental capacity to manage their finances, they must provide us with:

- Any financial information required to carry out a financial assessment for the person needing care and support.
- Evidence of their legal authority to act as the financial representative for that person, such as a copy of:
 - registered Lasting Power of Attorney (LPA) for property and financial affairs; or
 - registered Enduring Power of Attorney (made and signed before 1st October 2007); or
 - a Court Order appointing them as Deputy for property and financial affairs.
 - any other person dealing with that person's affairs (for example, someone who has been given appointeeship by the Department for Work and Pensions (DWP) for the purpose of benefits payments).

6.3 The Council will then:

- send any correspondence addressed to the person(s) appointed for the person they represent.
- require the person(s) acting to sign any financial documents or contracts on behalf of the person they represent.
- require the person(s) acting to settle any invoices for care charges raised in the name of the person they represent. This is not a personal liability of the representative but their duty to make payment from the service user's resources or to liaise with the Council where they may be difficulties realising assets.

6.4 If the application to be the financial representative is in process the Council will:

- give information about any potential charges for the care and support services arranged, the date these charges may start from and explain how the financial assessment is carried out to the person appointed.
- where a financial assessment can be completed the Council will send the person appointed any invoices for assessed care and support charges but allow for payments to be delayed until legal authority is received to access the necessary accounts.
- where a financial assessment is not able to be completed the Council will defer the financial assessment until a person is appointed as the legal financial



representative and they can provide the relevant information needed. The Council will backdate any assessed charges to the date of commencement of services.

- the Council can sometimes do a financial assessment based on information available at that time.

6.5 Where the service user lacks capacity regarding financial decisions and there is no one appointed to make those decisions, where necessary and/or appropriate, financial decisions will be made following the guidance and best interest process set out in the Mental Capacity Act and Mental Capacity code of practice.

6.6 Where a service user has capacity, it is for them to make decisions and not anyone else. However, it is worth noting that a Lasting Power of Attorney could be registered even where the service user still has capacity. It is only financial LPAs that can be used with the consent of the service user. Health and welfare LPAs can only be used once the service user is deemed to lack capacity. Capacity is specific to the issue in question, therefore in determining capacity to undertake a financial assessment, the Client Finance Team will refer to and take advice from Legal Services or the Social Workers as to the capacity/testing to make financial decisions where there is any doubt.

7. The basis of Residential charges and Care Provider payments

7.1 The Fees and Charges annual report sets out the uplift to the standard fee rates paid to contracted care providers. The agreed contracted fee rates will be uplifted from the start of April each year to reflect inflationary pressures and also the value of the Funded Nursing Care (FNC) contribution paid by the NHS in the case of Nursing and Nursing EMI placements.

7.2 The report also provides for the corresponding increase in service user client charges and to authorise Client Finance to communicate the new charges to service users through the annual uplift process. All rates are set out in the Scheme of Delegated Charges (SoDC).

7.3 When securing care home placements with care providers, the Strategic Commissioning & Market Management Team (SC&MM) will endeavour to secure these at agreed Council contract rates, however, if these cannot be secured on agreed contract rates, then alternative off contract 'spot' purchase rates will be agreed. The use of off contract rates should be minimised wherever possible as these are generally higher than the agreed contract rates.

Rate Renegotiations

7.4 There are occasions where care providers will renegotiate their rates in-year with the agreement of the Strategic Commissioning & Market Management Team. As part of this process, SC&MM will negotiate the date from which the new rate will apply. If rates are to be backdated, then SC&MM should also consider the impact on service user charging. If the service user is charged at full cost, then any change to the rate



would change the charge, and as such SC&MM are responsible for informing family members when rates are re-negotiated.

Service User charging

7.5 Under Residential charging the basis of the charge to the service user will be the **actual rate** that has been agreed with the care home, whether this is at the agreed weekly contract rate or at an off-contract 'spot' purchase rate. Whichever rate is used will be multiplied by the number weeks / nights the service user is in that placement for.

7.6 Where a service user has legitimate reasons for seeking a care home place in a different authority, (e.g., to be nearer to family), the Council will consider the case, and if agreed, will apply the agreed contract rate for that locality, i.e. the rate at which the receiving Council normally pays for care in a care home for a particular level of need.

7.7 ASC Social Workers will agree the service user's support plan which will determine the level of support needing within a residential setting. Care Plan lines (CPLIs) are loaded by ASC teams into the ASC system (Liquidlogic) in a timely manner. This then integrates with the finance billing and charging system (ContrOCC). Charges for services are generated in ContrOCC on a four-weekly basis. This process sends detailed files to Unit4 to generate service user invoices in line with the payment schedule.

7.8 Within ContrOCC, the basis for charging service users and the configuration set up in ContrOCC for Residential charges is '**client specific**'. This is a charging model which allows:

- the charging costs to vary from client to client
- charges to be set up on a schedule which enables the charging of users at actual rates whether this is at agreed contract rates or off contract 'spot' purchase rates.
- financially assessed contributions to be calculated on the basis of actual service provision and applied on a weekly basis.

7.9 Variations to planned service will occur from time to time for a variety of reasons, this does not automatically mean that the weekly contribution will be reduced. The assessed weekly contribution will continue to be levied in all circumstances where the actual cost of providing any remaining services during a particular week is equal to or exceeds the assessed contribution, regardless of any variations to planned provision.

7.10 For any services which have been commissioned by the Council within the care and support plan, the provider will require notice to cancel the service otherwise the full charge will be applied. The exceptions to this are:

- when a person dies. The charges will be applied up to and including the date of death.
- if ASC considers there to be serious risk to life, health, or wellbeing of a service user, by the levying all or part of a charge. A panel of senior social care managers will need to decide on this.



- in the event that a service user has a period of absence in excess of 14 (fourteen) days, ASC will exercise its discretion not to keep the service user's bed open after that fourteen-day period of absence.

Care Provider billing

7.11 All providers of residential services have access to the ContrOCC provider portal. This enables them to send messages to Client Finance, review provisioned CPLIs, check when payments have been made and to view their purchase orders.

7.12 Providers of residential care services are bound by contractual terms & conditions. This includes notice periods for the termination of placements which relate directly to the charges issued to service users.

7.13 Residential provider invoices are produced on a schedule (See Appendix B) and the provider must confirm the service user's care placement costs that are due for payment within that pay period and by a set date. Once provider confirmation is received via the ContrOCC provider portal, the payment is made to that provider. If the provider does not confirm the placement costs, then they are not paid during that pay period. In these circumstances the system set up ensures that the service user is still charged for the care received in that period as per their care plan.

7.14 If there is no CPLI, the service user cannot be charged for their care. If the CPLI loading is delayed, this will generate a backdated invoice to the service user.

8. Financial Assessment

8.1 The financial assessment will determine if the service user is required to pay a contribution towards their residential care based on their capital and assets. The assessment is the basis for deciding how much, if anything, the service user can afford to contribute towards the cost of their services. In all cases the service user will always retain the statutory weekly PEA after they have contributed to the weekly cost of their care. This amount is reviewed annually by the government.

8.2 This can also include the value of any property that the service user owns or has a share in. As part of the financial assessment there will be allowances made for essential household expenses that the service user will still have to pay when they first move into a care home.

Full Financial Assessment

8.3 Service users will be offered the opportunity to have a full financial assessment to calculate their contribution. It is the individual's responsibility to provide information to complete the financial assessment.



8.4 Where a service user has savings of more than the upper capital limit, they should declare this prior to financial assessment and pay the full cost of service (i.e. self-fund) without providing further details.

8.5 Where a service user is in receipt of a means tested benefit which indicates that they have savings below the upper capital limit, and if they decline or refuse a financial assessment, Client Finance will utilise the data sharing agreement with the DWP and HMRC via Searchlight (see section 5) to access information relating to service user's financial information. This will assist in determining and calculating an assessed charge amount, and potentially reducing the requirement to invoice service users at full cost. It is important to try to reduce the production of invoices at full cost as this is seen as a contributory factor in leading to outstanding unpaid invoices and increasing the ASC debt burden.

8.6 In cases where Searchlight cannot be used or does not provide sufficient information on which to base an assessed charge, then the service user will be required to pay for the full cost of their services.

8.7 If a service user subsequently provides the relevant financial information, and the financial assessment determines a new assessed charge amount, then this may result in system credits being generated to amend the invoices generated from the previous charge. In instances where the service user has paid the higher invoice amounts, this may also result in refunds being issued.

Assessable Income and Benefits

8.8 The financial assessment will be calculated on the basis that the service user is receiving all the benefits that they have been identified as being entitled to i.e., if the service user is entitled to receive welfare benefits but is not claiming those benefits the financial assessment will assume that those benefits are in payment at the correct amount four weeks after they have been advised to make the claim.

8.9 Service users (or their representatives) must inform the council when applications to receive further benefits are successful or declined as this will affect their level of assessed income and further support a rise in the level of contributions that the council receives from service users.

8.10 If a service user fails to inform the council of the any increase in their assessed contribution, due to receipt of the benefit, the financial assessment will be backdated to the date the benefit was awarded from.

8.11 Income is assessed net of any Income Tax and net of any housing costs or Council Tax less any Housing Benefit or Council Tax reduction.

Expenses

8.12 When calculating the assessed charge, the full list of Income that will be included in full in the assessment is contained in Appendix A.



8.13 The financial assessment will ensure that the service user retains their basic Personal Expenditure Allowance (PEA), in line with the Care Act 2014 guidance. PEA is the minimum weekly income allowance that a person is allowed to keep in Residential care to pay for their personal needs and items (e.g. clothes).

8.14 PEA is considered in the financial assessment in order to reduce the amount a person has to pay for their Residential care and is disregarded as available income therefore reducing the amount of client contribution payable. The weekly level of PEA for 2024-25 set by the Government is £30.15.

8.15 PEA will be varied when a young person resides in a residential college. This takes into account the additional needs to access resources to build independence. The weekly level of PEA for 2024-25 is £40.00

8.16 Service users' expenditure will be treated differently during the financial assessment depending on the type of care they are receiving:

- **temporary residential care** – Essential household expenses will be taken into account to maintain the service user's home throughout their stay in addition to the PEA.
- **permanent residential care** – If they own their own home they will be able to keep an amount of money to cover essential household expenses (i.e. standing charges for water rates, mortgage and buildings insurance costs alongside PEAs'.

Capital, Income and Assets

8.17 The value and treatment of Capital and Assets will be based on the definitions within Care Act 2014, Care and Support Statutory Guidance Annex B and C. Where an individual's capital (excluding the value of their main home) exceeds the upper capital limit specified within the Care Act 2014 Care and Support Statutory Guidance Annex B, they will be required to pay the maximum contribution towards the service. These are:

	Amount of Savings	Implications for Financial Assessment
Lower Capital limit	Below £14,250	If the total level of capital is below this amount, the financial assessment will not consider this within the financial assessment. There will still be a contribution from any income.
	£14,251 – £23,250	This is considered in full to calculate tariff income. Tariff income is calculated at a rate of £1 per week for every £250 (or part of) above £14,250.

Upper Capital Limit	£23,251 and above	Savings of more than this amount (including the value of their previous residence, unless a spouse or partner is living there) will mean the service user is not eligible for Council funding until their total capital falls below this limit. The service user will have to pay for their own care services. However, they can still ask the council for a care assessment as it may still be able to help them in some capacity, for example with information and advice
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Income

8.18 When calculating the assessed charge, the full list of Income that will be included in full in the assessment is contained in the Care and Support Statutory Guidance (CASS) Annex B: (Treatment of capital) and Annex C (Treatment of income).

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#annexes>

The Calculation

1. Consider Capital
2. Calculate total income including an amount for savings known as capital tariff. Some income and benefits are ignored for the purposes of calculating charges and these are taken away.
3. From the total income, deduct any allowable expenses and other specific allowances
4. Deduct Personal Expenditure Allowance (PEA)
5. The amount that remains is the maximum a service user will be asked to pay
6. Work out the full cost of care and support, compare this cost to the maximum amount calculated. The service user will be charged the **lower** of these two amounts

8.19 The actual calculation in relation to contributions due from each service user will be the outcome of the individual assessed weekly amount calculated from the

financial assessment or the actual cost of care, whichever is lower. There is no set maximum weekly charge.

8.20 The Council will make up the difference between what the service user can afford to pay (as determined by the financial assessment) and their contractual cost of the care home place whether this is at the Council's agreed contract rate, or an individual 'spot' purchase rate agreed between the Council and the care provider.

8.21 The financial assessment does not include any income from earnings in the calculation.

8.22 If the service user also requires nursing care, they will also receive part funding for the nursing element of their care which is paid directly to the nursing home. The cost of the nursing element of their care is the responsibility of the local Integrated Care Board (ICB) which are the NHS organisations that commission local health services.

8.23 When there is a delay in completing a financial assessment resulting from the service user failing to provide complete information, the Council may seek to recover backdated contributions from the start date of the service. Every effort will be made by the Council to undertake a financial assessment using available information to provide an accurate financial assessment.

Property Disregards

8.24 If the service user is receiving long term residential care, all property they own or have a share in is usually considered to be capital, however, the value of their main home may be disregarded, if it is occupied by their partner, a relative who is aged over 60 or incapacitated or a child under 16 for whom they are responsible. There could be other circumstances where the value of a service user's property may be disregarded, and the Financial Assessment Officer will be able to explain this to the user.

Absences from Care Homes

8.25 This policy is aligned to the latest CW&C 'Provision of Care Home Service Specification' which sets out the Council's approach to notice periods for changes in circumstances (s 3.19). If the service user is admitted to hospital from a long term residential or nursing care home, they will still be expected to pay for the place in the care home for up to and including 14 days as the care provider will be expected to keep the place available for them for when they are ready to be discharged from hospital.

8.26 If the service user remains in hospital for longer than 14 days, then the Council in consultation and agreement with the care provider, exercises its discretion not to keep the service user's bed open after that 14-day period. Client Finance will cease charging the user after 14 days unless directed otherwise by ASC.

8.27 Where it is evident that the service user won't be returning to the care home placement before 14 days have elapsed, then ASC should give the care home 1 week's notice as soon as possible. The client charges will then only apply for the shorter notice period.



Couples

8.28 Every person is treated individually for the purpose of a financial assessment. This means that we will assess only the income and capital of the individual who is undergoing the financial assessment. This approach applies in all care settings. Jointly owned assets, income and expenses will be divided equally when assessing a service user's finances; unless the Council is informed otherwise on the form or via email/letter and appropriate evidence provided showing the service user's share.

Light Touch Financial Assessments

8.29 The main circumstances in which the Council will carry out a light touch financial assessment are:

- Where a person has significant financial resources and does not wish to undergo a full financial assessment for personal reasons but wishes to access local authority support in meeting their needs.
- Where there is a small or nominal amount charged for a particular service which a person is clearly able to meet and would clearly have the relevant minimum income left and carrying out a full financial assessment would be disproportionate.
- When an individual is in receipt of income or benefits which demonstrate that they would not be able to contribute towards their care and support costs.

8.30 The Council will inform people when it intends to carry out a light touch financial assessment and a full financial assessment can be requested as an alternative.

9. Short Breaks / temporary stays in residential/nursing homes

9.1 The financial assessment will determine if the service user is required to pay a contribution towards their short break based on their capital and savings. This will not include the value of the house they live in, if they own their own home, but will include any other properties or land they own or have a share in.

9.2 The service user will never be charged more than they can reasonably afford to pay. Some of their income will not be counted, for example an allowance will be made to ensure they have enough money to meet their normal household expenditure and their individual housing costs whilst they are having a short break in a care home as these will still need to be paid.

9.3 If a service user/carer needs to cancel a pre-booked short break, the care provider should be given at least 1 weeks' notice. If sufficient notice is not given to the care provider, charges may still apply for the pre-booked service.

9.4 The full list of Income and Expenditure to be considered in a Short Break financial assessment is contained in Appendix A.



10. Notification of assessed contributions

10.1 The service user will receive a written breakdown of how the financial assessment has been completed, what their charge will be and from what date the charge applies. Charges will apply from the start of the care placement.

10.2 There may be instances where the placement has not yet been sourced. In these instances, the service user will receive a pre-assessment charge notification. This will tell them what their charge will be advance of the service starting.

11. Reviews of Financial Assessments

11.1 Where a service user or their financial representative considers that an incorrect contribution has been calculated, they have the right to a review of the amount of their assessed contribution. They may, at any time, request an ad hoc review.

11.2 A service user's assessed contribution will be reviewed on an annual basis and any change in charge will be communicated to the service user. This date is typically in line with the increase in state benefits at the start of the financial year in April. Changes to circumstances may also lead to a new financial assessment being undertaken. If requested, a service user's contribution can be reviewed at their request. This can be triggered by the service user completing and submitting their details via the Online Financial Assessment tool.

12. Change of Circumstances

12.1 Service users have a duty to notify the Council if there is a change to their financial or personal circumstances (e.g. changes to their income, capital, savings, sale of property, change in welfare benefits, marital status, or death of a spouse), as this may necessitate a need to complete another financial assessment to review contribution amounts.

12.2 If the change in circumstance results in an underpayment of charges this will be applied from the date of change. If the change in circumstances results in an overpayment of charges this will be applied from the date of change if the Council is notified within 28 days of the date of the change otherwise a re-assessment will take place from the date notified.

12.3 If service users' financial circumstances change and they don't inform Client Finance, there may be a need to backdate charges to the date of that change.

13. Refusal to co-operate with a financial assessment and non-disclosure of financial details

13.1 If a service user with capacity or their representative, refuses to co-operate with a financial assessment, they will be required to pay the maximum charge applicable from the date the chargeable services commenced unless information as to their capital and income is already available to the Council in which case those figures may be used to inform the assessment.



13.2 Service users have the right to choose not to disclose their financial details. If this right is exercised, they will be required to pay the maximum charge applicable at the time the service was delivered. The council reserves the right to refuse to arrange a person's short, or long term, residential care where the person fails to co-operate or refuses to disclose financial details.

14. Deprivation of Assets

14.1 A council can treat someone as 'possessing capital' if they find that person has 'deprived themselves' of it, 'for the purpose of decreasing the amount they may be liable to pay towards the cost of meeting their needs for care and support' (Care and Support (Charging and Assessment of Resources) Regulations 2014, Regulation 22). The value of the capital the person has deprived themselves of is called 'notional capital'.

14.2 As part of the financial assessment process, where the Council believes that a service user may have tried to deliberately avoid paying for care and support costs through depriving themselves of assets – either capital or income, it may charge the person as if they still possessed the asset or, if the asset has been transferred to someone else, may seek to recover the lost income from charges directly from that person.

14.3 In determining deliberate deprivation, the Council must consider the motivation for any disposal of assets i.e., 'was the service user significantly motivated to avoid paying for care costs?'. In addition, in line with Care Act Statutory Guidance 2014, the Council will consider and take a view on the 3 following questions and if at least one of these can be applied then, this will be used as an indication of deliberate deprivation:

1.	The Council should consider the timing of the disposal of an asset	The guidance tells a council to ask itself if, "at the point the capital was disposed of could the person have a reasonable expectation of the need for care and support?".
2.	The Council should consider if the user of services 'must have known that they needed care and support'.	This will be a case specific judgment. For example, many people live with chronic long-term health conditions but may never need care and support. While others may have conditions that will degenerate and where it is anticipated such needs will arise.
3.	The person must have a reasonable expectation they may need to pay towards that care and support at the time of deprivation.	The user of services does not need to have detailed knowledge of the law underpinning the charges for contributions, but they would have a reasonable expectation they 'might' be liable to contribute to care charges.

14.4 Cases of perceived deprivation are initially reviewed by the Client Finance Team and Legal Services staff. They are then then presented to the Debt and Deprivation Panel, to be reviewed and decided by Directors and Senior Officers. The Council will base its decision on the facts of individual cases and consider all relevant



circumstances available. Service users are then notified of this decision, and if necessary, of the requirement for them to fund their own care costs.

14.5 Service users have the right to appeal this decision and must provide additional information supporting their case, in order for the appeal to be heard as a reconsideration by Debt and Deprivation Panel. Service users are advised that, as any reconsideration decision is final, no further right of appeal to the Council is available. The Council therefore urges service users to seek independent advice prior to the submission of a reconsideration request. Should service users remain dissatisfied with the actions of the Council, they may wish to register a formal complaint by accessing the Council's complaints procedure and/or contact the Local Government Ombudsman. The Ombudsman can investigate written complaints about whether the council has followed a proper decision-making process (but not the decision itself).

14.6 If Panel decides that a service user has deliberately deprived themselves of an asset in order to reduce or avoid a charge, they must decide whether to treat that service user as still having the asset for the purposes of the financial assessment and charge them accordingly. In line with CASS guidance, the Council will seek to charge the service user as if the deprivation had not occurred. This means assuming they still own the asset and treating it as 'notional' capital or 'notional' income.

Recovering charges from a third party

14.7 Where the service user has transferred the asset to a third party or more than one third parties, to avoid the charge, each of the third parties is liable to pay the Council the difference between what it would have charged and did charge the service user receiving care. However, the third party is not liable to pay anything which exceeds the benefit they have received from the transfer.

14.8 As with any other debt, the Council will pursue the debt following our debt policy using the most appropriate methods. Recovery of charges from a third party, will be in line with CASS Annex D on debt recovery.

14.9 In cases where service users or the recipient of the gift / trust are refusing or unable to pay for care costs, if there are reported safeguarding issues (e.g. threatened termination of placement by providers due to non-payment of care costs), then ASC have the discretion to temporarily fund the service user's placement cost. It is understood that these would only be temporary arrangements and a course of action would need to be agreed with the service user, or the recipient of the gift/trust for repayment to the Council of any care costs that have been incurred, and payment of on-going care costs.

14.10 Under these circumstances, formal arrangements and conditions of the funding agreement need to be set out and communicated to service users. Should the service user or recipient of the gift/trust fail to pay the charges, corporate debt recovery proceedings will be instigated the Council will pursue the debt following our debt policy using the most appropriate methods. This could involve securing a charging order against the property in question.



14.11 ASC will also need to determine if the Office of the Public Guardian (OPG) should be notified of the safeguarding issues and concerns and take appropriate action accordingly.

15. Top Ups

15.1 This is set out in full in the Council's Top Up Policy.

15.2 As set out in s7.4, the service user will be charged the actual rate for their placement that has been agreed, whether this is at the Council's agreed contract rate or an individual 'spot' purchase rate. If the service user declines a placement at these rates and wishes to take up a place in a care home where the weekly rate exceeds the rate the Council has agreed to pay the care provider, then they will need to make arrangements for a third party, (i.e., family member or friend) to make up the difference. This is known as a third party 'top-up'.

15.3 The service user is liable for the placement cost at full cost up to the Council rate (whether this is at contract prices or off-contract) and this will be payable to the Council. The third party is liable for the cost of the 'top up' element, and this will be payable directly to the care home.

15.4 In agreeing third party top ups, the Council will need to assure itself that these arrangements (including any future price increases) are sustainable and should they breakdown at any point the Council reserves the right to seek an alternative placement at either the Council's contract rate if this can be provided, or an off-contract rate.

15.5 The third party making the top-up payment on the service user's behalf must complete the affordability calculator and sign a contract with Adult Social Care before the contract with the care home is signed. In doing so, they must confirm that they have the financial means to make the third-party payments (including any future increases) for the whole time the service user will live in the care home.

15.6 The service user can pay their own top-up fee, known as a first party top-up, under the following circumstances:

- where they are subject to a 12-week property disregard period.
- where they have a deferred payment agreement in place. Where this is the case, the terms of the agreement should reflect that this arrangement is sustainable to the service user
- where they are receiving accommodation provided under S117 for mental health aftercare. Top ups for S117 can only be charged if the service user is choosing a more expensive accommodation than that identified by the Council and ICB as being able to meet their identified mental health needs.

15.7 If the service user already lives in a care home and no third-party agreement was required at the time they became a resident, the home may still seek to introduce a third-party payment at a later date. Also, if a change to their arrangements is made at their request or with their agreement, for example, if they move to a more expensive room, then a third-party payment can become due.



16. Self Funders

16.1 Self funders are defined as having savings or capital assets of more than the upper capital limit, or whose income is at a level where their assessed contribution matches or exceeds the total cost of their services (known as full cost payers).

16.2 Service users will be expected to make their own arrangements for residential or nursing care if one or more of the following situations apply:

- the service user has income or savings above the eligibility threshold of £23,250 and are a self-funder.
- the service user has had a social care assessment but doesn't want to disclose their finances. In this case Client Finance will assume the user is funding their own care and is a full cost payer.
- the service user is not eligible for support from the Council and will arrange support for themselves
- the service user does not want to ask the Council for support
- the service user fails to co-operate and/or do not provide a completed financial assessment form and the correct evidence within 28 days of the start of care without good reason (e.g., the service user requires a Deputy, they may be in hospital and have no access to data held in the home, or the person managing their finances is taken ill (often the case for husband and wives).

16.3 Under section 8.56 of the Care and Support guidance, service users with eligible care needs and financial assets above the upper capital limit may ask the Council to meet their needs. This could be for a variety of reasons such as the person finding the system too difficult to navigate, or wishing to take advantage of the Council's knowledge of the local market of care and support services. Where the person asks the Council to meet their eligible needs, and it is anticipated that their needs will be met by a care home placement, then the Council may choose to meet their needs, but is not required to do so. In other cases, where the needs are to be met by care and support of some other type, the local authority must meet those eligible needs.

16.4 Where the Council arranges care placements for self-funders, the Strategic Commissioning & Market Management Team (SC&MM) will endeavour to secure these at agreed Council contract rates, however, if these cannot be secured on agreed contract rates, then alternative off contract 'spot' purchase rates will be agreed. The Council will pay the care provider on behalf of the self-funder, and the Client Finance Team will issue an invoice at full cost for payment once every 4 weeks to the self-funder. The Council is considering introducing a self-funder arrangement fee to cover some of the costs the Council incurs in arranging the placement and setting up payment and invoicing arrangements.

17. Funding Pick ups

17.1 Self funders whose assets are starting to fall below the upper capital threshold of £23,250 may be eligible for council funding. The Council will have to make a determination following a Care Act assessment, to confirm that an individual has eligible care needs. Following this, a financial assessment will be undertaken to determine the date the former self funder became eligible for Council funding. The



financial assessment will also consider and review for any cases of suspected deprivation of assets (capital or income). Where the Council believes that a service user may have tried to deliberately avoid paying for care and support costs through depriving themselves of assets, the case will be dealt with under the deprivation of assets process. If this is determined then funding pick requests will be denied and service users informed accordingly.

17.3 As it can take a number of weeks to complete these assessments, the Council will require a minimum of 12 weeks' notice to undertake the eligibility assessments before determining eligibility and from what date this begins. The Council will assume contractual liability for funding the placement from either the date of the request for funding assistance, or the date at which funds fall below the upper capital limit, whichever is the later.

17.4 CW&C will become responsible for paying for care:

- If the Council assesses that there are eligible care needs.
- AND a financial assessment has been completed and confirmed the individual is below the financial limit.

17.5 Where the Council arranges care placements following a funding pick up, the Strategic Commissioning & Market Management Team (SC&MM) will endeavour to secure these at agreed Council contract rates, however, if these cannot be secured on agreed contract rates, then alternative off contract 'spot' purchase rates will be agreed. If the service user declines a placement at these rates and wishes to take up a more expensive placement, then they will need to make arrangements for a third party, (i.e., family member or friend) to make up the difference as a third party 'top-up'.

17.6 CW&C Council will not be responsible for debts incurred prior to the date the Council determines the person has become eligible for funding assistance. The Council strongly recommend that the service user or their financial representative continues to meet their contractual payment terms, until such time as the council agrees to take over the funding and at an agreed rate.

18. Payment Arrangements

18.1 Whether the service user is assessed to pay the standard charge or a contribution towards the cost of their services, Client Finance will issue an invoice for payment once every 4 weeks to the service user or care of their financial representative. Invoices are issued 4-weekly in arrears, this delay is necessary as care providers must verify the care has been provided before an invoice is issued.

18.2 The Council has 13 billing periods throughout the year, starting in April and ending in March. As the bill is sent every four weeks and not every month, the service user will receive thirteen bills in a twelve-month period.

18.3 The Council's preferred payment method is **Direct Debit**. Payments are due within 21 days of the invoice being sent and if payment isn't made by the due date, recovery procedures will commence in line with the Council's standard debt recovery



process and policy. Non-payment of invoices could, in some cases, result in court action. Reminders for non-payment are issued promptly in accordance with the debt-recovery cycle.

18.4 Where a service user refuses to pay their assessed contribution, for whatever reason, the service will not be withdrawn. The Council will continue to provide the services for as long as they are required to meet an assessed need and will review the service users' financial circumstances and ability to pay. If payment is unreasonably withheld the council may pursue the debt owed by the service user, which may include use of court proceedings. Service users will be provided with the Council's Debt Recovery policy.

19. Deferred Payment Agreements (DPA)

19.1 This is set out in full in the Council's Deferred Payment Agreement policy.

19.2 For service users who are moving into a care home and own their own home, they may be eligible for a Deferred Payment Agreement to defer some of their care costs against the value of that property. A Deferred Payment Agreement is an arrangement with the Council that will enable people to use the value of their home to help pay care home costs. If they are eligible, the Council will help to pay their care home bills on their behalf. The Council charges set up costs for DPAs.

19.3 The service user or their financial representative can delay repaying the Council until they sell their home, or until after their death or services are no longer required.

20. Residential College

20.1 Residential College provides ongoing special education and care support to young people with learning difficulties, disabilities, complex health needs and autism. Service users going into residential college who are receiving care support to meet their social care will be subject to a financial assessment to determine any contribution they will need to make towards the cost of the support provided. The support they receive to meet their educational needs is separate and not subject to a financial assessment.

20.2 The rules governing the financial assessment of social care support in residential settings are set nationally by the Government. Different rules apply to community settings and these rules would apply when the service user is not in college, for example when they are at home/away from college between term times and still need support with their personal care.

20.3 The financial assessment will determine if a service user pays all or part of the cost depending upon their financial circumstances. If they have capital over the current upper capital limit, they will be expected to pay the standard charge for their care support. If they have less than the current upper capital limit, the service user will be referred for a financial assessment. The value of the property where the service user lives will not be counted as capital but any other property that they own may be.



20.4 If the service user is in college for five or seven days, they will be required to pay for the care received over those five or seven days respectively. The charges for care will only usually cover term times however should the service user remain in college outside of term time and receive care during this time, this will be chargeable.

20.5 Some benefits may be affected by care support whilst in residential college. This will be assessed during the financial assessment.

Appendix A – Income and Expenditure included in Financial Assessments for Residential Care and Short Breaks

Income

When calculating the Residential Care assessed charge, the following income will be included in full in the assessment: -

- State Retirement Pension
- Guarantee Credit
- Occupations Pensions
- Private Pensions
- Annuities
- Universal Credit (excluding Child Element)
- Employment and Support Allowance
- Personal Independence Payment (Daily Living Element if being assessed to pay full weekly cost of care)
- Disability Living Allowance (Care Element if being assessed to pay full weekly cost of care)
- Attendance Allowance (If being assessed to pay full weekly cost of care)
- Any other Income excluding the following: -

Income disregarded in full in the assessment: -

- Earnings
- Personal Independence Payment (Mobility Element)
- Disability Living Allowance (Mobility Element)
- Child related income (Child Tax Credit, Child Benefit, Child Maintenance)
- War Veterans Pension

Income partly disregarded in the assessment: -

- Savings Credit - disregard of up to £6.50 for a single person or £9.75 for a couple
- Spouse Allowance - if partner/spouse at home the Council can disregard 50% of Occupations/Private Pensions and Retirement Annuity or alternatively, the difference between the partner's income and the DWP



Minimum Income Guarantee. Whichever is more advantageous to the client.

- War Widows Pension - £10 disregard

Expenditure

When calculating the Residential Assessed care charge, the following expenditure will be included in full in the assessment: -

- The Personal Allowance (£30.15 for 2024/25)
- Mortgage Payments – (for any period classed as temporary and for the first 6 weeks from when made permanent – unless under a deferred payment arrangement in which case the disregard will continue) 50% if client is part of a couple. This does not include payments on an Equity Release Mortgage (where the client has chosen to release equity from the property).
- Rent – (for any period classed as temporary and for the first 6 weeks from when made permanent) 50% if client is part of a couple.
- Service Charges – (for any period classed as temporary and for the first 6 weeks from when made permanent) 50% if client is part of a couple. Excludes personal gas and electricity charges (with the exception of standing charges)
- Council Tax - (for any period classed as temporary and for the first 6 weeks from when made permanent) 50% if client is part of a couple.
- Lifeline Allowance (pendant alarm).
- Water Rates - (for any period classed as temporary and for the first 6 weeks from when made permanent – unless under a deferred payment arrangement in which case the disregard will continue) 50% if client is part of a couple.
- Buildings Insurance - (for any period classed as temporary and for the first 6 weeks from when made permanent – unless under a deferred payment arrangement in which case the disregard will continue) 50% if client is part of a couple.
- Gas and Electricity Standing Charges - (for any period classed as temporary and for the first 6 weeks from when made permanent) 50% if client is part of a couple.

Appendix B – Care Provider payment schedule



Provider Invoicing
Schedule 2024-2025



Accessing Cheshire West and Chester Council information and services

Council information is also available in Audio, Braille, Large Print or other formats. If you would like a copy in a different format, in another language or require a BSL interpreter, please email us at equalities@cheshirewestandchester.gov.uk

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Pokud byste požadovali informace v jiném jazyce nebo formátu, kontaktujte nás

Jeżeli chcieliby Państwo uzyskać informacje w innym języku lub w innym formacie, prosimy dać nam znać.

ਜੇ ਇਹ ਜਾਣਕਾਰੀ ਤੁਹਾਨੂੰ ਕਿਸੇ ਹੋਰ ਭਾਸ਼ਾ ਵਿਚ ਜਾਂ ਕਿਸੇ ਹੋਰ ਰੂਪ ਵਿਚ ਚਾਹੀਦੀ, ਤਾਂ ਇਹ ਸਾਥੋਂ ਮੰਗ ਲਓ।

如欲索取以另一語文印製或另一格式製作的資料，請與我們聯絡。

Türkçe bilgi almak istiyorsanız, bize başvurabilirsiniz.

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Tel: 0300 123 8 123 **Textphone:** 18001 01606 275757

email: equalities@cheshirewestandchester.gov.uk

web: www.cheshirewestandchester.gov.uk