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**North East Lincolnshire**

**Council**

**Charging and Financial Assessment for Adult Care and Support Services**

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## 1 Introduction

This policy provides the framework within which charging and financial assessment is undertaken in North East Lincolnshire. It should be read in tandem with the policy entitled “Micro-Commissioning in Adult Social Care, Continuing Healthcare and Funded Nursing Care: principles of consistent, pragmatic, and ethical decision making” which can be found at <https://www.northeastlincolnshireccg.nhs.uk/publications/> (‘the Micro-commissioning Policy).

Via an agreement under s75 of the National Health Service Act 2006, North East Lincolnshire Council (‘the Council’) delegated some adult social care responsibilities to the NHS Humber and North Yorkshire Integrated Care Board (ICB), at North East Lincolnshire Place.  The ICB and/ or Council commission a number of providers to deliver social care functions on behalf of the Council. This includes:

* delivery of micro-commissioning functions by Care Plus Group (CPG), Navigo and Focus Independent Adult Social Work (Focus); and
* charging, financial assessment and collection functions by Focus.

Whilst the functions to which this policy relates will be carried out primarily by the ICB and/ or Focus, as charging policy is a reserved matter, only the Council will be referred to throughout.

## 2 Scope and definitions

This policy applies to all adults (those aged 18 and over) that receive chargeable care and support services. It will be referenced and applied by all staff undertaking charging activity on behalf of the Council, regardless of which organisation employs them.

Charging activity includes (but may not be limited to):

* providing information about charges for care and support
* undertaking financial assessment, review or collection
* undertaking associated administrative tasks, such as arrangements for putting in place, or for monitoring:
* packages of care and support for those otherwise ineligible for such help from the Council
* deferred payment agreements. The Council has a separate policy on deferred payment agreements which can be found here: [Deferred Payments Agreement - LiveWell (nelincs.gov.uk)](https://livewell.nelincs.gov.uk/adult-social-care/deferred-payments-agreement/)

The term ‘care and support’ is used to describe the provision of services or other activity to adults in need of social care and support. The term ‘eligible care and support needs’ is used to denote adult social care needs deemed eligible via the application of criteria within the Care Act 2014 (‘the Care Act’) associated statutory guidance and regulations.

The term ‘care practitioners’ is used to denote staff directly interfacing with members of the public: individuals with needs, carers, families and representatives. It is also intended to include finance practitioners in the Focus Finance Team.

## 3 Purpose and aims

The policy’s aim is to produce a consistent and fair framework for charging and financial assessment for all adults who receive or may receive chargeable care and support services, applied on an equitable and transparent basis.

In particular, the policy is intended to recognise:

### 3.1 The financial context within which charging activity takes place.

The adult social care budget is agreed annually by the Council’s cabinet and is limited. To ensure best value management of public budgets, the Council intends that its charging activity will be undertaken on the basis of full cost recovery wherever possible and appropriate. This intention is reflective of the Care Act, which directs local authorities to consider the long-term sustainability of their approach to charging.

In considering best value, the Council pays particular regard to National Audit Office (NAO) guidelines. The NAO defines value for money as ‘the optimal use of resources to achieve the intended outcomes’, and uses three criteria when assessing value for money:

* Economy: minimising the cost of resources used or required (inputs) – spending less
* Efficiency: the relationship between the output from goods or services and the resources to produce them – spending well; and
* Effectiveness: the relationship between the intended and actual results of public spending (outcomes) – spending wisely.

The NAO criteria should be applied to all adult care and support functions undertaken on the Council’s behalf, including charging activity.

### 3.2 The legal context within which charging activity takes place

### 3.2.1 The Care Act 2014

The Care Act provides the framework for charging for care and support. It enables local authorities to decide whether or not to charge adults when arranging to meet their needs, and when arranging support for carers. The Care Act also lists functions and services for which local authorities are not permitted to charge.

Where a local authority intends to charge, the Care Act permits it to undertake an assessment of an adult’s financial resources (either a full or a light touch assessment). Financial resources include income and capital. The financial assessment determines the level of an adult’s resources, and the amount (if any) which the adult may be likely to be able to contribute towards the cost of their care and support. The assessment will ensure that the level of financial contribution calculated is within an adult’s means, and leaves them with the guaranteed minimum level of income set annually by government. Financial assessments are updated annually to take account of changes in circumstances.

The detail of how charges apply is different depending on whether an adult receives care and support in a care home, in their own home, or in another setting. However, the Care Act’s overarching principle in relation to charging is that adults should only be required to pay what they can afford. The Care Act’s accompanying statutory guidance gives further details on the principles which local authorities must take into account when making decisions on charging. The principles are that the approach to charging for care and support needs should:

* ensure that people are not charged more than it is reasonably practicable for them to pay
* be comprehensive, to reduce variation in the way people are assessed and charged
* 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
* support carers to look after their own health and wellbeing and to care effectively and safely
* be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs
* apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings
* encourage and enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so
* be sustainable for local authorities in the long-term.

The Council has due regard for those principles when drafting and applying this policy.

### 3.2.2 The Mental Capacity Act 2005 (MCA)

The Council is mindful that although charging decisions are not decisions made by the adult seeking care and support, each adult’s consent to participate in charging activity (for example, a financial assessment), or their refusal, is subject to the principles of the MCA.

Where the adult lacks capacity to consent to charging activity, the Council will seek consent and participation from appointed representatives where available, such as

* An attorney appointed via an Enduring Power of Attorney (EPA)
* An attorney appointed via a Lasting Power of Attorney (LPA) for property and affairs
* A deputy for property and affairs appointed by the Court of Protection
* Any other person dealing with the adult’s financial affairs (e.g. a person selected as ‘appointee’ by the Department for Work and Pensions (DWP) for the purpose of benefits payments).

Persons appointed as representatives via any of the above mechanisms will be asked to evidence it by providing a full copy of the document appointing them. Copy evidence will be lodged with the adult’s records.

Where there is no person appointed to act on behalf of an incapacitous adult in respect of charging activity, the Council will seek to involve relevant others such as health and welfare attorneys/ deputies with the aim of:

1. Facilitating the involvement of the adult in charging activity
2. Making relevant best interests decisions on behalf of the adult
3. Considering whether an application should be made to the Court of Protection to appoint a property and affairs deputy.

In the absence of any appropriate person to support the involvement of an incapacitous adult in charging activity, the Council may consider the involvement of an advocate where this appears to be in the best interests of the adult.

### 3.2.3 Public law principles in decision making

In addition to legislative duties, care practitioners are expected to take decisions in a way that is compliant with public law duties and principles. Care practitioners must ask themselves the following when making charging and related micro-commissioning decisions:

* Legality – is the proposed decision reflective of legislative obligations, and within the limits of the discretion allowed by law (taking into account all relevant considerations and ignoring irrelevant ones)? This could include taking into account obligations under the Equalities Act 2010, for example
* Rationality – is the proposed decision reasonable and proportionate in all the circumstances? Does it maintain a proper balance between the interests of the individual to which the decision relates, and those of ‘the State’ (i.e. in this context, the Council)?
* Procedural propriety – has the decision making process ensured that the individual affected by the decision (or their representative) has had a fair opportunity to participate in it? Have any views expressed by the affected individual (or their representative) been properly taken into account? Have any procedural rules in relevant legislation been complied with?

The Council is aware that as a matter of public law, a policy provides a starting point, and a framework for the application of professional decision making to individual circumstances; this policy is not intended to fetter discretion.

When making its decisions, the Council will have regard to the Local Government Ombudsman guidance on Good Administrative Practice: <https://www.lgo.org.uk/information-centre/information-for-organisations-we-investigate/guidance-notes/principles-of-good-administrative-practice>

## 4 Policy

### 4.1 key points applicable to charging regardless of setting

To access care and support, adults must meet the Care Act’s eligibility criteria. Only where an adult has eligible needs for care and support will a financial assessment be required.

Financial assessment (either a full assessment or light touch) is the mechanism for determining the level of an adult’s resources. An adult with capital over the upper capital limit, or who refuses a financial assessment, will be required to pay the full cost of their care and support.

The financial assessment will refer to the Care Act Statutory Guidance for all disregards in respect of income and capital when making a determination of the adult’s financial resources. The Council will also consider disregarding the whole or part of the reasonable costs of a pre-paid funeral plan. The amount to be disregarded will depend on (for example) the Council’s view of whether the plan might be considered a relatively standard (rather than a luxury) plan, and whether the plan is in proportion to the adult’s assets. Plans will be unlikely to be disregarded where, in the opinion of the Council, they exceed what might be considered to be standard, or are out of proportion to the adult’s assets.

Where following financial assessment an adult is deemed to be able to afford to make a contribution to their care, contributions are payable from the date care begins. If there is a delay in conducting the financial assessment for any reason, contributions will still be payable from the date services began. Where a financial assessment has been delayed, adults may be invoiced retrospectively to bring their contributions up to date.

There are circumstances in which an adult may be offered a light touch financial assessment, where undertaking a full financial assessment may be disproportionate to the cost of care and support services. Where appropriate as part of a light touch assessment, adults/ their representative will be asked to provide a benefit award letter/ bank statement to evidence the adult’s income and capital and whether they are over or under relevant limits.

Once the financial assessment has been concluded, the adult will be informed of the weekly amount they must contribute towards their care and support costs. Adults will not be charged more than the amount determined by the financial assessment; this will be the amount that the law says they can afford.

All financial assessments will be reviewed with the adult or their representative on an annual basis or when a change in circumstances occurs. If the adult’s contribution will increase as a result of the review, the increase will apply from the Monday following the review. If the adult’s contribution decreases as a result of the review or change, it will be backdated to the Monday before the review took place. A review will be proportionate to the circumstances: it may be face to face, over the telephone, virtually or by post or email.

Adults or their representatives are responsible for informing the Council of any changes in their financial circumstances. This includes informing the Council of additional benefits being awarded. If the Council is not notified immediately of any changes, the financial reassessment will be backdated to the date of the change and/ or the date the additional benefit was awarded.

Similarly, where an adult’s capital falls below the upper capital limit, the adult or their representative should notify the Council immediately. The Council will complete a financial assessment with the adult to establish what contribution they can make to the costs of their care. On the assumption that the financial assessment identifies that the adult is eligible for Council funded support, the Council will only offer funded support from the date that the adult notifies the Council of the change in their circumstances.

Notification of change should be directed to the Finance Team at Focus (contact details can be found on the adult’s notification of charge).

### 4.2 Charging for permanent care and support in a care home (residential care)

Adults will only be supported to access residential care where a care assessment identifies that this is where their eligible needs are best met.

The Council will charge for care and support delivered in a care home on a permanent basis. Adults will be made aware no later than admission to the care home, of the maximum amount of funding the Council will make available towards the care and support delivered there. This maximum amount will generally reflect the Council’s ‘Standard Rate’. The Standard Rate is the sum agreed between the Council (via the ICB) and residential care providers each year. Occasionally, the Council may agree that a sum in addition to the standard rate is payable, to provide extra one to one care for an adult. Any additional sum will be clearly set out in the adult’s personal budget. The adult will make any assessed contribution to the Standard Rate (and any such additional sum, where relevant) directly to the care home, and the Council will pay the remainder directly to the care home.

The Council’s approach to micro-commissioning care home placements is set out in detail in the Micro-commissioning Policy at paragraphs 4.4 and 4.5. This includes the Council’s approach to choice of accommodation and top-ups and out of area placements. A brief summary only is offered here, as follows:

Choice of accommodation and top-ups: the right to choose a placement more expensive than the Council’s Standard Rate only applies where a third party or in certain circumstances the adult in need of care is able and willing to pay the additional cost (a ‘top-up’), and

* the Council is satisfied that the person paying the top-up is willing and able to do so for the likely duration of the adult’s stay in the chosen accommodation (the person paying the top-up will be required to provide evidence of affordability and sustainability)
* the person paying the top-up enters into a written agreement with the ICB (on behalf of the Council) in which they agree to pay it. Further information on the content of the written agreement can be found in the Top-ups Toolkit at: [Choosing adult social care accommodation and paying a top-up - LiveWell (nelincs.gov.uk)](https://livewell.nelincs.gov.uk/adult-social-care/choosing-adult-social-care-accommodation-and-paying-a-top-up/).

Not paying the top-up may result in the adult’s accommodation placement being ended and alternative accommodation arranged. Further information on the Council’s approach to defaults in top-up payments can be found within the Micro-commissioning Policy and Top-ups Toolkit, using the link above.

Out of area placements: If an adult chooses to be placed in a setting outside North East Lincolnshire, arrangements will be made, subject to the choice of accommodation/ top-ups conditions set out above. In such cases, the Council will *have regard to* the cost of care in the chosen area when setting the maximum sum it will make available to meet the adult’s needs. Further detail is offered in the Micro-commissioning Policy, and via the link above.

### 4.2.1 Universal Deferred Payment Agreement

Adults that own a property or other valuable asset, over which security (a legal charge) can be taken, may be eligible to defer care costs against the value of the property/ asset. This is known as a Deferred Payment Agreement. The Council will make universal deferred payment agreements available under the national ‘Universal Deferred Payment Agreement Scheme’ providing the eligibility criteria has been met. Details of North East Lincolnshire’s Deferred Payment Policy and further information can be found here: [Deferred Payments Agreement - LiveWell (nelincs.gov.uk)](https://livewell.nelincs.gov.uk/adult-social-care/deferred-payments-agreement/)

### 4.2.3 Key points to a financial assessment when entering a care home permanently

The financial assessment will take into account:

* Income
* Capital
* The value of any assets.

Evidence of income, capital and assets may be required when completing the assessment.

The Council will take into consideration any mandatory disregards of income, capital and property as defined in the Care Act regulations and statutory guidance. It will also take into account the amounts the law says adults must be allowed to retain from their income. These are known as the ‘Personal Expenditure Allowance’ (PEA) and ‘Disposable Income Allowance’ (DIA). These amounts are dependent upon the adults’ financial circumstances, and are set annually by the Department of Health and Social Care.

The Council will undertake a financial and benefits check for adults as part of a full financial assessment.This may include signposting and referring for additional benefits. More information on the local approach to charging is available here: [Paying for Your Care - LiveWell (nelincs.gov.uk)](https://livewell.nelincs.gov.uk/adult-social-care/paying-for-your-care/).

### 4.3 Charging for temporary care and support in a care home (respite)

### 4.3.1 What is temporary care and support in a care home?

Following an assessment of an adult’s eligible care and support needs, a decision may be taken that they would benefit from a temporary stay in a care home. A temporary stay is sometimes referred to as respite.

A temporary resident is defined as an adult 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 adult’s stay should be unlikely to exceed 52 weeks, or in exceptional circumstances, unlikely to substantially exceed 52 weeks.

The Council will charge for care and support delivered in a care home on a temporary basis.

Contributions to the cost of all temporary stays are payable from the date care commences.

A new financial assessment will be required in each financial year in which an adult requires temporary accommodation in a care home.

### 4.3.2 charging for temporary care in the first eight weeks

For the first eight weeks of a temporary stay, the Council will charge adults based on the rules that apply to charging for non-residential services. This means that the adult’s income and expenditure will be taken into account in the same way that it would be if they were receiving services outside of a care home (see 4.4 below).

### 4.3.3 charging for temporary care after the first eight weeks

If the temporary stay falls under “extended respite” (anything longer than a stay of eight weeks) the Council will ensure that payments made by the adult to keep and maintain their home, such as rent (unless housing benefit is in payment), water rates and insurance premiums are disregarded. Please note, “extended respite” falls under a separate charging regime which is still based on individual financial assessments; however, different rules are used to charge for non-residential services.

### 4.3.4 charging for temporary stays that become permanent

Adults that have a temporary stay that becomes permanent will be assessed for a permanent stay at the date permanency is confirmed and their care and support plan is amended. The financial assessment for temporary stays will completely disregard the adult’s main or only home where the adult intends to return to that home.

### 4.4 Charging for care and support outside of a residential setting, including an adult’s own home (domiciliary care)

The Council will charge for care and support delivered in other non-residential care settings including an adult’s own home.

If more than one care worker is required to carry out the same service at the same time (for example, the adult needs two care workers simultaneously to support safe moving and handling), the maximum the adult will pay is the full cost of the first care worker and 50% of the cost of the second care worker.

The Council has a range of flat rates for day care, transport and laundry services. These rates can be viewed at Appendix A. The Council will increase these charges every year by reference to the rate of inflation.

A personal budget is the sum the Council makes available to meet the adult’s needs. Adults have the option to use their personal budget for Council commissioned services or to take it as a direct payment, or a combination of both. The Direct Payments Policy sets out the criteria for care and support being managed using direct payments. The Direct Payments Policy and further related information can be found at [Direct payments - LiveWell (nelincs.gov.uk)](https://livewell.nelincs.gov.uk/adult-social-care/direct-payments/).

### 4.4.1 Key points to a financial assessment outside of a residential setting

The Council will undertake a financial assessment to determine the amount an adult can contribute towards the costs of their care and support based, as a minimum, on income, capital and housing costs. Where the adult is in receipt of a qualifying benefit, Disability Related Expenditure (DRE) will also be considered.

Where the adult receiving care and support has capital at or below the upper capital limit (currently £23,250), but more than the lower capital limit (currently £14,250), they will be charged £1 per week for every £250 in capital between the two amounts. This is called “tariff income”. For example, if an adult has £5,000 above the lower capital limit, they are charged a tariff income of £20 per week.

When assessing what an adult can afford to contribute to the cost of their care, the Council will ensure that the adult retains at least the ‘Minimum Income Guarantee’ (MIG). This retained income level is designed to promote independence and social inclusion and is intended to cover basic needs such as purchasing food, after housing costs have been taken into consideration. The Council uses a more generous MIG figure than the one set each year by the government. The Council’s MIG is sourced from a single person’s DWP rates (set annually by the Department of Work and Pensions) including any premium entitlements, plus an additional 25%.

Property other than the adult’s main or only home will be included within the financial assessment as a capital asset. The only exception to this rule is where the adult is taking steps to occupy premises as their home. In this case the asset value will be disregarded for a maximum of 26 weeks.

Direct housing costs (rent, mortgage interest, Council Tax) will only be taken into account as part of the financial assessment where the adult is liable for such costs, i.e. where the adult is a party to a tenancy agreement or mortgage. For adults living with family members and who pay rent, the housing benefit non-dependent deduction rate will be taken into account as part of a financial assessment. Unless the adult is directly liable (i.e. is a party to the tenancy agreement or mortgage), no further allowance above the level of the housing benefit non-dependent deduction rate will be taken into account.

Where funds are held in trust, the financial assessment will seek to determine whether income received or capital held in trust should be included or disregarded. Copies of trust documents (e.g. Trust Deed, Will Settlement etc.) are required as part of the financial assessment.

The Care Act requires that financial assessments are completed for adults as individuals. Where capital is held and income is received on a joint basis, then it is assumed that each person is entitled to 50% of that capital/ income. A couple is defined (for administration of their financial affairs) as two people who are married or in a civil partnership, or living together as if they are married or in a civil partnership.

Adults will be encouraged to set up a standing order to pay their contribution or alternatively will receive an invoice on a 4 weekly basis in arrears.

Where an adult has capital in excess of the upper capital limit and is therefore required to meet the full costs of their care, they are still entitled to request that the Council arrange their services. The Council will charge an annual fee for arranging services. See 4.6 below.

More information on the local approach to charging is available here: [Paying for Your Care - LiveWell (nelincs.gov.uk)](https://livewell.nelincs.gov.uk/adult-social-care/paying-for-your-care/).

### 4.5 Disability related benefits and disability related expenditure

### 4.5.1 Disability related benefits

Adults who are in receipt of care outside of a residential setting (care or nursing home) and are in receipt of disability benefits (Attendance Allowance (AA), Disability Living Allowance (DLA), and Personal Independence Payments (PIP)), will be asked whether they want any relevant expenditure to be considered as disability related expenditure (DRE). Agreed DRE is taken into account as part of the financial assessment.

DRE will only be allowed if the adult is in receipt of a qualifying benefit and receipts are provided to evidence expenditure.

### 4.5.2 disability related expenditure (DRE)

#### 4.5.2.1 What is DRE?

Where disability-related benefits are taken into account in the calculation of income, the Council will also take into account as reducing income any disability related expenditure (DRE) incurred by the adult. DRE is directed at spending that is necessary to meet the adult’s disability needs, but which does not meet the Care Act’s eligibility criteria.

A non-exhaustive list of DRE items is provided by Care Act Regulations and Guidance, to include various types of specific expenditure. The adult’s care plan is also a good starting point for considering what is necessary DRE. However, the Council approaches the matter with discretion, and does not limit itself to only considering what the care plan lists as necessary for care and support.

The Council will usually allow as DRE items where the adult has little or no choice other than to incur the expenditure, in order to maintain independence or quality of life.

The Council retains flexibility to take account of individual need. It will consider DRE allowances outside of this policy where individual circumstances may warrant departure from it.

#### 4**.5.2.2 How is DRE quantified**?

It can be difficult to quantify the additional costs directly related to an adult’s disability in the context of expenses which many people meet, regardless of whether they have a disability. Building on the examples within the Statutory Guidance, the Council has largely adopted the approach set out by the National Association of Financial Assessment Officers (NAFAO) in developing an approach to DRE (see Appendix B).

With regard to the following common expenses, the Council anticipates that reasonable additional costs directly related to the adult’s disability can be met within the following limits:

* social activities up to a maximum of £50 per week
* gardening up to a maximum of £15 per week
* window cleaning up to a maximum of once per month.

The above figures/ frequency are those which the Council has calculated (on the basis of experience to date) are sufficient to meet the majority of requests for DRE allowances in respect of social activities, gardening and window cleaning. Care practitioners will ensure that higher claims are accompanied by a clear rationale as to why this is justified (by reference to the factors set out within legislation, guidance, and the Micro-commissioning Policy). There is no intention to fetter discretion or set arbitrary limits, but rather to ensure that all appropriate matters have been taken into account before apparently costlier claims are endorsed.

The Council will generally not allow DRE where:

* a reasonable alternative is available at lesser cost. For example, an individual funding a private day care placement at a higher cost than the Council’s day care provision will only be allowed DRE to the value of the Council’s provision
* costs should be met by other agencies, such as the NHS. This applies to therapies such as physiotherapy, chiropody and incontinence pads.

It is generally expected that any private care or support that is put forward as part of an adult’s DRE will be identified on the care and support plan. The care and support plan is a good starting point for considering what is necessary disability-related expenditure.

Generally, only costs incurred by the adult will be considered as part of the assessment as allowable DRE. In some circumstances, a cost to another individual may be considered as a cost to the adult. This is most likely to happen, for example, where the adult pays for their care worker’s admission to a social activity, where the care worker’s support is necessary to enable the adult to attend (note: the adult’s own admission cost would not generally be allowable as DRE). The adult’s care plan is the starting point when deciding whether the costs to another individual should be considered as a cost to the adult, and so as allowable DRE.

#### 4.5.2.3 DRE and deputyship costs

The Council wishes to promote life planning, and encourages adults to appoint their own representatives to act as attorneys. Appointing an attorney offers adults the comfort of selecting those they trust to manage their affairs, and avoids the costs associated with deputyship. However, the Council recognises that this is not possible in all cases, perhaps because the adult has never had the requisite capacity to appoint an attorney, or has no one suitable to appoint. The wish to promote life planning does not indicate any intention by the Council to fetter its discretion by refusing to allow DRE for deputyship costs in all cases.

Where deputyship costs become necessary, the Council will consider allowing them as DRE. Factors to consider will include whether a deputyship application is necessary given the adult’s level of assets (perhaps, for example, securing DWP appointeeship will suffice) and whether the Council may be able to provide deputyship services at lesser cost. The Council will consider making submissions or applications to the Court of Protection in relevant cases.

#### 4.5.3.4 DRE and evidence

DRE will only be allowed if the adult is in receipt of a qualifying benefit, and receipts/ sufficient evidence is provided to support claimed expenditure.

The Council retains flexibility to take account of individual need. It will consider DRE allowances outside of this policy where individual circumstances may warrant departure from it.

### 4.6 Charging for support for carers

The Council does not currently charge carers for any support they receive as it recognises the vast contribution carers make towards sustaining the health and social care system.

### 4.7 Requesting Council support to meet eligible needs

The Care Act allows local authorities to charge an administration fee for arranging care and support for someone in their own home when they have assets above the upper capital limit.

The Council charges an administration fee, which is due for payment when the care and support package has been arranged.  This fee is to cover the costs involved in arranging care and support. The administration fee is payable each year, at the time of the individual’s financial assessment. This fee is charged every year regardless of changes to the care and support received. The full fee is payable regardless of the length of time a service is in place for.  Refunds are generally not offered where services are cancelled part way through a year.

Fees will be reviewed on an annual basis. The current fee can be viewed at Appendix A.

### 4.8 Deprivation of assets (deprivation of capital and/ or income)

Deprivation of assets is the disposal of income and/ or capital (property and investments) in order to avoid or reduce care charges. Disposal can take the form of transfer of ownership or conversion of an asset into a different type of asset that is disregarded as part of a financial assessment. In all cases, it is up to the adult to prove to the Council that they no longer possess the asset.

The Council will determine whether to conduct an investigation into whether deprivation of assets has occurred. The Council will require evidence to satisfy it that any transfer of assets was not a deprivation of assets.

Establishing whether a deprivation of assets (capital and/ or income) has occurred means that the Council is satisfied that an adult has:

* deprived themselves of the asset and
* has done so with the intention of reducing what they have available to pay towards the costs of their care and support.

As part of its investigation, the Council will speak to the adult and/ or their representative (where appropriate) to understand the situation. The Council may also need to speak to other professionals such as solicitors to establish ownership, or independent valuers to establish the value of the asset.

Core considerations will include (but may not be limited to) seeking to:

* understand if the adult had a reasonable expectation of needing care and support; and
* understand if the adult had a reasonable expectation that they might need to pay towards the costs of their care and support; and
* establish whether avoiding care costs was a significant motivation in the timing of the disposal of the asset (noting that there is no time limit on how far back the Council can go to explore whether a disposal constitutes a deprivation of assets).

In respect of gifts made by the adult which have the effect of reducing their assets, the Council will also consider (by way of example only):

* how much money they had when the made the gift
* the size of the gift relative to their overall assets
* the purpose/ occasion of the gift (for example on a significant event such as a birthday)
* whether the gift is in line with their historic patterns of giving
* the adult’s life expectancy when the gift was made.

Following the investigation, where the Council decides that an adult has deliberately deprived themselves of an asset to avoid or reduce a charge for care and support, the Council will charge the adult as though they still owned the asset (this is called notional capital or notional income; see below). The Council will write to the adult at the conclusion of the investigation, setting out its decision and explaining how it might be challenged.

The Council recommends that any adult wishing to dispose of an asset seeks legal advice before doing so, to avoid any financial implications relating to care and support charges.

### 4.9 Notional income

In some circumstances an adult may be treated as having income that they do not actually have. This is known as notional income. This might include for example, income that would be available on application but has not been applied for, income that is due but has not been received, or income that the adult has deliberately deprived themselves of for the purpose of reducing the amount they are liable to pay for their care. In all cases the Council will satisfy itself that the income would or should have been available to the person.

Notional income will be applied in respect of a defined contribution pension in the way described in the Care Act’s statutory guidance.

Notional income will be applied in respect of benefit entitlement that the adult (or their representative) has unreasonably failed to claim. Classing the amount of the adult’s entitlement as part of their income/ capital, may result in an increase to their financial contributions. The Council will work with adults/ their representatives to support benefit applications, and to maximise the adult’s financial position, wherever possible.

Where notional income is included in a financial assessment, it will be treated the same way as actual income. Any income that would usually be disregarded will continue to be so.

Notional income will generally be calculated from the date it could be expected to be acquired if an application had been made. The Council will assume the application was made when it first became aware of the possibility and take account of any time limits which may limit the period of arrears.

### 4.10 Recovery of Debt

The Care Act consolidates local authorities’ powers to recover money owed for arranging care and support for an adult. These powers can be exercised where an adult refuses to pay the amount they have been assessed as being able to pay, or have been asked to pay (where the cost of care and support is less than their assessed contribution).

The powers granted to local authorities for the recovery of debt extend to the adult or their representative, where they have misrepresented or have failed to disclose (whether fraudulently or otherwise) information relevant to the assessment of what the adult can afford to pay.

The Council is committed to recovering all monies owed to it in order to maximise income to sustain services for the local community. The Council will take legal advice to ensure that all appropriate options are considered to recover debt.

The Council will approach the recovery of debt reasonably and sensitively and will only take court action as a last resort. The Finance Team will work with adults and/ or their representatives to prevent debts from occurring. The Council’s debt recovery process for recovering monies due for care and support costs can be found at Appendix C.

All debt that arises from 1st April 2015 must generally be recovered within 6 years from when the sum became due to the Council. Acknowledged debts such as those connected with deferred payment agreements for example (see 4.2.1), may go beyond this period.

### 4.11 The Appeal Panel

The Appeal Panel considers appeals from adults or their representatives against charges, formal complaints relating to charging, or regarding decisions of the Individual Commissioning Approval and Advice Panel (ICAAP). The Appeal Panel comprises a Council representative, a charging policy expert, and representatives of both adult social care and customer care teams. The Appeal Panel uses generic guidance from the Local Government Ombudsman and Parliamentary and Health Service Ombudsman when considering its responses to appeals, complaints and decisions. The Appeal Panel’s Terms of Reference can be found towards the end of the list of documents on the CCG’s publications page: <https://www.northeastlincolnshireccg.nhs.uk/publications/>

## 5 Summary of Publications

The following publications have been referred to in the compilation of this policy:

* The Care Act 2014
* The Care Act 2014 Regulations
* The Care Act 2014 Care and Support Statutory Guidance
* The Equality Act 2010
* The Mental Capacity Act 2005
* Micro-Commissioning in Adult Social Care, Continuing Healthcare and Funded Nursing Care: principles of consistent, pragmatic, and ethical decision making – local policy
* Mental Capacity Act 2005 and Deprivation of Liberty Policy – local policy.

## 6 Training

This policy will be drawn to the attention of all relevant individuals as part of the implementation process (see 7 below).

## 7 Impact analysis

### 7.1 Equality

This policy has been created with due regard for the Council’s public sector equality duty under the Equality Act 2010, s149. All staff connected with the implementation of this policy, in the exercise of their public functions, must also have due regard to the matters within s149(1).

An Equality Impact Assessment (EIA) has been conducted with regard to this policy.

### 7.2 Bribery Act 2010

The Bribery Act 2010 is relevant to this policy. Under that Act it is a criminal offence:

* To bribe another person by offering, promising or giving a financial or other advantage to induce them to perform improperly a relevant function or activity, or as a reward for already having done so; and
* To be bribed by another person by requesting, agreeing to receive or accepting a financial or other advantage with the intention that a relevant function or activity would then be performed improperly, or as a reward for having already done so
* To bribe a foreign public official - A person will be guilty of this offence if they promise, offer or give a financial or other advantage to a foreign public official, either directly or through a third party, where such an advantage is not legitimately due
* For commercial organisations to fail to embed preventative bribery measures.  This applies to all commercial organisations which have business in the UK. Unlike corporate manslaughter this does not only apply to the organisation itself; individuals and employees may also be guilty.

These offences can be committed directly or by and through a third person and other related policies and documentation when considering whether to offer or accept gifts and hospitality and/or other incentives.

Anyone with concerns or reasonably held suspicions about potentially fraudulent activity or practice should refer to the Local Anti-Fraud and Corruption Policy and contact the Local Counter Fraud Specialist.

## 8 Implementation

This policy will be disseminated via key individuals within the Council, the ICB, CPG, Navigo and Focus with the expectation that each will cascade the information within it amongst their relevant teams. The policy will be lodged on the Council’s website, and providers will be expected to ensure that it is available electronically to their staff. The policy will be further communicated through team briefings, and training sessions, led by each provider’s key individuals.

Each organisation delivering direct payment functions will create operational procedures to support their staff in delivering on this policy.

Breaches of this policy may be investigated and may result in the matter being treated as a disciplinary offence under the Council/ ICB’s disciplinary procedure, or that of the organisation which employs the staff member in breach.

## 9 Policy monitoring and review

This policy will be reviewed in 1 year. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in law/ guidance, as instructed by the senior manager responsible for this policy.

## 10 Appendixes

Appendix A – schedule of fees and charges from payment period one, 2024 – 2025

Appendix B - disability related expenditure, 2024 - 2025

Appendix C – debt collection

## Appendix A – schedule of fees and charges from payment period one, 2024 - 2025

**Day care**

Half day: £19.81

Full day: £39.62

**Transport**

Per single journey: £6.60

**Administration fee for arranging care**

Per year: £170

**Support at home**

Per hour: £19.88

**Supported living**

Per hour: £20.16

**Base residential**

Per week: £664.79

For further details on fees, please contact the Finance Team at Focus.

Fees increase on an annual basis by reference to the rate of inflation.

## Appendix B - disability related expenditure (DRE) 2024 - 2025

**Note: this appendix is not to be read in isolation from the policy to which it is attached. When exercising professional judgement, practitioners will be mindful of their public law obligations. The policy/ its appendixes are a starting point within the framework of which practitioners exercise their discretion as to DRE and otherwise.**

It is not possible to give a complete list of DRE as this will vary according to individual needs. The overall aim is to allow for reasonable expenditure needed to maintain independent living or quality of life by a disabled person. In order to take DRE into account, the adult must be in receipt of a disability benefit at any rate.

The aim of this document to provide some non-exhaustive guidance on types of DRE that may be taken into account as part of a financial assessment.

The Council will require receipts or similar evidence to back up claims for DRE. Adults will generally be asked to provide a minimum of four weeks of receipts for ongoing DRE items, along with the frequency these are required. There may be occasions where more evidence is requested. If receipts are not available when the visit from a practitioner takes place, adults will generally have four weeks to submit them. If receipts are not submitted within four weeks the claim will not generally be backdated.

Heating allowances (fuel):

Annual inflationary update based on RPI Fuel index for November 2023. At this date fuel prices had **decreased by 23.1**% in the last 12 months.

The figures are obtained from [Consumer price inflation tables - Office for National Statistics](https://www.ons.gov.uk/economy/inflationandpriceindices/datasets/consumerpriceinflation) from the download "consumer price inflation detailed reference tables”. The figures are found in Table 41 detailed reference tables - % change over 12 months.

|  |  |
| --- | --- |
| Figures for 2023/2024 |  N East / E Midlands |
| Single person - Flat/Terrace  | £2,302.16 |
| Couple – Flat/Terrace | £3,034.24 |
| Single person – Semi Detached | £2,445.22 |
| Couples – Semi Detached | £3,220.12 |
| Single – Detached | £2,972.95 |
| Couples – Detached | £3,919.77 |

Please note the Council needs actual bills/annual usage as evidence. It is not possible to calculate using direct debits as the adult may be paying off previous arrears, or have credit on the account. Adults with pre-payment meters will be asked to provide receipts of payment or an annual statement.

Cost of disability:

Figures were only attached to fuel costs in the FC Guidance and the following are recommended allowances for possible identified items and examples of reasonable evidence requirements prepared by NAFAO. A 3.9% uplift has been applied based on the November 2023 CPI rate.

|  |  |  |
| --- | --- | --- |
| ITEM | AMOUNT | EVIDENCE |
| Community Alarm System | Generally, actual cost if reasonable, unless included in Housing Benefit or Supporting People Grant | Bill from provider |
| Mobile Phone | Practitioners will need to understand how the adult’s mobile phone use arises from their disability. For example, a disabled individual may need their phone for safety reasons if they go out alone. If so, DRE should generally be allowed at a maximum of £15pm.  There may be other examples relevant to individual circumstances. | Bill from provider. Generally expected that it is stated in the care plan that adult goes out alone. NB the care plan is only a starting point for consideration |
| Privately arranged care | Generally, actual cost where this is reasonable and necessary, to a maximum of £19.88 per hour. Generally expected that the relevant social worker confirms the requirement as part of the care plan and our supported care is reduced accordingly. NB the care plan is only a starting point for consideration | Signed receipts or invoices for at least 4 weeks. Evidence of employment arrangement and/or legally correct payments to an employee under UK employment and tax law. Where agency arranged evidence of billing and payment.  |
| Private domestic help | Generally, actual cost where this is reasonable and necessary, to a maximum of £19.88 per hour. Generally expected that the relevant social worker confirms the requirement as part of the care plan and our supported care is reduced accordingly. NB the care plan is only a starting point for consideration | Signed receipts or invoices for at least 4 weeks. Evidence of employment arrangement and/or legally correct payments to an employee under UK employment and tax law. Where agency arranged evidence of billing and payment. |
| Private day care | Generally, actual cost where this is reasonable and necessary, to a maximum of £39.62 per day. Generally expected that the relevant social worker confirms the requirement as part of the care plan and our supported care is reduced accordingly. NB the care plan is only a starting point for consideration | Signed receipts or invoices for at least 4 weeks.  |
| Laundry/specialist washing powder | £4.74 per week | Care plan will generally have identified an incontinence problem and identified a requirement for more than 4 loads per week.If not evidence from other sources and consideration of the nature and impact of any health problem or disability may provide a guide. |
| Special dietary needs | This needs careful consideration as special dietary needs may not be more expensive than average dietary costs. Practitioners will need to determine the difference between an average food bill and any increase of cost due to special dietary requirements. Reasonable amounts can be allowed where demonstrated to be above average dietary costs | The assessment or care and support plan may identify a need. If not evidence from other sources, which may include medical evidence, and consideration of the nature and the impact of any health problem or disability may provide a guide.Details of special purchases, including evidence of payment |
| Chiropodist | Generally, cost divided by frequency e.g. £5 every 5 weeks = £1 | Signed receipts or invoices for at least 4 weeks.  |
| Wheelchair | Generally, actual costs divided by 500 (10-year life) up to a maximum of £4.94 per week manual Up to a maximum of £12.00 per week powered  | Evidence and date of purchase.  |
| Powered bed | Generally, actual cost divided by 500 (10-year life) up to a maximum of £5.46 per week | Evidence and date of purchase |
| Turning bed | Generally, actual cost divided by 500 up to a maximum of £9.55 per week | Evidence and date of purchase  |
| Powered reclining chair | Generally, actual cost divided by 500 up to a maximum of £4.33 per week | Evidence and date of purchase |
| Stair-lift | Generally, actual cost divided by 500 up to a maximum of £7.71 per week | Evidence and date of purchase without disabled facilities grant (DFG) input |
| Hoist | Generally, actual cost divided by 500 up to a maximum of £3.79 per week | Evidence and date of purchase without DFG input |
| Larger items of equipment e.g., commode  | Generally, cost divided by 500. Average life span is 10 years for most big equipment item. Equipment must be disability related equipment. | Evidence and date of purchase  |
| Smaller items of equipment:e.g., beakers, cups | Cost divided by 250. Any smaller equipment items which would have a shorter life span would be cost divided by 250 (5 year life span) | Evidence and date of purchase  |
| Gardening | Generally, add the amounts adults spend each year and divide the total by 52 to give a weekly maximum allowance, up to a maximum of £15 per week.  | Signed receipts or invoices for at least 4 weeks.  |
| Hairdressing | Generally, cost divided by frequency. For wash and set only, not cut, colour, perm etc. | Signed receipts or invoices for at least 4 weeks.  |
| Incontinence Products | Need to refer for a health assessment. Generally would not take this cost in to account as products are provided by health. However, any costs will be considered in a case by case basis. | Receipt or invoice |
| Keysafe | Generally, cost divided by 52. Normally with equipment, the Council would divide by 500 but as keysafe is commonly a one-off small cost, generally it is allowable for one year only and then not taken into account on the following year’s assessment | Receipt or invoice |
| Carelink  | The cost of installing the Carelink equipment can be taken in to account. Generally, the actual cost is divided by 52. Generally, no monthly costs i.e line rentals/calls will be taken into account as DRE as adults are informed of these ongoing costs and that they are responsible for these at the point of installation.  | Receipt or invoice |
| Recliner Chair - Not Powered | Generally, cost divided by 500 as this is a large piece of equipment | Receipt or invoice |
| Scooter – Powered | Generally, cost divided by 500 as this is a large piece of equipment(this is different from a powered wheelchair and generally not taken in to account if costs do not exceed the DLA mobility component that is in payment) | Receipt or invoice |
| Costs relating to mobility | For example, scooter insurance or service. Generally, only taken into account if total mobility costs exceed the DLA mobility component that is in payment. |  |
| Social activities | Generally expected that this will be identified within the care plan. Generally, cost divided by frequency and up to a maximum of £50 per week. | Receipts |
| Taxi | Generally, as standard only for essential trips such as doctors/ hospital/ chiropodist/ shopping. If in receipt of PIP or DLA mobility component and receiving this money, taxis generally need to be above this allowance before we take the difference into account. Where support with costs are available from other sources but have not been used this can be taken into account in considering reasonableness. For example transport to hospital appointments or council provided transport to a day centre. | Receipts showing date and journey details |
| Petrol | Generally, as standard only for essential trips such as doctors/ hospital/chiropodist/shopping. If in receipt of PIP or DLA mobility component and receiving this money, we take the difference into account. If all DLA mobility component is paid towards the car (i.e. Motability) then generally the full petrol cost for the essential trips only can be considered.Where support with costs are available from other sources but have not been used this can be taken into account in considering reasonableness. For example transport to hospital appointments or council provided transport to a day centre. | Generally, a maximum of £12.50 per week is allowable. Anything above this value will receive further consideration. |
| Window Cleaner | Generally, cost up to a maximum of one clean per month only | Signed receipts or invoices for at least 4 weeks.  |
| Wear and Tear on fixtures and fittings | Based on individual circumstances | Receipt or estimates for replacement.  Evidence that is not covered by household insurance policy.  Generally, evidence in Support Plan |
| Repair or replacement of items damaged by user | Based on individual circumstances | Generally, evidence in Support Plan. Receipt or estimates for replacements. Evidence that is not covered by household insurance policy or general standard wear and tear.  |
| Special clothing or footwear/additional wear and tear to clothing and footwear.Additional cost for bedding | Generally, reasonable extra cost divided by average frequency caused by disability. Consider whether this is excess or standard cost of replacements. | Clothing must be disability related such as pants/trousers for incontinence. The assessment or care and support plan may identify a need. If not evidence from other sources, which may include medical evidence, and consideration of the nature and the impact of any health problem or disability may provide a guide.Receipts/ evidence of purchase and payment. |
| Internet access | Reasonable amount for additional cost due to disability | Evidence that costs are higher due to disability.Evidence of purchase and payment. |

## Appendix C - debt collection

1. A financial assessment is completed to ascertain the adult’s ability to pay for their services
2. An invoice for the adult’s contributions is generated via ContrOcc and interfaced directly into Unit 4 (standing order is the preferred means of payment)
3. When the account reaches 14 days overdue the Council will issue ‘standard reminder letter 1’ requesting payment
4. After a further 7 days (21 days overdue) the Council will issue ‘standard reminder letter 2’. Adult social care staff will contact the adult/ their representative by phone to discuss full repayment or a payment plan. Staff should consider whether referral to the Citizen’s Advice Bureau or other relevant advice service would benefit the adult
5. If a payment plan is agreed it must be at the highest repayment possible and clear the debt within a reasonable timescale. If a payment plan is agreed, a visiting officer will monitor the account to make sure the plan is adhered to
6. If repayment cannot be agreed by telephone, Visiting Officer will arrange a home visit to discuss any issues and a repayment plan with the adult/representative
7. If payment is made, the debt process ends
8. If progress is not made a referral to case management for care review/ risk assessment is made. If there are debts, direct payments should not be offered
9. Worker to be notified via workflow on SystmOne re debt amount in order to assist process
10. Where the adult cannot pay
11. A visiting officer will signpost to relevant agencies for debt advice and keep regular contact with adult/representative in order to achieve full repayment. Any payment plans needs to be timely and efficient to make repayment plans effective
12. If arrangement fails, the adult/representative may need to be visited. At this point, the visiting officer will explore all payment options including a restriction/ charge on property and report back to senior staff (NB paperwork will need to be completed to ensure any restriction/ charge on property is properly secured)
13. If arrangement cannot be met then case needs to be referred back to the ICB/ Council/ Focus for decision on whether or not further action will be taken
14. Write off procedure can be used as a last resort in line with ICB/ Council Rules. The write off procedure will be actioned quarterly
15. Where the adult can pay, but refuses to do so, a visiting officer should refer the case to the ICB/ Council for recovery action
16. If respite is received and there is a debt within 12 months, refer to CMT to see if this can be stopped
17. If the adult has a property, contact legal for a restriction/ charge to be placed (NB paperwork will need to be completed to ensure any restriction/ charge on property is properly secured)
18. Further recovery action in line with the debt recovery strategy for adult social care
19. Legal to provide regular feedback to the ICB/ Council, and Focus to review on a regular basis
20. Write off procedure can be used as a last resort in line with ICB/ Council Rules. The write off procedure will be actioned quarterly
21. The offer of an instalment plan is to be available at all times, unless the adult has adequate savings to enable them to make more prompt repayment.