

Policy

Charging for care and support – policy

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Document control sheet

Title of the guidance	Charging for care and support policy
Purpose of the guidance	To ensure that contributions paid by clients and carers are fair and reasonable.
Target audience	Adult Social Care operational staff
Action required	To use the guidance to support working practice
This guidance supersedes	V2 April 2017
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1. Introduction and legal framework

East Sussex County Council (ESCC) provides a range of support for vulnerable people but is reliant on income from charges to help pay for them. Without this income, support levels may not be maintained.

All of ESCC's social care charges are determined in accordance with this policy, which has been written in line with the following legislation and guidance:

- Sections 14, 17 and 69-70 of the Care Act 2014
- The Care and Support Statutory Guidance (CASS)
- The Care and Support (Charging and Assessment of Resources) Regulations 2014
- The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014

2. Principles of the policy

The principles of the policy are to:

- ensure that people are not charged more than it is affordable for them to pay
- 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 to 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 range of options available to meet the person's needs
- apply the charging rules equally, so those with similar needs or services are treated the same and to minimise any inconsistencies between care settings
- encourage or enable those who wish to stay in or take up employment, education or training, or plan for the future cost of their needs to do so
- be sustainable for ESCC in the long term

3. Charges, debt and deprivation of assets

- Charges will be applied from the first date the person receives the care service.
- If a person does not wish to have a financial assessment, they will be required to pay the full cost of the personal budget / care package they receive.
- All those who are financially assessed as being able to make a contribution to their care costs must pay the charge. Unpaid contributions will be considered as a debt. ESCC operates a debt recovery process in line with the 'Care and Support Statutory Guidance Annex D: Recovery of Debts' produced by the Department of Health.
- **Deprivation of assets:** Where a person transfers capital to a third party, or otherwise disposes of a capital asset in order to avoid or reduce paying charges, they will be assessed as if they still had that capital. This is called 'notional capital'.
- The decision to treat a person as still having capital will be taken in accordance with the CASS guidance on deprivation of assets and debts
- Where 'notional capital' is applied, consideration will be given to where funds are held.
- A third party may be invoiced as the recipient of the transfer of funds.

4. Mental capacity and safeguarding

The following areas will be considered on an individual basis throughout all stages of the financial assessment:

- The assessment must meet the requirement of the Mental Capacity Act 2005.
- Where mental capacity and communication needs are assessed before the financial assessment, third parties such as representatives and interpreters will be involved during the financial assessment, as necessary.
- If the person lacks capacity, ESCC will find out if the client has an attorney or deputy under any of the following, as the appropriate person will need to be involved:
 - Enduring Power of Attorney (EPA)
 - Lasting Power of Attorney (LPA) for Property and Affairs
 - Lasting Power of Attorney (LPA) for Health and Welfare
 - Property and Affairs Deputyship under the Court of Protection

- Any other person dealing with that person’s affairs – for example, someone who has been given appointeeship by the Department for Work and Pensions (DWP) for the purpose of benefits payments.
- Any safeguarding adults issues are raised, along with their implication on decision making. Refer to: [Sussex safeguarding adults policy and procedures](#).
- Equality and diversity issues will be identified and the diverse needs of individuals will be respected. Translators and interpreters – including British Sign Language – will be used, where appropriate.

5. Scope

Support that falls within the policy

This policy will impact on people and their carers who are eligible for support from Adult Social Care (ASC).

The financial assessment takes into account the whole of the person’s support package, which could include one or more of the types of support listed below:

- Residential care including:
 - long-term nursing care
 - long-term residential care
 - short-term / respite residential care
 - short-term / respite nursing care
 - temporary residential care
 - temporary nursing care
 - non-residential care including home care
 - day care
 - supported accommodation
 - shared lives
 - direct payments
 - community support / outreach services
 - adaptations over £1,000
 - Supporting People
 - Telecare/Lifeline
 - extra care housing

6. Exclusions

The following types of support are not subject to this policy:

- Information, advice and guidance provided by ESCC.
- Financial assessments, needs assessments and care and support plans.
- OT equipment.
- Reablement services.
- The cost of meals is not included, but will be dealt with separately as a flat rate, non-means tested charge.
- Transport (where provided) will also be charged for separately as a flat rate non-means tested charge.
- Services which the NHS has a duty to provide.

Income from certain sources is specifically excluded from the financial assessment process, in line with the Department of Health Care Act guidance.

Circumstances when a person cannot be charged

There are circumstances where people are exempt from being required to make a contribution. These include:

- people suffering from Creutzfeldt Jacob Disease (CJD)
- aftercare services provided under Section 117 of the Mental Health Act 1983.

7. How to appeal a decision

ESCC operates an appeals procedure which has two stages. The first stage is called a Local Review and the second stage is a Management Review. The appeals procedure can be accessed if the person feels that:

- there has been a mistake in working out their contribution
- there is disability-related expenditure (DRE) which has not been taken into account

A review through the financial assessment appeals process may result in the person's contribution either being reduced, increased or remaining the same.

8. Law

- The Care and Support (Charging and Assessment of Resources) Regulations 2014
- The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014
- Equality Act 2010
- Safeguarding Vulnerable Groups Act 2006
- Mental Capacity Act 2005
- Freedom of Information Act 2000
- Data Protection Act 1998
- Human Rights Act 1998
- National Health Service and Community Care Act 1990

National Framework

- Care and Support Statutory Guidance
- Sussex Safeguarding Adults Policy and Procedures (2015)
- Think Local, Act Personal (2013)
- Caring for our future: reforming care and support (2012)
No Health without Mental Health (2011)
- The New Performance Framework for Local Authority and Local Authority Partnerships (2010)
- National Carers Strategy (2010)
- Department of Health, Guidance on eligibility criteria for adult social care 2010 (PPF: A whole system approach)
- Our Health, Our Care, Our Say: a new direction for community services (2006)
- Independence, Well-being and Choice (2005)
- Improving the Life Chances of Disabled People (2005)
- Code of Practice for the Mental Capacity Act (2005)
- National Service Framework for Older People (2001)