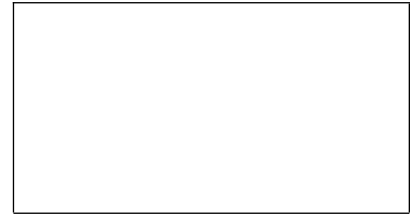


Calderdale MBC

Wards affected All

Cabinet 7 August 2023



A recommendation for Council for the introduction of a Charges Policy within Calderdale Adult Services and Wellbeing Directorate.

Report of the Director for Adult Services and Wellbeing

1. Purpose of Report

- 1.1 The purpose of the report is to request the recommendation for the introduction of a proposed Charges Policy for Care and Support Services, encompassing the following components:
 - (i). Residential Care Services for Adults,
 - (ii). Community Based Services for Adults,
 - (iii). Debt Recovery Policy for Adult Social Care
 - (iv). Direct Payments Policy.
- 1.1 This report will set out the approach Calderdale Metropolitan Borough Council (the Council) Adult and Wellbeing Services will take in respect of the proposed Charges Policy in line with statutory guidance under Care Act 2014.
- 1.2 The proposed Charges Policy will enable people in receipt of care and support services to be fully informed of the requirement to contribute toward the cost of care provided by the Council and clearly state the Council's statutory compliance with the appropriate charging guidance (Care and Support, Charging and Assessment of Resources, Regulations 2014).
- 1.3 The full implementation of a Charges Policy will enhance the consistency and efficiency of current charging arrangements, timeliness of financial assessments and will enable appropriate levels of income into the Council. The proposal is to bring all financial policies relating to community and residential care charges under one overarching policy, namely the Charges Policy as listed in 1.1.
- 1.4 This overarching Policy, hereafter referred to as the proposed "Charges Policy" (Appendix 1), if the recommendations are agreed, will directly affect the Care Act assessment and financial charging functions of the Adult and Wellbeing Services Directorate.
- 1.5 The proposed Charges Policy is essential to ensure that a consistent, transparent, and fair approach to care contributions is calculated for all people eligible for care and support. This will ensure that the Council exercises its statutory obligations towards people who draw on care

and support in an equitable and supportive manner. A clear, fair, and proportionate Charges Policy will also assist the Council to make more informed and accurate financial forecasts and decisions to support future Adult Services and Wellbeing budget setting.

- 1.6 The proposed Charges Policy will provide clarity and consistency to people eligible for care and support services on the level of financial contribution they may be required to make.
- 1.7 The proposed Charges Policy will be subject to annual review as a minimum standard.

2. Need for a decision

- 2.1 This report seeks for Cabinet to recommend the attached proposed Charges Policy for Council approval. This will also require statutory consultation with people currently in receipt of care and support services and the public, which is outside officers' delegation.
- 2.2 The proposed changes cover the whole Council area and qualify as a key decision.

3. Recommendation

- 3.1 For Cabinet to support the recommendations outlined in this report for Council approval to implement the proposed Charges Policy, including public consultation.
- 3.2 To delegate authority to the Director for Adult Services and Wellbeing, in consultation with the Cabinet Member responsible for Adult Services and Wellbeing, to implement the proposed Charges Policy subject to the outcome of the consultation process.

4. Background and/or details

- 4.1 Government has given Councils the power to request a contribution towards the cost of care provided to a person over 18 years in receipt of care and support under the auspices of the Care Act 2014.
- 4.2 An Adult Services and Wellbeing Charges Policy will improve guidance to staff and the public, allowing for a clearer understanding about the application of charging for people who are eligible for care and support services. This will ensure the Council can clearly state its statutory compliance with all aspects of Charges Policy in line with the duties under the Care Act 2014

5. Options considered

- 5.1 It is proposed that the implementation of the Charges Policy outlined in this report and detailed in the attached appendices, is recommended for approval by Council to ensure full transparency in respect of the requirement to charge for care and support services provided by the Council.

6. Financial implications

There are several financial considerations to the changes proposed.

- 6.1 These include:

Eligibility for Disability Related Expenses (DRE):

- A person must be in receipt of the care component of Disability Living Allowance (DLA), Personal Independence Payment (PIP) (Care) or Attendance Allowance.
- The costs must be reasonable and can be verified.
- A person must be able to provide evidence for any amounts claimed. For example, with receipts, invoices, or appropriate documentation.
- Disability related expenditure will be limited to a maximum of the disability care benefit that a person is entitled to.

Charging couples:

- 6.2 A couple is defined (for the purposes of this Charges Policy) as two people living together as spouses or partners.
- 6.2.1 The Care Act 2014 requires that financial assessments are completed for people eligible for care and support as individuals. Where charges are related to couples who are both in receipt of services, the Council

will apportion these charges dependent on the cost of the individual's service charge.

7. Legal Implications

- 7.1 Potential challenge from people who are eligible for care and support services or their carers if the implementation of the Charges Policy places them in a less favourable financial position. This will be mitigated by the requirement and commitment to ensure a person's income has been maximised as part of the financial assessment process.

8. Consultation

- 8.1 The Charges Policy will be publicly consulted on with people eligible for care and support services, carers and representatives.
- 8.2 Consultation will take place on the Council's webpages. Paper copies which are circulated for comment and all communication will be in an easy read format.
- 8.3 The proposed Charges Policy will provide clear guidance and a pathway for the equitable application of charges for care and support services. At the heart of the Charges Policy, is the importance for all Calderdale residents to have access to clear information on charging requirements and guidance. It is recognised that people may require information in different languages and formats, and these will be provided upon request within a reasonable timeframe.
- 8.4 Environment, Health, and Economic Implications

No known environmental effect

9. Equality and Diversity

- 10.1 Equality and Diversity is an integral aspect of the provision of services to the people of Calderdale. It is important that service provision reflects the local populations we serve. The proposed Charges Policy aims to provide transparency and consistency and provide a clear guidance for the public and workforce.
- 9.2 An Equality Impact Assessment (EIA) has been undertaken (Appendix 2).

10. Summary and Recommendations

- 10.1 The current approach to assessing and managing financial contributions requires greater clarity to improve public understanding and consistent and equitable application.

- 10.2 The recommendation is for Council to approve the implementation of a proposed Charges Policy detailed in Appendix 1 including consultation. This will enable a new way of working that promotes fairer access for the public, reduce misunderstanding, complaints, possible legal challenge, and loss of income to the Council.

For further information on this report contact:

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The documents used in the preparation of this report are:

1. Appendix 1 – The Individual Charges Policies identified by:
 - The Charging Policy for Residential Care Services for Adults
 - The Direct Payments Policy for Adults
 - The Debt Recovery Policy for Adult Social Care
 - The Charging Policy for Community Based Services for Adults
2. Appendix 2 – Equality Impact Assessment



Charging Policy for Residential Care Services for Adults

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Amendments			
Issue Number:	Date:	Reason for change	Authorised:

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1. Introduction

- 1.1 Calderdale Metropolitan Borough Council (CMBC) arrange long term, respite and short stay residential care services for people who have been assessed as being eligible for care and support in a residential or nursing home.
- 1.2 The Care Act 2014 brought all community care law under one all-encompassing piece of legislation and repealed almost all of the previous adult social care legislation.
- 1.3 Calderdale Metropolitan Borough Council has a charging policy which follows Government guidelines. This will take into account a person's individual income and savings. CMBC use a financial assessment to work out how much a person should pay towards their residential care and support services.
- 1.4 The charging policy will be applied fairly to everyone and in most circumstances, a person will be expected to contribute financially in part or in full to fund part or all of their residential care and support.

2. Personal Budgets

- 2.1 If a person has a care and support plan, an amount of money will be identified that will be enough to meet their eligible needs. This agreed amount of money is called a Personal Budget.

3. Financial Assessment

- 3.1 A person will be expected to pay the full cost of their residential care and support unless they can show CMBC that they cannot afford it. To do this they will need to complete a financial assessment.
- 3.2 CMBC uses a financial assessment (a means test) to establish how much a person may need to pay towards the cost of their care.
- 3.3 Not everybody will be required to pay the same amount for their care and support services.
- 3.4 Section 8.14 of The Care and Support Statutory Guidance instructs that Local Authorities are not permitted to charge for provision of the following types of care and support:
 - Community equipment (aids and minor adaptations) less than £1,000.00
 - Reablement, for a period of up to six weeks
 - Services provided to those with Creutzfeldt Jakob Disease
 - Any service or part of service which the NHS is under duty to provide, this includes intermediate care, Continuing Healthcare, and the NHS contribution to Registered Nursing Care

- Assessment of needs and care planning, including the cost of the financial assessment
 - Services which the local authority (LA) has a duty to provide through other legislation, for example aftercare services under Section 117 of the Mental Health Act 1983. These are services which are provided to meet a need arising from, or related to, the person's mental disorder, in order to reduce the risk of a deterioration of the person's mental health condition and need for re-admission for the treatment of that mental disorder.
- 3.5 Local Authorities are permitted to charge for provision of the following types of care and support:
- Services that meet needs which are unrelated to Section 117. These services will be subject to the local authority charging policy and may result in a client contribution.
 - The difference between the actual cost of preferred accommodation and the usual cost of providing or arranging for the provision of accommodation of that kind under Section 117.
- 3.6 During a financial assessment a person's income, savings and outgoings are taken into account and looked at against the cost of their care and support. This will help identify the charge they are expected to pay. CMBC may ask that evidence is provided, if a person refuses or chooses not to be financially assessed they will be expected to pay the full cost of the services they receive.
- 3.7 CMBC will always undertake a financial assessment to determine how much a person should contribute, except when it is clear that they have savings in excess of the upper capital limit, or they have refused to participate in the process. For 2022/23 the upper capital limit is £23,250.
- 3.8 The upper capital limit is reviewed and confirmed by the Department of Health in April of each year.
- 3.9 If a person has savings in excess of the upper capital limit, they will be expected to meet the full cost of the care services they receive.
- 3.10 When CMBC calculate a person's assessed contribution, we allow the sum set by the Department of Health for a person to use for personal expenses. For 2022/23 the Personal Expense Allowance is £25.65.
- 3.11 If a person has applied for a Deferred Payment Agreement, they may keep up to £144 per week of their weekly income. This is called a disposable Income Allowance and will be reviewed and confirmed by the Department of Health in April of each year.
- 3.12 When a person's financial assessment has been completed, they will be told the weekly charge they need to pay towards the cost of the care service they

have. This is called an assessed weekly charge which will be applied from the start of a person's service.

3.13 Reviews of a person's financial assessment will be completed in accordance with Care Act guidance. These will be conducted on a regular basis, and at least annually. The review will take into account any changes to a person's financial circumstances. For example, a decrease in the level of their capital resources, or an increase in the level of their pensionable income.

4. What counts as income:

4.1 All State and Welfare benefits count as income. These could include but is not limited to:

- State Retirement Pension
- Guaranteed Pension Credit
- Employment Support Allowance (ESA)
- Income Support
- Attendance Allowance
- Personal Independence Payment (PIP)
- Universal Credit

4.2 All private income is counted as income. This could include but is not limited to:

- Private pensions
- Works / Occupational pensions
- Tariff income
- Any other income received on a regular basis.

5. How CMBC work out Tariff Income

5.1 The tariff income calculation is based on guidance issued by the Department of Health and may be subject to change. Tariff income is meant to represent an amount a person with savings between the lower and upper capital limits should be able to contribute towards their care and support and is not representative of any interest-earning capacity of those savings.

5.2 If a person has savings between the lower and upper capital limits, CMBC will include tariff income in their calculations. For 2022/23 the capital limits are:

- Lower capital limit £14,250
- Upper capital limit £23,250

5.3 CMBC calculate a notional income of £1 per week for each £250 (or part thereof) of any amount between the lower and upper capital limits. For

example, savings of £16,400 will attract a tariff income of £9 per week (£16,400 - £14,250 ÷ £250 = £9).

6. What counts as savings

6.1 For the purpose of a residential care financial assessment, savings can include but is not limited to:

- Money held in a bank, building society or post office account (50% if a joint account)
- ISAs
- Stocks and shares
- Premium Bonds
- National Savings Certificates
- Property and/or land (unless the property is subject to an automatic disregard. For example, spouse or a relative defined as disabled as per the Care Act remains in occupancy, or property is subject to a 12-week disregard)

7. Charges

7.1 Charges are payable from the date of admission. If a person self-funds their residential care and their capital falls below the threshold, the Local Authority can only be responsible for any funding from the date of the submission of the financial assessment, or the date at which the funds become depleted if it is after this.

7.2 If a person dies during the term of the Placement Agreement, their Placement will be deemed to be terminated on the third Business Day following the date of the death and the Fee will only be paid up to and including this date. In such circumstances, the Provider will as soon as is practicable, within this period of time:

- a) inform the Council in writing (using such forms as are issued to the Provider by the Council from time to time) of the death of the person
- b) inform the person's next of kin and/or representative in writing; and
- c) remove the person's personal effects and provide safe storage for these items at its own expense for a reasonable period while making reasonable endeavours to contact any relatives of the deceased with a view to securing the handover of property to the relatives.
- d) in the event that despite reasonable and demonstrable endeavours, the Provider has not been able to secure the handover of the deceased's property to their relatives, for one reason or another after a reasonable period of time, the Provider shall inform the Council of this fact in writing to Gatewaytocare@calderdale.gov.uk and the parties will therefore agree on what to do with the property.

- 7.3 During this time the Provider must inform the Person's relatives that they can collect the belongings. For the avoidance of doubt, if personal effects are not removed from the person's room the Fee will only be paid in accordance with the paragraph above.

8. Treatment of first or third party "Top Ups" in Residential Care

- 8.1 Where a person chooses a residential care home that is more expensive than what the Local Authority deems is required to meet their eligible care and support needs, the difference, referred to as a "top up," must be paid by the person or a third party. This is subject to completion of a first or third party charge written agreement which has been authorised by the Council, which will be reviewed on an annual basis.
- 8.2 The Council will ensure that the service user or third party is aware of the consequences of failing to maintain the top up payment which can include a move to an alternative affordable placement that is suitable to meet the service user's care and support needs (subject to a care and support assessment). More information is available in CMBC's separate Choice of Accommodation and Top-up Arrangements Protocol.

9. Temporary (Respite or Short Stay) Residential Care

- 9.1 Short term care, such as respite care will be charged at the standard residential care rate. During periods of respite, the financial assessment will take into account costs from the person's home, such as rent, mortgage or Council Tax.
- 9.2 As with all social care costs, the charges will be based on the amount a person has been assessed as being able to pay. If a person refuses or opts out of a financial assessment, they will need to pay the full cost of their stay.
- 9.3 Charges for respite care will be based on a full financial assessment.
- 9.4 Those who have a temporary stay that becomes permanent will be assessed for a permanent stay at the date permanency is confirmed, a financial assessment will be carried out and their care and support plan will be amended.

10. Deferred Payments Agreement (DPA)

- 10.1 The deferred payments scheme under the [Care Act 2014](#) is intended to ensure that people are not forced to sell their home during their lifetime to pay for care.
- 10.2 Deferred payments allow people who require care and support in a care home to defer payment of some or all of their assessed charges for care and support, until a later date.
- 10.3 Under the deferred payments scheme, a Local Authority enters into an agreement with an individual to agree to defer the payment of charges for care home that are due to it from the individual. The Council is moving towards 'Gross Billing' for all Care Homes, whereby, the Council will pay the full fee to the home and recover costs from the individual.

10.4 CMBC will require a charge to be placed against the property to ensure the council will be able to recover the debt on sale of the property.

10.5 A person may be eligible if they:

- Have been assessed by the Council's Adult & Social Care department as requiring residential care.
- Are responsible for paying their own residential care charges,
- and own, or jointly own their own home / property & have less than £23,250 in capital & or savings.
- The person's needs for care and support are:
 - being met under [section 18](#) (duty to meet needs) or [section 19\(1\) or \(2\)](#) (power to meet needs) of the Care Act (CA) 2014 and the care and support plan for the person specifies that the LA is going to meet the adult's needs by providing accommodation in a care home;
 - not being met by the LA under section 18 or section 19(1) or (2) of the CA 2014 and the LA considers that if it had been asked to meet the person's needs it would have done so by providing the person with accommodation in a care home; or
 - not being or going to be met by the LA under section 18 of the CA 2014 and are needs that the LA considers it would be required to meet under that section by providing accommodation in a care home, but for the fact that the adult's financial resources exceed the financial limit (see [Self-funders' entitlement to deferred payments](#)).
 - The LA is satisfied that the adult has a legal or beneficial interest in a property that is the person's main or only home, and where a financial assessment pursuant to [section 17\(5\)](#) of the CA 2014 has been carried out in respect of the person:
 - the value of that interest has not been disregarded in the financial assessment for the purposes of calculating the amount of the person's capital (in other words, no spouse, partner, or dependants are living in the property); and
 - the capital that they own, less the value of that interest, does not exceed £23,250. Alternatively, where a financial assessment has not been carried out in respect of the person, this condition would still be satisfied if such an assessment were carried out. ([Regulation 2\(2\)](#), *Deferred Payment Regulations 2014*.)
 - The LA is able to obtain adequate security for the payment of the person's deferred amount and any interest or administration costs that are treated in the same way as the deferred amount ([regulation 4\(1\)\(a\)](#), *Deferred Payment Regulations 2014*). Adequate security for these purposes means a charge by way of legal mortgage for an amount which is at least equal to the deferred amount and any interest or administration costs which are to be treated in the same way as the adult's deferred amount and which is capable of being registered as a first legal charge in favour of the LA in the land register (*regulation 4(2)*). For more information, see [Adequate security](#).

- Genuine and informed written consent to the matters specified in *regulation 4(5)* of the Deferred Payment Regulations 2014 is provided by any person who the LA considers has an interest in the land or other asset in respect of which a charge will be obtained, and whose interest the LA considers may prevent it from exercising a power of sale of the land or asset or recovering the deferred amount (*regulation 4(4)*). The matters in respect of which consent must be provided pursuant to regulation 4(5) are to:
 - the creation of the charge; and
 - the charge taking priority to and ranking before any interest the person has in the land or other asset that will be the subject of the charge.
- The person agrees to all the terms and conditions that are included in the agreement, in accordance with [regulation 11](#) of the Deferred Payment Regulations 2014 (*regulation 2(1)(c)*). For more information, see [Terms and conditions](#).

10.6 Power to Offer a DPA

10.7 [Regulation 3](#) of the Deferred Payment Regulations 2014 gives LAs the power to offer a DPA to people who do not satisfy the criteria specified in regulation 2. Unlike a mandatory DPA, a discretionary DPA can also be offered to people requiring care and support in supported living accommodation.

10.8 A LA can exercise its discretion to enter a DPA if:

- The person's needs for care and support are:
 - being met under [section 18](#) or [section 19\(1\) or \(2\)](#) of the CA 2014 and the care and support plan for the person specifies that the LA is going to meet the adult's needs by providing accommodation in a care home, or supported living accommodation;
 - not being met by the LA under section 18 or section 19(1) or (2) of the CA 2014 and the LA considers that if it had been asked to meet the person's needs it would have done so pursuant to those provisions, by providing the person with accommodation in a care home or supported living accommodation; or
 - not being or going to be met by the LA under section 18 of the CA 2014 and are needs that the LA considers it would be required to meet under that section by providing accommodation in a care home, but for the fact that the LA is satisfied that person's financial resources exceed the financial limit of £23,250. (*Regulation 3(1)(a), Deferred Payment Regulations 2014.*)
 - The condition in [regulation 4](#) of the Deferred Payment Regulations 2014 pertaining to the LA's ability to obtain adequate security is met (*regulation 3(1)(b)*).
 - The person agrees to all the terms and conditions that are included in the agreement, in accordance with [regulation 11](#) of the Deferred Payment Regulations 2014 (*regulation 3(1)(c)*).

- 10.9 Property owned by a person is included in the financial assessment. It will not be taken into account (disregarded) when a spouse or partner continues to live there after a person moves permanently into residential care. Where the property is to be included in the financial assessment and the eligibility criteria is met, the person may enter into the Deferred Payment Agreement (DPA) with the council. And if entitled, the council will exclude from the assessed charge the value of the property for the first twelve weeks of a person's stay. This period is called the twelve-week property disregard period and gives people time to seek independent financial advice and consider the options available to them to fund their care & support costs.
- 10.10 If a person does not enter into a Deferred Payment Agreement, they will be responsible for paying the full cost of their care home placement, after any disregard period. They will need to decide how they will make these payments if their capital is tied up in their property. A person may choose to rent their property out. This could give them enough income to pay for the cost of their care home placement.
- 10.11 **How it works:**
- 10.12 When a person's property sells or their placement ends, they will be advised on how much they owe in deferred charges & will be asked to repay the debt that has accrued.
- 10.13 Although, there is no requirement that a person will have to sell their property during their lifetime, their representatives will be asked to repay money shortly after they have passed away or conversely if the property is sold whilst the person is in care home accommodation, where a deferred payment agreement has been entered into.
- 10.14 To secure the accruing debt whilst a person is on the Deferred Payment Agreement Scheme, a charge will be placed onto their property as security to ensure the money owed to the council is repaid. The Care and Support (deferred payment) Regulations reg (4) to the Care Act 2014 provides that a Local Authority must obtain adequate security in place for the payment of an adult's deferred amount when a person enters into a Deferred Payment Agreement with the Council.
- 10.15 DP and The Councils recipient's responsibilities under a DPA

Whilst on the scheme a person must agree to:

- Maintain and insure their home / property.
- Ensure a representative is willing to maintain the property (have necessary remedial works conducted if required) to retain its value on their behalf – the person is liable for these expenses.

- Pay the assessed charge on a regular basis, if this charge is not paid the council reserves the right to terminate the agreement.
- Advise the council of any outstanding mortgage(s), debts and / or any equity release schemes taken out on the property.

The Council's responsibilities under a DPA:

- Provide people with written updates of the amount of fees deferred, of interest and administrative charges accrued to date, and of the total amount due and the equity remaining in the home.
- Provide a statement on request within 28 days. LAs may also provide updates on a more frequent basis at their discretion. An update should set out the amount deferred during the previous period, alongside the total amount deferred to date. It should also include a projection of how quickly the person will deplete all equity remaining in their chosen form of security up to their equity limit.
- Re-assess the value of the chosen form of security once the amount deferred exceeds 50% of the security (and periodically thereafter) and adjust the equity limit and review the amount deferred if the value has changed. Re-valuation of property should be carried out annually.

10.16 Calderdale MBC do not charge any administration fees for setting up and ongoing administration of a DPA. This is subject to review.

10.17 Calderdale MBC do not charge any interest against the debt accrued on a person's DPA. This is subject to review.

10.18 The Deferred Payment Scheme ends

- On the death of the person or
- On the sale of the property
- When terminated by the adult or their representative giving notice and payment of the deferred amount in advance or
- When the capital assets decrease

10.19 Where a person has passed away and the property is not sold within 90 days of date of death, interest is chargeable from the 91st day after date of death for a Deferred Payment Scheme. CMBC charge 1% above the base interest rate.

The Calculation is as follows:

$((A/B) \text{ multiplied by } C\%) \text{ multiplied by } D$

Where

A = number of days after date of death to redemption date
 B = 365 (days in a year – or 366 for leap year)
 C = interest rate, as per above
 D = amount outstanding

10.20 Where the Deferred Payment Scheme ends, it is dependent on the market on how quickly a property sells, therefore CMBC does not issue a deadline for repayment of the charge which was placed against the property. A solicitor will provide a completion date when sold.

10.21 Terminating the Deferred Payment Agreement

10.22 A person can end the deferred payment agreement at any time by repaying the accrued debt.

11. Former self funders

11.1 Former self funders are those individuals whose assets fall below the threshold to become eligible for Council funding (below the £23,250 asset threshold). Former self funders may become eligible for social care funding once their resources have depleted below the statutory thresholds and will need Care Act and financial assessments to determine eligibility.

11.2 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.

11.3 Calderdale Metropolitan Borough Council will not be responsible for debts incurred before the former self funder or their representative has completed a financial assessment. Calderdale Council will become responsible for paying for care:

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

11.4 The date that Calderdale Council will assume responsibility for payment will be the date of the submission of the financial assessment, or the date at which the funds become depleted if it is after this.

11.5 The financial assessment will identify the former self funders contribution towards the cost of meeting their eligible care needs. This may mean that they may be asked to explore such options as selling property (unless exempt) in order to generate assets to contribute to their care.

12. Financial Assessment Considerations

12.1 Deprivation of income and / or assets is the disposal of income and capital (for example, property and investments) in order to avoid or reduce care charges; disposal can take the form of transfer of ownership or conversion into a disregarded form.

- 12.2 In all cases, it is up to the person to prove to the Council that they no longer possess an income or an asset, and the reason for this. The Council will determine whether to conduct an investigation into whether deprivation of income or assets has occurred.
- 12.3 Any investigation will have regard to guidance contained within the Regulation of Investigatory Powers Act, 2000. Following the investigation, where the Council decides that a person has deliberately deprived themselves of an asset or income in order to reduce a charge for care and support, the Council will initially charge the person as though the deprivation has not occurred, and they still owned the asset or income. This means assuming they still own the asset and treating it as notional capital or notional income.
- 12.4 Where the person has transferred the asset to someone else, that person, is liable to pay the Council the difference between what it would have charged and did charge the person receiving care and support. However, the person is not liable to pay any more than the benefit that they have received from the transfer. If the person has transferred funds to more than one person, each of those people is liable to pay the Council the difference between what it would have charged or did charge the person in proportion to the amount they received.
- 12.5 Property owned other than the person's main or only home will be included within the financial assessment as a capital asset.

13. Review and appeals process

- 13.1 If an individual believes the result of their financial assessment is incorrect, due to inaccurate information being used, or if they wish to claim additional expenses, they can ask for a review of their assessed weekly charge by contacting the Charging Assessment Team below who will look at the calculation again and let them know the outcome.

Charging Assessment Team
Calderdale Council Adult Services and Wellbeing
PO Box 51
Halifax
HX1 1TP
charging.assessmentteam@calderdale.gov.uk
01422 393639

- 13.2 If the individual still disagrees, they can appeal the decision by email or in writing. Their appeal will be acknowledged within ten working days. As soon as their appeal has been investigated, they will receive a response in writing.
- 13.3 If the individual is still not satisfied, they can make a complaint. The complaint can be made online, by email or by letter. They can do this themselves or they can ask someone to do it for them. Individuals should contact the complaints team below directly if they need help to do this
- FREEPOST RTGL-EXHR-SRLH
Complaints and Compliments Team

Town Hall
Crossley Street
Halifax HX1 1ZS

complaintsandcompliments@calderdale.gov.uk

01422 288001

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- 13.4 If the individual is still not satisfied with the outcome of the complaint, the complaints team will provide them with contact details of the Health and Social Care Ombudsman.



Direct Payments Policy for Adults

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1. Introduction

- 1.1. Calderdale Metropolitan Borough Council (CMBC) is committed to promoting individual wellbeing and to supporting independence through preventing, reducing or delaying the need for care and support.
- 1.2. Direct payments are monetary payments to enable people to make their own arrangements to meet eligible care and support needs. Direct payments are the government's preferred mechanism for personalised care and support as they promote independence, choice, flexibility, and control over how needs are met.
- 1.3. When certain conditions are met, all or part of CMBC's proportion of a personal budget can be paid direct to the person concerned or in some circumstances to someone acting on their behalf to meet care and support needs identified in their care and support plan.

2. Purpose

- 2.1. The purpose of this Policy is to achieve consistent practice and approaches in the delivery of direct payments and to set out how CMBC fulfils its statutory duties in administering and monitoring direct payments. This Policy is provided as part of CMBC's role in ensuring that people are given relevant and timely information about direct payments so that they can decide whether to request a payment and, if so, are supported to use and manage the payment appropriately.

3. Definitions

- 3.1. Definitions of specific terms used within this policy are set out at Appendix 1.

ADULT SOCIAL CARE

4. Legal context

- 4.1. This Policy derives from the following legislation and government guidance:
 - 4.1.1. The Care Act 2014
 - 4.1.2. Care and Support (Direct Payments) Regulations 2014 (the Regulations)
 - 4.1.3. Care and Support Statutory Guidance
- 4.2. Other relevant legislation includes but is not limited to:
 - 4.2.1. Mental Health Act 1983 (MHA 83)
 - 4.2.2. Mental Capacity Act 2005 (MCA 2005)
 - 4.2.3. Equalities Act 2010
 - 4.2.4. Human Rights Act 1998

5. Informing people, promoting choice and advocacy

- 5.1. CMBC will provide universal information about direct payments to raise awareness of their availability in specified circumstances and how they can be used.
- 5.2. When an aftercare plan to meet needs on discharge from a period of detention under s.3 MHA 83 is being developed, individuals will be advised which of their eligible needs, if any, or aftercare services under s.117 MHA 83 can be met or provided through direct payments and offered the option of having them. Clients will be provided with information about direct payment rights and responsibilities and how they would be required to use and manage them to make an informed choice.
- 5.3. Clients can request direct payments and may opt in or out of the use of direct payment arrangements by notifying CMBC. Requests for direct payments are usually made at the care and support planning stage but may be made at any other time.
- 5.4. Clients who appear to require support to understand their rights and responsibilities in relation to direct payments and have no other appropriate person to support them will be offered an independent advocate.

6. Who can receive direct payments?

- 6.1. Except where an exclusion applies, where the conditions described in paragraphs 7.1 (in respect of adults with capacity) and 7.5 (in respects of adults who lack mental capacity) are met, CMBC has a duty to provide direct payments for people whose needs for care and support have been determined to meet Care Act 2014 eligibility criteria and who have been allocated a personal budget to which CMBC must contribute.
- 6.2. The Regulations exclude people placed under certain conditions or requirements by the courts in relation to drug and/or alcohol dependency from receiving direct payments. The exclusions are set out in detail in Appendix 2.
- 6.3. Except where an exclusion applies, where the conditions set out in paragraphs 7.1 and 7.5 are met, CMBC may have a duty to provide direct payments for people to whom aftercare services are provided under s.117 MHA 83.
- 6.4. Where a person has capacity to request direct payments, section 31(4) of the Care Act 2014 provides that direct payments can be made to:
 - 6.4.1. An adult, with assessed needs who has the capacity to consent to receiving a direct payment and consents to receive one;
 - 6.4.2. A person nominated by the individual with assessed needs (where they have capacity and are competent to make that nomination)

- 6.5. Where a person lacks capacity to request direct payments, section 32(4) of the Care Act 2014 provides:

A person is authorised for the purposes of this section if -

- 6.5.1. The person is authorised under the Mental Capacity Act 2005 to make decisions about the adult's needs for care and support,
- 6.5.2. where the person is not authorised as mentioned in paragraph 6.5.1, a person who is so authorised agrees with the local authority that the person is a suitable person to whom to make direct payments, or
- 6.5.3. where the person is not authorised as mentioned in paragraph 6.5.1, and there is no person who is so authorised, the local authority considers that the person is a suitable person to whom to make direct payments.

7. Conditions for receiving direct payments

- 7.1. Direct payments will be provided where requested by an **adult with capacity** when each of five conditions is fully met:

- 7.1.1. Following an assessment of suitability for a personal budget, where the Care and Support Plan identifies a requirement for direct payments as a means to secure provision of that care and support;
- 7.1.2. The adult is deemed to have capacity and any nominated person (see paragraph 14.2) agrees to receive the direct payments;
- 7.1.3. The Regulations do not prohibit needs from being met through direct payments. See paragraph 10 for restrictions on the use of direct payments;
- 7.1.4. The adult or their nominated person is capable of managing direct payments either independently or with support;
- 7.1.5. Making a direct payment is an appropriate way of meeting eligible needs.

- 7.2. Adults who **lack mental capacity** within the definition of s.3 MCA 2005 are not precluded from receiving direct payments when there is an authorised person to manage them on their behalf. Direct payments will be provided when requested by an authorised person when each of the conditions in paragraph 7.5 are met.

- 7.3. An authorised person is someone who:

- 7.3.1. Is authorised under MCA 2005 to make personal welfare decisions for the individual (i.e. holds a valid Lasting Power of Attorney granted by the individual before their loss of capacity and registered with the Office of the Public Guardian or a Court of Protection appointed deputy); or
- 7.3.2. Is not formally authorised under MCA 2005 but CMBC and any person who is authorised under MCA 2005 to make personal welfare decisions for the adult agree they are a suitable person to receive and manage a direct payment on the individual's behalf; or
- 7.3.3. Is not formally authorised under the MCA 2005 and there is no other MCA 2005 authorised person, but CMBC determines that they are a

suitable person to receive and manage the direct payment on the individual's behalf.

- 7.4. In order to determine who is a suitable person to undertake the role of authorised person, CMBC will consider all relevant circumstances on a case-by-case basis.
- 7.5. Direct payments will be provided when requested by an authorised person when each of the five conditions below are fully met:
 - 7.5.1. When the person is not formally authorised under MCA 2005 to make personal welfare decisions for the adult, CMBC and any person who is so authorised agree that the person making the request is a suitable person to make decisions about the individual's care and support and to receive and manage the direct payment;
 - 7.5.2. The Regulations do not prohibit the individual's needs from being met through direct payments. See paragraph 10 for restrictions on the use of direct payments; and if regulations give CMBC discretion to decide not to meet the adult's needs by making direct payments to the authorised person, it does not exercise that discretion.
 - 7.5.3. CMBC is satisfied that the authorised person will act in the adult's best interests in arranging for the provision of the care and support through the use of a direct payment and that they will manage the direct payment in the individual's best interests;
- 7.6.
 - 7.6.1. CMBC is satisfied that, the authorised person is capable of managing the direct payment either independently or with support;
 - 7.6.2. Making direct payments to the authorised person is an appropriate way of meeting the individual's needs.
- 7.7. CMBC will take the following steps to assess whether making direct payments to the authorised person is an appropriate way of meeting needs.
 - 7.7.1. So far as is reasonably practicable and appropriate, CMBC will consult and take into account the views of:
 - 7.7.1.1. Anyone named by the adult as someone to be consulted about whether direct payments should be made to the authorised person
 - 7.7.1.2. Anyone engaged in caring for the adult or with an interest in their welfare
 - 7.7.1.3. Anyone authorised under MCA 2005 to make decisions about the adult's needs for care and support
 - 7.7.2. So far as is reasonably practicable CMBC will consider:
 - 7.7.2.1. The adults past and present wishes and feelings, particularly any relevant written statement made by the adult before they lost capacity

- 7.7.2.2. The beliefs and values that would be likely to influence the adult's decision if the adult had capacity to make the decision; and
 - 7.7.2.3. Other relevant factors the adult would be likely to consider if they were able to do so
- 7.7.3. CMBC may carry out Disclosure and Barring Service (DBS) checking for:
 - 7.7.3.1. Anyone who is not the adult's spouse/partner, a friend of the adult who is involved in providing their care, or a close family member (see Appendix 1 for definitions) and
- 7.8. The authorised person must:
 - 7.8.1. Be named as the financial representative on the client's electronic social care record in order that payments can be made;
 - 7.8.2. Notify CMBC if they reasonably believe that the adult has regained capacity;
 - 7.8.3. Where appropriate, DBS check any person from whom a service is secured using direct payments.
 - 7.8.4. Participate in an assessment of financial security including levels of personal debt if required by the assessing CMBC officer.
 - 7.8.5. Provide a reference if required by the assessing CMBC officer.
 - 7.8.6. Following an assessment of suitability for a personal budget where the Care Plan specifically identifies a requirement for a direct payment as a means to secure provision, agreement is subject to the following conditions:
 - 7.8.7. The legislation does not prohibit needs from being met by direct payments (see paragraph 10 for restrictions on the use of direct payments;
 - 7.8.8. Any party listed in paragraphs 6.4 and 6.5 is capable of receiving and managing the direct payment.

PROVISIONS RELATING TO THE ADMINISTRATION OF DIRECT PAYMENTS APPLICABLE TO ADULT SOCIAL CARE SERVICES

8. Declining a request for direct payments

- 8.1. Requests for direct payments will be declined if any condition set out in paragraphs 7.1 (for adults with capacity) and 7.5 (for adults without capacity) is unmet.
- 8.2. CMBC will provide a written explanation of why the request was declined including
 - 8.2.1. Which conditions are not met;
 - 8.2.2. Why the condition is considered to be unmet;

8.2.3. What the person making the request may need to do to obtain a positive decision on eligibility in future.

8.3. Information about how to appeal the decision will also be provided.

8.4. CMBC will continue the planning process to agree with the person whose needs must be met how this can be achieved without the use of direct payments.

9. Using direct payments

9.1. Direct payments must be used to pay for arrangements to meet the identified needs and outcomes specified in the Care and Support Plan.

9.2. Direct payments must be used to purchase services which are safe, legal, value for money and which adequately safeguard and promote the individual's welfare and wellbeing.

9.3. Any significant changes to the use of the Direct Payment not specified in the Care and Support plan should be agreed with CMBC prior to the expenditure being incurred.

9.4. Direct payments may be subject to conditions imposed by CMBC and may be discontinued and/or recovered if CMBC has reason to believe that direct payments may have been misspent or accumulated without adequate and justifiable reason. In these cases, a review of the care assessment and the financial assessment will also be undertaken.

10. Direct payments cannot be used for:

10.1. Direct payments cannot be used to purchase:

10.1.1. Care services or support provided by the adult's spouse / partner or a close family member (see Appendix 1 definitions). CMBC can agree a direct payment in these cases if there are exceptional circumstances, for example, specific cultural, religious, or medical reasons or if the market is unable to provide the right type of carers to meet a person's preferences. Exceptional circumstances will be considered by CMBC on a case-by-case basis.

10.1.2. Any service directly provided by CMBC.

10.1.3. Services, equipment and / or minor adaptations which are the responsibility of other public bodies.

10.1.4. Long term residential or nursing care but can be used to pay for:

- Short stays of up to 4 consecutive weeks in any 12-month period. In calculating the period of 4 weeks, a stay of less than 4 weeks is added to any succeeding stay if the two stays are separated by a period of less than 4 weeks but not otherwise;
- Non-residential services, for example to trial independent living or to take part in daytime activities.

- 10.1.5. Any goods, services or support that cannot be shown to meet the individual's assessed needs and identified outcomes or would put the individual at risk of abuse.
 - 10.1.6. Any service or activity that is so expensive it cannot be justified in relation to an individual's overall resource allocation.
 - 10.1.7. Primary medical services provided by General Practitioners as part of their primary medical services contractual terms and conditions or public health services.
 - 10.1.8. Any type of service or activity that is illegal.
 - 10.1.9. Any goods or services that can be deemed harmful to the health of the individual; this includes gambling, alcohol and tobacco products.
 - 10.1.10. Payment of household bills, clothing, or any other costs that are not related to an individual's assessed needs.
- 10.2. An authorised person must not use direct payments to pay themselves to provide services to an adult without capacity except as expressly authorised in writing by CMBC.

11. Managing direct payments

- 11.1. Anyone who agrees to be responsible for managing direct payments must be capable of managing direct payments either independently or with help.
- 11.2. Adults with capacity can nominate a third party to assist them to manage direct payments in whatever way they require. The third party is known as the **nominated person** and is usually a family member or a friend.
- 11.3. Adults with capacity and an **authorised person** acting on behalf of a recipient who lacks capacity will be required to evidence any spending for example record keeping, payroll and other employment related services or a managed account from a payroll support service.
- 11.4. In some circumstances, for example where the direct payment recipient has a poor credit rating, a managed account may be necessary.
- 11.5. Irrespective of the level and type of assistance provided by a third party, adults with capacity to consent to direct payments remain responsible and accountable for how direct payments are used.

12. Direct payment recipients as employers/DBS

- 12.1. Direct payments recipients may use direct payments to employ staff, or to pay an agency to provide services. The recipient must:
 - 12.1.1. Be advised that there are legal responsibilities involved in becoming an employer and maintaining suitable and compliant employment practices;
 - 12.1.2. Be urged to seek advice about employer legal responsibilities, including being responsible for all employment related costs, for example redundancy;

- 12.1.3. Be urged to seek advice about compulsory employers liability insurance; and
 - 12.1.4. Be advised about payroll support services that can provide information, advice, and support.
- 12.2. Direct payment recipients with capacity are not obliged to carry out DBS checks for people they employ through direct payments. However, CMBC strongly recommends that DBS checks are obtained for all personal assistants.

13. Calculation and payment of direct payments

- 13.1. CMBC will determine the amount of the direct payments. The applicable legislation requires that the payment must be equivalent to CMBC's estimate of the reasonable cost of securing the provision of the service, subject to any charge required to be paid by the recipient.
- 13.2. The value of the direct payment should be sufficient to enable the recipient lawfully to secure a service of the standard that CMBC considers is reasonable to meet the identified needs.
- 13.3. There is no limit on the minimum or maximum amount of the direct payment, either in the amount of care that it is intended to purchase or the value of the direct payment.
- 13.4. Direct payments must be made in accordance with the requirements of CMBC's financial policies and procedures.
- 13.5. A financial assessment will be undertaken to establish if a person is required to pay a charge towards their care, known as a care charge.
- 13.5.1. Direct Payment only: - If a person is assessed as being able to pay a charge towards their care, and the direct payment funds all of their support package then their care charge makes up the first part of the direct payment funding. The individual/the nominated person is responsible for paying the care charge into the direct payment account. Calderdale MBC will then pay the net balance of the direct payment funding into the direct payment account.
 - 13.5.2. Mixed care package: - If a person is assessed as being able to contribute to their care, and their support is delivered as a mixed care package i.e. direct payment and other services, Calderdale MBC will pay the direct payment element of the funding into the direct payment account in full (Gross) and the individual/the nominated person is required to pay the assessed care charge contribution directly to Calderdale MBC.
- 13.6. An initial or one-off payment may be made, for example for agreed set up costs. Ongoing payments are made in advance at four weekly intervals. All costs must be met within:

- 13.6.1. Any agreed personal budget which includes any personal charge required from the person receiving services;
 - 13.6.2. The amount agreed as sufficient to meet the cost of s.117 MHA 83 aftercare services.
- 13.7. Direct payments paid into a prepaid card account using the CMBC's contracted provider is CMBC's preferred method of making the direct payment for the purposes of effective financial management of the payment. However, this does not preclude payment for the direct payment to be paid into a bank or building society account specifically set up by the recipient for the purpose of receiving a direct payment. Consideration will be given to the benefit gained from this arrangement as opposed to receiving the payment via a pre-paid card.
- 13.8. When direct payments are made into an account set up to manage other monies specific to personal assistance a separate bank account to this may not be necessary, if agreed by CMBC in writing.
- 13.9. Payments of small amounts for one off purchases will not require a separate account but will require the proof of purchase for audit purposes.
- 13.10. Recipients have a right to choose if payments are to be delivered via a managed account i.e. managed by an accountant or payroll company.
- 13.11. CMBC may require that the direct payment is delivered via a managed account as a condition of receipt of the direct payment if:
- 13.11.1. The recipient has previously had a direct payment terminated or refused;
 - 13.11.2. The recipient is deemed financially insecure e.g. they are subject to a debt management plan, have unresolved County Court Judgements, already have an accumulated debt owing to the Council on the Care Charge account or are the subject of investigation of financial abuse or fraud.
- 13.12. CMBC will make decisions in relation to the requirement for a managed account on a case-by-case basis.
- 13.13. Where a managed account is chosen by the recipient or imposed by CMBC, CMBC will provide some or all of the provider's charges up to an agreed amount.
- 14. Top Ups/ Direct Payment Account Shortfalls**
- 14.1. The Direct Payment recipient will be required to 'top up' their account if they use more funding than has been agreed by the Council.

15. Direct payments agreements

- 15.1. Prior to the direct payment being made the respective direct payments agreement must be signed and a copy of the signed agreement provided to all signatories. There are two applicable direct payment agreements:

- 15.1.1. Standard agreement: signed by the adult, where the individual is receiving and managing the direct payment;
- 15.1.2. Third Party agreement: signed by a third party, where the third party is managing the direct payment. In the event that the client is unable to sign the Agreement (including, but not limited to; lack of capacity, a minor etc.), then the client will not be required to sign the Agreement, only the Third Party will need to sign.

16. Monitoring and review of direct payments

- 16.1. CMBC will inform an individual about what records they must retain and what information they will be required to provide at each review before the direct payment agreement is entered into.
- 16.2. All direct payments will be reviewed within the first six months of being made. Subsequent reviews will take place annually. CMBC will align the annual review of the direct payment with the general review of the care plan.
- 16.3. Direct payment recipients and managed account providers will provide to CMBC promptly upon request a summary of all income received and expenditure incurred in relation to the administration of the direct payment account.
- 16.4. Direct payment recipients or managed account providers will provide copies of bank statements, if requested and keep all receipts to evidence where and how the direct payments have been spent and make them available to CMBC on a regular basis; all records relating to the direct payment must be kept for 6 years plus the current year.
- 16.5. It is the responsibility of CMBC to ensure that recipients have an understanding of the minimum standard of record keeping and the requirements of the audit process.
- 16.6. Reviews will be carried out at any time when CMBC has reasonable cause to believe that:
- 16.6.1. There has been a change in mental capacity; or any of the conditions listed in paragraphs 7.1 (in respect of adults with capacity) or 7.5 (in respect of adults who lack capacity);
 - 16.6.2. Direct payments are not being used as intended; or
 - 16.6.3. The individual's safety and welfare have been compromised; or
 - 16.6.4. There has been any change in presenting needs which may adversely affect the effectiveness and intention of the support arrangements via the direct payment.

- 16.7. The review process will establish if direct payments are being used to meet needs as intended, conditions are met, and public monies are being used effectively.
- 16.8. Following review CMBC may reduce the amount of direct payments provided they are satisfied that the reduced amount is sufficient to secure agreed provision.
- 16.9. It is reasonable for CMBC to ask recipients or their nominated person or authorised person to account for how they have spent their direct payment monies in achieving their Care and Support Plan outcomes.
- 16.10. Reviews must involve the adult, any nominated person, any carer the adult has, any authorised person, or any family member providing paid support (as specifically approved by CMBC) and any other person that the adult requests to be involved. Any person authorised under MCA 2005 (if different from the authorised person receiving and managing the direct payment) should be involved also.

17. Services not provided as planned

Direct Payments

- 17.1. If there is a period of no care, for example if the client does not receive care because they are away with family or in hospital, and there are no costs paid to the provider or PA for this period, the care charge payable will be reduced by the appropriate number of weeks (full weeks only).
- 17.2. If the client does not receive care and a retainer is paid to the provider or the PA, the care charge due will also be reduced by the appropriate number of weeks (full weeks only).
- 17.3. If the period of no care includes a part week, the client will be charged only for the cost of care delivered in that week. If the cost of care in the week is less than the assessed care charge, a reduction of the difference will be made for that week.

Mixed package

- 17.4. If there is a period of no care, for example if the client is away with family or in hospital, and the provider payable through the Direct Payment charges a retainer, the care charge due will be reduced by the number of weeks that the client was in hospital or away for both elements of the package.
- 17.5. If the period of no care includes a part week, the assessing CMBC officer will calculate the charge due for the managed element and use the guidelines above for the DP element of the charge.

18. Discontinuing direct payments / Requiring repayments

- 18.1. Any person receiving a direct payment, either for themselves or on behalf of another person, may decide at any time that they no longer wish to receive direct

payments on giving four weeks written notice to CMBC. CMBC may agree to vary this notice period depending upon the individual's circumstances.

18.2. Written notice will be given to a recipient where direct payments are discontinued, unless there are exceptional circumstances requiring that payments are discontinued without notice.

18.3. CMBC will cease to make a direct payment if it is satisfied that:

18.3.1. The individual is no longer eligible for or no longer requires the services for which the direct payments are made;

18.3.2. The person becomes excluded from receiving direct payments because they have been placed under a condition or requirement by the Courts in relation to drug and/or alcohol dependencies. (See Appendix 2).

18.3.3. Any of the conditions set out in paragraphs 7.1 and 7.5 are no longer met.

18.3.4. There is evidence that direct payments are not safeguarding or promoting the individual's welfare.

18.4. CMBC may suspend or terminate direct payments if:

18.4.1. The adult does not require assistance because their condition has improved and/or they do not need the services that direct payments were intended to secure.

18.4.2. Any condition attached by CMBC is unmet or CMBC has reasonable cause to believe that direct payments have been used for purposes other than to meet the needs as specified in the Care Plan/Care and Support Plan.

18.4.3. The individual fails to pay any assessed financial charge into the direct payments account.

18.4.4. The individual's circumstances are such that on assessment or review of the individual's circumstances it is appropriate that direct payments should cease.

18.4.5. Any or all of the direct payments have not been used to secure services to meet assessed needs.

18.4.6. Any of the terms or conditions of the direct payment agreement have not been met by the recipient or their nominated person or authorised person.

18.4.7. It is found after investigation by CMBC that there is evidence of misuse or fraudulent use of the direct payment.

18.5. CMBC will require either full or partial repayment of direct payments made if any condition attached by CMBC is unmet or CMBC has reason to believe that direct payments have been used for purposes other than to meet needs as specified in the Care Plan/Care and Support Plan.

18.6. CMBC may require repayment of any unspent direct payments if it can be demonstrated that they are not required to meet the individual's needs as set out in the Care Plan/Care and Support Plan.

- 18.7. CMBC will require repayment of excess funds accumulated in the dedicated direct payments bank account where there is no reasonable explanation for the surplus funds.
- 18.8. If the individual does not pay their assessed charge correctly into their direct payment account, CMBC will carry out an audit and send them an invoice for any underpaid charges.
- 18.9. Before ceasing payment and terminating a direct payment agreement, CMBC will work with the recipient or their nominated person or authorised person to find a resolution to the issues wherever possible.
- 18.10. Direct payments do not form part of an estate in the event that an individual dies whilst receiving them. Direct payments at all times belong to CMBC and remain public funds.

19. Complaints

- 19.1. Direct payment recipients will be provided with information about how to access CMBC's Complaints Procedures.
- 19.2. Any person may use CMBC's Complaints Procedures if they are dissatisfied with CMBC's decision in relation to a direct payment request or the support they receive in relation to the management of their direct payment. Any individual in receipt of a direct payment has the same rights of access to CMBC's Complaints Procedures as those individuals whose support is either provided directly or commissioned by CMBC.

Appendix 1 – Definitions

Adult with capacity	In the context of this Policy, an adult who has the mental capacity to make decisions about direct payments.
Adult without capacity	People are always presumed to have capacity until there is evidence to the contrary. In the context of this Policy, where there is any doubt about an adult's capacity to make decisions about direct payments mental capacity will be assessed in accordance with s.3 MCA 2005 and CMBC's procedures. An adult will only be determined to lack capacity when it has been established through assessment that the test under s.3 MCA 2005 is satisfied.
Assessment – of needs	An assessment of an individual's needs for social care and support or s117 MHA 83 after care services to enable them to live as independently as possible.
Assessment - financial	An assessment of an individual's financial circumstances to determine whether or not they must contribute towards the cost of services required to meet eligible needs. No financial assessment is required for s117 MHA 83 after care services as these must be provided free of charge.
Care Plan/ Care and Support Plan	The plan which summarises how a person's needs will be met and which includes the details of needs to be met from direct payments. This is a care and support plan (or shared conversation) for an adult with eligible needs for care and support or a support plan in the case of a carer.
Carer	Someone of any age who provides unpaid support to family or friends who could not manage without this help.
Client	A person assessed by CMBC as eligible to receive care and support services.
Close family member	Someone who is the adult's: <ul style="list-style-type: none"> • Parent or parent-in-law • Son or daughter • Son-in-law/daughter-in-law • Stepson or stepdaughter • Brother or sister • Aunt or uncle • Grandparent, or The spouse/partner of any of the people listed
DBS checking	Screening through Disclosure and Barring Services. This checks criminal history and identifies people barred from working with children and vulnerable adults.
Direct payments	Direct payments are monetary payments made to individuals who request to receive one to meet some or all of their eligible care and support needs. Direct payments may also be provided in most instances to arrange s117 after care services.
Direct payments agreement	The written agreement which sets out the terms and conditions applicable to direct payments.

Duty to make direct payments	Where CMBC has a legal obligation to make direct payments to eligible people because all conditions are met.
Managed account	Managed accounts are used in circumstances, for example where an adult / authorised person has a poor credit rating or requires additional support in the management of the direct payment. Direct payments are made to a commissioned service which manages the funds on their behalf. The adult /authorised person remains responsible for how direct payments are used. For example, if direct payments are used to employ staff, the adult /authorised person is the employer, even though the commissioned service may carry out employment activities on a day to day basis. Adults who are able to provide consent may also elect to use a managed account.
Minor adaptation	An adaptation is generally defined as minor when the total cost including supply and fitting is less than £1000.
Nominated person	A person nominated by an adult with capacity to assist with day to day management of services and / or management of direct payment funds. An adult with capacity at all times remains responsible and accountable for how direct payments are used. A further progression of the role of the 'Nominated Person' is a 'Suitable Person'. A Suitable Person may be either an individual or an agency able, for example, to act as an employer of PA(s) in order that people who might previously have been excluded from receiving a Direct Payment are supported to do so. The Suitable Person is responsible for all of the responsibilities and duties which a willing DP recipient with capacity would be required to bear.
Personal budget	The amount of money allocated to fund the care and support required. The personal budget is means tested and therefore the adult may be required to make a financial charge towards the total amount of the personal budget.
Personalised care and support	Tailoring care and support to the needs, wishes and preferences as far as this is possible so that the person concerned has as much choice and control over how their needs are met.
Reassessment	A reassessment of needs for social care and / or support.
Review	Monitoring and review of direct payment arrangements to ensure that they continue to meet the needs. Usually carried out concurrently with a review of the person's Care Plan/Care and Support Plan.
Section 117 after care services	A wide range of services necessary to meet a need arising from a person's mental disorder when a person ceases to be detained under the MHA 83.

Appendix 2 - Persons excluded from direct payments

Direct payments may not be used to meet the needs of people who are:

- (a) subject to a drug rehabilitation requirement, as defined by section 209 (drug rehabilitation requirement) of the Criminal Justice Act 2003 (“the 2003 Act”), specified in a community order (as defined by section 177 (community orders) of that Act, or a suspended sentence order (as defined by section 189 of that Act);
- (b) subject to an alcohol treatment requirement, as defined by section 212 of the Criminal Justice Act 2003, specified in a community order (as defined by section 177 of that Act), or a suspended sentence order (as defined by section 189 of that Act);
- (c) released from prison on licence -
 - (i) under Chapter 6 of Part 12 (sentencing: release, licenses and recall) of the 2003 Act or Chapter 2 of Part 2 (effect of custodial sentences: life sentences) of the Crime (Sentences) Act 1997 (“the 1997 Act”), subject to a non-standard licence condition requiring the offender to undertake offending behaviour work to address drug or alcohol related behaviour; or
 - (ii) subject to a drug testing requirement under section 64 (as amended by the Offender Rehabilitation Act 2014) (release on licence etc.: drug testing) or a drug appointment requirement under section 64A (release on licence etc.: drug appointment) of the Criminal Justice and Courts Services Act 2000;
- (d) required to comply with a drug testing or a drug appointment requirement specified in a notice given under section 256AA (supervision after end of sentence of prisoners serving less than 2 years) of the 2003 Act;
- (e) required to submit to treatment for their drug or alcohol dependency by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 or a community punishment and rehabilitation order within the meaning of section 51 of that Act;
- (f) subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000;
- (g) required to submit to treatment for their drug or alcohol dependency by virtue of a requirement of a community payback or probation order within the meaning of sections 227 to 230 of the Criminal Procedure (Scotland) Act 1995 or subject to a drug treatment and testing order within the meaning of section 234B of that Act; or
- (h) released on licence under section 22 or section 26 of the Prisons (Scotland) Act 1989 (release on licence etc.) or under section 1 (release of short-term, long-term and life prisoners) or 1AA (release of certain sexual offenders) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 and subject to a condition that they submit to treatment for their drug or alcohol dependency.

Appendix 3 – Personal Health Budgets (PHB)

CMBC operates a Pooled Budget arrangement with Calderdale Integrated Care Board (ICB) incorporating Health and Local Authority funding streams.

This includes funding for Personal Health Budgets. Separate guidance for Personal Health Budgets is in force and is laid out in the document:

“Guidance on Direct Payments for Healthcare – understanding the regulations” updated 5 December 2022.

Where an individual is jointly funded, the overall package of care will generally be commissioned by Calderdale Metropolitan Borough Council as the lead commissioner, with an agreed recharge to the ICB. Where individuals are fully funded by the ICB, the ICB will be the lead commissioner.

The Council and the ICB will co-operate on PHB and Direct Payments in order to ensure that people’s experience of Health and Social Care services is not subject to unnecessary delays and bureaucratic barriers.

Debt Recovery Policy for Adult Social Care

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Whilst this document may be printed, the electronic version maintained on the policy portal is the controlled copy. Any printed copies of this document are not controlled. It is the responsibility of every individual to ensure that they are working to the most current version of this document.

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1. Purpose of the policy

This policy covers the collection of adult social care debt and describes the approach that Calderdale Metropolitan Borough Council will take in carrying out its function. The intention of the council in agreeing this policy is to achieve the prompt collection of all sums of money it is due, while ensuring that a fair, proportionate, and consistent approach is taken to the recovery of sums that are not paid when due.

The council is committed to using the most effective recovery methods available.

This policy will ensure that recovery action is consistent and complies with legislation and best practice.

The intention is that the policy will remain in place until the underlying legislation changes. However, the policy will also be reviewed whenever there is a change to procedures, regulations, or costs to ensure it remains valid, effective, and relevant.

2. Legal and Policy Framework

2.1 The Care Act 2014

The Care Act 2014 places a duty on the council to arrange care and support for people assessed as having eligible needs. The council also has a power to meet certain non-eligible needs.

Capital limits, specified in regulations issued under the Care Act 2014, set the levels of capital (excluding any capital that has been disregarded) that a person can have whilst qualifying for financial support from the council.

A person with assets above the upper capital limit is responsible for the full cost of their care in a care home. A person with assets between the capital limits will pay what they can afford from their income, plus a means-tested contribution from their assets (calculated as £1 per week for every £250 of capital between the capital limits). A person with assets below the lower capital limit will pay only what they can afford from their income.

The council will apply the nationally set capital limits for the purposes of Financial Assessment.

The council will take all capital assets into account except those specifically disregarded under the regulations.

Sections 14 and 17 of the Care Act 2014 provide a legal framework for charging for care and support for Local Authority funded residential and non-residential care. These sections, along with the Care and Support Statutory Guidance, provide a single legal framework for charging for adult social care. The Care Act states that the council has discretion to choose whether to charge under section 14 of the Care Act following an individual's or carer's care and support needs assessment. The council may charge except where it is required to arrange care and support free of charge. Where the council decides to charge, it must follow the Care and Support (Charging and Assessment of Resources) Regulations and have regard to the Care and Support Statutory Guidance issued under the Care Act 2014. The council may only charge up to the costs they incur when contracting for care.

The Care Act 2014 introduced a modern legal framework for the recovery of any debts that may have accrued as a result of a local authority meeting a person's eligible care and support needs. New powers under the Act, in particular, Section 69 of the Care Act provides a power to the council to recover debts owed to it. This new power provides equal protection to both the local authority and the individual. This is a change from previous legislation and the reason for the change is that the powers under old, repealed legislation were unilateral. They allowed a local authority to place a charge against a person's property but did not give the person from whom the recovery of the debt is being pursued the opportunity to seek alternative means for payment. The Care Act now gives the individual this opportunity. Section 70 of the Care Act also provides the council with the power to recover charges from a third party where a person has transferred assets to them to avoid paying charges for care and support. When considering how to recover a social care debt, the Council will also have regard to the Care Act Statutory Guidance, Annex D.

The way in which any outstanding charges are recoverable is covered by the Pre-action Protocol for Debt Claims under the Civil Procedure Rules (see: [Practice Direction – Pre-Action Conduct](#) guidance published by the Ministry of Justice). Charges should be recovered as a civil debt through the County Court, assuming the full range of options available to recover the debt and all other avenues for payment have been explored with the individual first.

2.2 Adult and Social Care Policy

In accordance with the Care Act 2014, certain types of services will be provided free of charge. However, the council will charge for the following services as below:

Care provided in residential or nursing homes including:

- Respite care
- 24-hour care in a registered care/nursing home
- First party top-up fees for the above services and the costs of care that are over and above the standard fee rate

Care provided in a non-residential care setting including (but not limited to):

- Home care services
- Community Based Day Opportunities
- Supported Living
- Respite care
- Adult Shared Lives Placements
- Direct Payments
- Sitting Services
- Outreach services
- Provision of care and support in Extra Care settings
- Community Care Alarms
- Joint funded services – clients will be required to contribute towards the cost of the services provided by the Council but not those provided by the NHS as part of

- a joint package of support.
- Other

Where charges are appropriate, the council will charge up to the full cost of the service it provides and will not charge more than the cost it incurs. Individuals will only be asked to pay what they can afford towards their care cost, subject to financial assessment.

2.3 The Equality Act 2010

The council has a statutory equality duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, pursuant to section 149(1) of the Equality Act 2010, public sector equality duty.

Anti-discriminatory practice is fundamental to the ethical basis of care provision and critical to the protection of people's dignity. The Equality Act 2010 protects those receiving care and the workers that provide it from being treated unfairly because of any characteristics that are protected under the legislation.

Acting in accordance with this policy will help to ensure that the collection of debts due is conducted in a consistent and objective manner that will reduce the risk of inadvertent discrimination against persons with protected characteristics.

2.4 Mental Capacity Act 2005

Under section 1(2) of the Mental Capacity Act 2005, all clients will be assumed to have capacity and able to make relevant decisions for themselves unless it has been established by assessment that they lack capacity. In addition, under section 1(3), all practical steps ought to be taken to ensure that a client is supported to make their own decisions. If a client is assessed as lacking capacity in relation to decisions regarding their property and financial affairs, it is important that their representative is involved in those decisions.

2.5 Retention Policy

All documentation that supports the client's case file will be retained for at least 8 years ([adult-services.pdf](#)).

Time limit for actions for sums recoverable by statute.

In case the client or their representative defends any legal recovery action. The Council is bound by their legal duties as outlined in [finance.pdf](#) (7.4)

- (1) An action to recover any sum recoverable by virtue of any enactment shall not be brought after the expiration of six years from the date on which the cause of action accrued.

3. Financial Assessments

A financial assessment is undertaken to determine how much, if anything, the client is required to contribute towards the cost of their care and residential services.

3.1 Assessing the client's ability to pay

The council should clearly discuss with the individual or their representative at the outset that care and support is a chargeable service and provide information to explain this.

A financial assessment should be completed, and the individual/representative notified in writing of the outcome of the assessment, including how charges will be calculated, the frequency of bills and payment methods.

As part of the assessment process the council should find out if the individual has someone to help with their finances or, if they lack mental capacity, whether there is a Power of Attorney or Court of Protection deputyship order in place for property and financial affairs. As well as supporting the individual, this is for the purpose of identifying the correct person to send letters to for payment of care charges.

Where a person has an attorney for property and financial affairs or a deputy, these roles give the attorney or deputy the legal authority to make financial decisions on behalf of the person. The council can discuss the options for debt recovery with the attorney or deputy. If debt accrues when a person has a deputy or attorney acting for them, the council will consider whether this individual is exercising their duties appropriately and may in appropriate cases refer the matter to the Office of the Public Guardian to ensure that payments are made promptly, and decisions taken in the person's best interests. In addition, if the deputy or attorney is in receipt of benefits, the council may request that the DWP suspend benefits whilst the council reviews the case.

Where the person lacking capacity has no Power of Attorney or deputy order in place and has substantial debts, then an application for a deputyship order will be required. The application needs to be made to the Court of Protection.

If the person does not own property or have savings, the DWP may appoint the council as appointee for the purpose of payment of benefits.

Decisions will be overseen by Adult Services & Wellbeing (ASW) Debt Panel, details of which, and the associated terms of reference, can be found in Appendix 1 of this policy document.

3.2 Safeguarding Referrals

In some arrears cases, concerns may arise that the person acting as attorney, appointee, or deputy and is responsible for paying the charges on behalf of the client is not administering the finances appropriately. In cases such as this it will be appropriate to refer the case to the Safeguarding Adults Team as potential financial abuse. Each arrears case will be considered on an individual basis before a referral is made; only when it has been clearly established that the attorney or deputy has the ability to pay but is refusing to cooperate with all the council's attempts to enforce this, will a referral be made. An arrears visit will always be undertaken as part of this process to establish if there is a clear intention to avoid paying the charges and other factors such as whether any payments have been made, if the personal expenses allowance is being paid to the client, and the level co-operation/communication from the attorney or deputy will also influence the decision.

3.3 Deferred Payments Agreement Scheme

Under sections 34 to 36 of the Care Act 2014, the council has a duty to offer a Deferred Payment Agreement (DPA), to prevent people from being forced to sell their home in their lifetime to pay for care costs. For clients in residential care, who own a property but currently have capital below £23,250, the council must consider offering a DPA provided certain conditions are met:

- Anyone whose needs are to be met by the provision of care in a care home (as defined in the Care and Support (Deferred Payments) Regulations 2014)
- Anyone who has less than (or equal to) £23,250 in assets excluding the value of their home
- Anyone who has not had their home disregarded from the financial assessment carried out under Section 17 of the Care Act.

[Regulation 3](#) of the Deferred Payment Regulations 2014 gives Local Authorities the power to offer a DPA to people who do not satisfy the criteria specified in [Regulation 2\(2\)](#). Unlike a mandatory DPA, a discretionary DPA can also be offered to people requiring care and support in supported living accommodation.

Under this scheme, the council will require a signed legal agreement allowing a legal charge to be registered against the property (provided that there is sufficient equity in the property to underwrite the loan). This will allow the part of the assessed charge relating to the value of the property to be deferred until the property is sold or the client passes away. Once the agreement is signed, a charge will be placed on the person's property which will show on future land searches.

When the property is to be sold, the council will expect the individual (or their representative) to confirm all outstanding care fees will be paid from the proceeds of the property sale before any charge on the property can be removed.

More information is available in CMBC's Charging Policy for Residential Care Services.

3.4 Top- Up fees

Top-up payments must be made where a client chooses more expensive residential or nursing care than the council is offering as part of their assessed eligible needs.

i. Third-party top-up fees

If a client chooses residential care provision that is more expensive than the rate set by the council, a third-party such as family or charity can pay the difference in the amount.

Clients are not allowed to pay this top-up fee. The third-party enters into a legal agreement with the council. This states that they are responsible for paying this fee and that any debts can be recovered from them by way of legal action. As part of this process, the council will seek assurance that the third party has the means to make and sustain the payments (for the duration of the client's stay in the care home) and that they are fully aware of their responsibilities and the potential consequence of non-

payment.

If there are arrears on a third-party account, the council may choose to terminate the agreement and reassess the accommodation with a view to moving the client to a less expensive placement, if suitable.

Third-party agreements will be reviewed every year as part of the annual care review process.

ii. First-party top-up fees

Where a client chooses residential care provision that is more expensive than the rate set by the council, they may themselves choose to make a 'top-up' payment only in the following circumstances:

- where they are subject to a 12-week property disregard
- where they have a deferred payment agreement in place with the local authority. Where this is the case, the terms of the agreement should reflect this arrangement.
- where they are receiving accommodation provided under S117 for mental health aftercare

4. Principles for Debt Recovery

Where a debt arises, and where all other reasonable avenues for recovery have first been exhausted, the council may wish to proceed to the county court in order to recover the debt owed. Firstly, the individual should be given an opportunity to engage in mediation or other suitable alternative dispute resolution with the council to discuss payment of the debt prior to proceedings being commenced.

The recovery of debts from those who are receiving care and support is a sensitive issue given the potentially vulnerable nature of the client group and the council's ultimate responsibility to meet needs under the Care Act 2014. It must be remembered that there could be a variety of reasons why the client has not paid their assessed charge and the council should always consider whether it is appropriate to take steps to recover the debt, even though it has the power to do so. It may be that in some cases a debt may have accrued as a result of a client's diminishing or lack of mental capacity. In such cases, the council may need to involve the safeguarding team.

The council should also bear in mind that they are bound by the public law principle of acting reasonably at all times and must act in accordance with human rights legislation, as well as the wellbeing principle set out in section 1 of the Care Act 2014. Therefore, it is important that court proceedings are only considered after all other reasonable avenues to obtain payment of the debt have been exhausted. If a claim does end up in court, it is likely that the court will consider what efforts were made to resolve the debt without the need for proceedings.

Council officers will need to bear in mind the following principles when approaching the recovery of debts, especially when dealing with vulnerable clients and their representatives:

- Effective initial communication with clients around chargeable services.
- Effective and efficient collection of all money due, whilst ensuring that the client's financial circumstances and mental capacity are considered.
- Prevention of arrears by prompt billing and collection of money due, affordable repayment plans and early intervention.
- Debts must be discussed with the client or their representative.
- The council must act reasonably.
- Repayment plans should be agreed between the relevant parties and must be affordable.
- The council will consider how different approaches could impact on a client's wellbeing.

5. Debt Recovery Process

5.1 Community Care Arrears

As part of the debt recovery process for community care charges, clients will be encouraged to discuss the reasons for non-payment of debts and their individual circumstances with the council in order that a repayment plan can be agreed. Failure to pay charges by deadlines will result in debt reminder letters being sent to the client. Failure to pay by the deadline will result in possible enforcement action, as below.

5.2 First reminder

An overdue letter will be issued after 6 weeks where an account is in 6 weeks or more arrears of the weekly charge.

5.3 Second Reminder

This is issued 30 days after the first reminder where clients still haven't paid the amount due or agreed a repayment plan. The client is given the chance to pay or agree an arrangement.

5.4 Final reminder

Where clients still haven't paid the amount due or agreed a repayment plan 60 days after the first reminder, this will result in a council officer trying to make contact by telephone. The client is given the chance to pay or agree an arrangement. If no response is received following telephone contact, the council officer may choose to raise an invoice to prompt payment before referring to Debt Panel. This will be considered on a case-by-case basis.

5.5 Further Action

In the event of no contact after all the above has been attempted, the council officer will refer the matter to Debt Panel.

5.6 Community Care Arrears Invoices

Where there are still arrears outstanding, an invoice will usually be raised as a decision from Debt Panel to prompt payment. Payment terms are 28 days, and a 'Letter before

Court Action' will be generated at 30 days. If the client requests to pay the invoice in instalments, they are sent an 'Arrangement Reminder Letter' informing them of the missed instalment and 'pay up to date' date before they are sent the 'Letter Before Court Action'. If the invoice remains unpaid 14 days after sending the 'Letter before Court Action', the invoice will go to debt recovery status. Failure to co-operate at this stage may result in court action.

5.7 Direct Payment Invoices

The client has 28 days to make payment. If no payment is made, a reminder letter is sent to the customer. If the invoice remains unpaid, the Direct Payments team will contact the client to make a payment arrangement. Payment arrangements are on an ad hoc basis and based on the affordability of the client. If payments are missed, or not made, the invoice will be transferred to Debt Panel for a decision on further recovery action. Failure to co-operate at this stage may result in court action.

5.8 Community Alarms Invoices

All invoices are issued with an automatic instalment arrangement for equal monthly payments, over the financial year. If instalments are not paid in time, the client will be notified how much they are overdue and provided with a 'pay up to date' date 3-4 days after the instalment due date.

If the invoice is not paid by the date on the arrangement reminder, the instalment arrangement against the invoice will be cancelled and the client will be sent a Community Alarm Reminder letter.

14 days after the reminder letter, if the invoice remains unpaid, the invoice may be sent to Debt Panel for a decision on further recovery action, for instance if there are other monies outstanding. Failure to co-operate at this stage may result in court action.

5.9 Residential Care Invoices

Annual invoices are generated with an automatic 4 weekly payment instalment. If the instalment is not paid in time to meet the payment dates stated on the invoice, an arrangement reminder is sent three days after the instalment due date, and the client is requested to pay up to date within 7 days.

If the account is brought up to date within the time given, the client will be sent a further arrangement reminder should the same situation occur with the next payment instalment.

When an account is not brought up to date, as requested on the arrangement reminder, the payment instalment will be cancelled and the client sent a 'Residential Care Letter before Court Action', which asks for full payment of the remaining amount of the invoice (an invoice that is issued for a period in advance – some of which may not be due). The debt will be pursued by telephone and e-mail however, if the invoice remains unpaid it will be sent to Debt Panel for a decision on further recovery action. Failure to co-operate at this stage may result in court action.

5.10 Deceased Clients

Once notification of a date of death is received, the Community Care Charges Team will notify the personal representative(s) of the balance due from the estate in a timely manner, in writing by either email or post and within the 6 year statute limitation period under the Care Act 2014.

The Council will suspend Debt Recovery on accounts where notification is received from the personal representative(s) that Grant of Probate/Letters of administration are being applied for.

The following will require approval by the Assistant Director for Adult Social Care Operations or Director of Adult Services and Wellbeing:

- In the absence of a personal representative(s) of the estate and providing it would be economically viable to do so, in accordance with the Civil Procedure Rules 19.8, Calderdale Metropolitan Borough Council will bring a claim against 'the estate of' the deceased and apply to the court for an order appointing them to represent the estate of the deceased in the claim followed by the sale of property, if applicable.
- In circumstances where there is a personal representative(s) of the estate, but they are refusing to co-operate/administer the estate and providing it would be economically viable to do so, in accordance with the Civil Procedure Rules 19.8 Calderdale Metropolitan Borough Council will bring a claim against 'the personal representatives' of the deceased.

Legal advice may be sought should issues arise in respect of payment from the deceased's estate.

6. Invoices in query or dispute

A debt is in dispute where the debtor believes that the charge is incorrect. If an invoice is disputed, then the nature and reason for the dispute would need to be made in writing or by email to the Charging Assessment Team below within 28 days from the date of the invoice for the dispute to be considered.

The Charging Assessment Team will look at the charge again and let the individual know the outcome.

Charging Assessment Team
Calderdale Council Adult Services and Wellbeing
PO Box 51
Halifax
HX1 1TP
charging.assessmentteam@calderdale.gov.uk
01422 393639

If the individual still disagrees, they can appeal the decision by email or in writing. Their appeal will be acknowledged within ten working days. As soon as their appeal has been investigated, they will receive a response in writing.

If the individual is still not satisfied, they can make a complaint. The complaint can be made online, by email or by letter. They can do this themselves or they can ask someone to do it for them. Individuals should contact the complaints team below directly if they need help to do this

- FREEPOST RTGL-EXHR-SRLH
Complaints and Compliments Team
Town Hall
Crossley Street
Halifax
HX1 1ZS
complaintsandcompliments@calderdale.gov.uk
01422 288001
www.calderdale.gov.uk/v2/council/consultation-and-feedback compliments-and-complaints

If the individual is still not satisfied with the outcome of the complaint, the complaints team will provide them with contact details of the Health and Social Care Ombudsman.

Any disputes received outside of the 28-day timescale will not be considered unless there is an exceptional reason for being unable to dispute an invoice within the given timescale.

All debt that arises must be recovered within 6 years from when the sum became due to the council.

7. County Court Judgments (CCJs)

7.1 County Court Judgment

If all other reasonable options for debt recovery have been exhausted, the council may decide to proceed to the County Court to recover the outstanding balance. A County Court Judgment ('CCJ') is a type of court order that may be registered against a person who fails to repay money they owe.

It is not in the Councils interest to incur further costs to attempt to recover a debt through the court process where it is unlikely that this would result in payment. Unless the person owns a property that a charge could be placed on to secure the debt, the Council may at this point feel that referral to an outside debt collection agency is more appropriate. The Council aims to treat all debtors fairly and equally and each case is investigated on an individual basis.

Before a CCJ is sought, a pre-action protocol letter will be sent to the client or their representative with details of the debts and what the consequences of this action are.

Where a CCJ is obtained, the judgment will be posted to the person by the court and will explain:

- how much they owe
- how to pay

- and when payment is required

If the council does seek a CCJ, the court will charge a fee which is appropriate to the debt. In addition to this, the council's legal team will charge hourly fees for preparing the case and attending court.

7.2 Actions that can be taken once a CCJ is obtained, and the debt remains unpaid, or a repayment plan has not been agreed.

- **Third-party debt orders**

A further court order can be applied for which allows the council to seek funds owed by a third party direct from the third party.

If the council does seek a third-party debt order, the court will charge an additional fee for which the client will be liable. In addition to this, the council's legal team will charge an hourly rate for preparing the case and attending court. These additional costs will be added to the debt outstanding and included in the application for the third-party debt order.

- **Attachment of earnings**

The council may also seek an Attachment of Earnings Order. This order can be sent to an employer to ask them to deduct amounts regularly from a person's wages until the debt is cleared.

- **Charging Order**

This is an order that places a charge on a property to secure the debt and to ensure that a debt is paid from the proceeds when it is sold. The council can enforce the sale of a property to realise this debt in certain circumstances.

If the council does seek a charging order the court will charge a fee for which the client will be liable. In addition to this, the council's legal team will charge an hourly rate for preparing the case and attending court. These additional costs plus interest will be added to the debt outstanding and included in the application for the charging order.

A further application needs to be made to the court to obtain an order for sale to enforce the charging order.

There is an option for enforcement agencies to be used in certain circumstances, but this should be as a last resort.

7.3 Authorisation

The decision to refer a case for an application for a CCJ and further action will be made by the Assistant Director for Adult Social Care Operations.

8. Write offs

In certain circumstances a debt may need to be written off and there are several reasons why debt may become irrecoverable. These include cases where:

- The customer has absconded and cannot be traced
- The customer has died, and evidence has been provided that there are no funds available in the estate
- The debt is too old to recover
- The balance is small, and the recovery costs would make the debt uneconomical to collect.
- It is not cost effective to continue recovery action
- The customer is experiencing severe financial hardship
- The individual (or their companies) has become insolvent

There are also cases where there are overpayments on accounts that cannot be refunded. This is because either the customer has moved without providing a forwarding address, or they have died, and the beneficiaries have not been found.

If it is agreed at Debt Panel that a debt above £30.00 merits being written off, a Divisional Management Team form is completed and signed off by a senior manager. This is then available for audit and finance to observe and ensure that all systems are up to date and accurate. Debts are only written off when deemed irrecoverable, therefore this process will only take place after all possible courses of action to recover the debt have been taken. Write offs are completed 4 times a year, usually the end of November, February, May, and August in line with revenue monitoring.

8.1 Process for Authorisation (Cases up to £5,000)

Write-offs are authorised by Operations Managers for Adult Services and Wellbeing

8.2 Process for Authorisation (Cases between £5,000 and £10,000)

Write-offs are authorised by Service Managers for Adult Services and Wellbeing.

8.3 Process for Authorisation (Cases over £10,000)

Write-offs are authorised by the Assistant Director for Adult Social Care Operations.

Appendix 1

Adult Services & Wellbeing (ASW) Debt Panel

Terms of Reference

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Contributors	Service and Operations Managers, Assistant Director and Charging representatives.
Contact person	Annette Clancy
Approved By (GROUP)	Senior Management Team
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Reviewing Officer	Policy and Procedures Officer

Any changes to this document or associated documents should be referred to **Assistant Director, Adults Operations** in the first instance. Please do not change or save versions of this document.

This document is intended for staff purposes only.

Version	Date modified	What was changed	Who by
V0.1	-	-	-
V0.2		Updated content as directed by The Chair	Rebecca Farley, Transformation Officer.
V0.3	12.07.23	Updated content as directed by The Chair	Zakera Pandor, Policy & Procedures Officer.

1. Purpose

The Council is committed to recovering all monies owed to it to maximise income to sustain services for the local community.

The Debt Panel is established to discuss cases where people that receive adult services and wellbeing care and support have a debt *“a sum of money that is owed or due”* to the directorate.

The panel decides on the appropriate action to recover any value of debt based on the persons circumstances and the context of the individual case.

The panel will oversee progress of individual cases to ensure that debts are recovered whilst maintaining care and support arrangements.

The panel will identify and feedback on procedural improvements to ensure that the Council provides services that meet the needs of the public and are reflective of legislation and ASW mission and values.

Any action is considered in line with the statutory requirements of the Care Act 2014.

2. Scope

During panel meetings, The Chair of the Debt Panel will have the final decision upon case decisions.

The Chair will decide if any cases need referring to the Assistant Director of Operations for further discussion and decision-making.

The Chair can write-off debt in accordance with directorate authorisation levels. However, other options for action will always be considered before writing off any debt to protect the Councils budget.

To aid informed discussion and decision-making, the Panel will ensure that case information is available in preparation for the Debt Panel Meeting.

The Panel will review cases to understand the context and reasons for debt.

The Panel will review cases to understand the history of the case and any prior action taken to support in the person with regards to their financial situation.

The Panel will ensure accurate record keeping of all cases discussed including, progress, decision-making and outcome details.

The Panel will operate to a transparent and clear process for submission of cases to Debt Panel meetings.

The Panel will ensure that a fair, clear, and transparent approach is used to access each case.

The Panel will ensure that it operates in line with the Care Act 2014, and associated directorate policies and procedures.

3. Process

3.1 Submission of cases to Debt Panel

Prior to submission to debt panel, cases where there is a debt of 6 weeks are referred to the appropriate team (including social work teams and the Community Charges team) to review and investigate reasons for the non-payment of services.

A formal referral is made to the Debt Panel if:

- the team is unable to make any progress with the recovery of the debt
- there are no safeguarding concerns

If there are safeguarding concerns, the allocated worker will follow the relevant safeguarding procedures.

Referrals to Debt Panel are co-ordinated by the Community Care Charges Officer in good time to allow for the preparation of the Debt Panel meeting.

3.2 During the Debt Panel: Reviewing the case

During the Debt Panel meeting, the Chair, Community Care Charges Officer, Operations Manager(s), and those invited to attend, discuss each of the cases.

The Panel consider the following points to make an informed decision about the outcome of the case.

- Has the person paid anything towards their service costs?
- What is the person's payment history?
- Is/have there been any payment plans in place?
- Are there any extenuating circumstances?
- Have they produced evidence of a clear intention to pay their debt?
- How likely is it that the person will make a payment?

3.2.1 Outcomes

The Panel will ensure that appropriate action is taken with regards to a person's situation.

The Panel will ensure that any actions are reflective of the statutory requirements of the Care Act 2014.

The Panel will ensure that the appropriate support, guidance, and information is provided to the person.

Outcomes of cases discussed at Debt Panel include:

- Choose to monitor for a defined and appropriate time.

- Referral back to the appropriate team for further investigation/discussions
- Referral to DMT for consideration and decision
- Progress to court.
- Write off debt (DMT form must be completed).

Outcomes of cases are allocated to the appropriate worker to progress.

4. Membership

- Service Manager (The Chair)
- Operations Manager(s)
- Team Managers/Management Team
- Assistant Director of Operations
- Community Care Charges Officer
- Ad-hoc invitation, a member of the directorate or other Council service may be invited to make representation for cases if required.

5. Frequency of Meetings

The Panel will meet every 10 weeks, ensuring that the management of debt is consistent, and action is responsive.

Additional meetings may be scheduled if The Chair approves.

6. Reporting and Reviewing Arrangements

The Debt Panel will report directly to the ASW Assistant Director of Operations.

7. Appeals

Appeals and complaints should be progressed via the Councils standard processes.



Charging Policy for Community Based Services for Adults

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1. Introduction

- 1.1 Calderdale Metropolitan Borough Council (CMBC) arrange community-based services i.e. personal care, day opportunities and enabling support for people who have been assessed as being eligible for care and support, in order for them to remain independent in their own homes.
- 1.2 The Care Act 2014 brings all community care law under one all-encompassing piece of legislation and repeals almost all of the existing provisions.
- 1.3 Calderdale Metropolitan Borough Council has a charging policy which follows Government guidelines. This takes into account a person's individual income and savings. We use a financial assessment to work out how much a person should pay towards the care and support services they receive to help them stay at home. The charging policy will be applied fairly to everyone.
- 1.4 The council will charge for support delivered in community settings including a person's home or a community facility such as a day centre. The person's home includes tenancies within Extra Care, Supported Living and Shared Lives accommodation.
- 1.5 All non-residential community-based support services fall within the scope of this policy and include (but is not limited to):
 - Home care services
 - Community Based Day Opportunities
 - Supported Living
 - Adult Shared Lives Placements
 - Direct Payments
 - Sitting Services
 - Outreach services
 - Provision of care and support in Extra Care settings
 - Community Care Alarms
 - Joint funded services –clients will be required to contribute towards the cost of the services provided by the Council but not those provided by the NHS as part of a joint package of support.
 - Other

2. Personal Budget

- 2.1 If a person has a care and support plan, an amount of money will be identified that will be enough to meet their eligible needs. This agreed amount of money is called a Personal Budget. In some circumstances, the person will be expected to contribute financially (in part or in full) to their Personal Budget, and fund part or all of their care and support.

3. Financial Assessment

- 3.1 CMBC use a financial assessment (a means test) to establish how much a person may need to pay towards the cost of their care.

3.2 Section 8.14 of The Care and Support Statutory Guidance instructs that local authorities are not permitted to charge for provision of the following types of care and support:

- Community equipment (aids and minor adaptations) less than £1,000.00
- Reablement, for a period of up to six weeks
- Services provided to those with Creutzfeldt Jakob Disease (CJD)
- Any service or part of service which the NHS is under duty to provide, this includes intermediate care, Continuing Healthcare and the NHS contribution to Registered Nursing Care
- Assessment of needs and care planning, including the cost of the financial assessment
- Services which the local authority has a duty to provide through other legislation, for example aftercare services under Section 117 of the Mental Health Act 1983. These are services which are provided to meet a need arising from, or related to, the person's mental disorder, in order to reduce the risk of a deterioration of the person's mental health condition and need for re-admission for the treatment of that mental disorder.

3.3 Local authorities are permitted to charge for provision of the following types of care and support:

- Care and Support Services that meet needs which are unrelated to Section 117 aftercare services as defined above at 3.2. These services will be subject to the local authority charging policy and may result in a client contribution.
- The difference between the actual cost of preferred accommodation and the usual cost of providing or arranging for the provision of accommodation of that kind under Section 117.

3.4 Not everybody will be required to pay the same amount for their care and support services.

3.5 A person's income, savings and outgoings will be taken into account and looked at against the cost of their care and support. This will help identify the charge they are expected to pay.

3.6 During a financial assessment, CMBC may ask that evidence is provided. If a person refuses, or chooses not to be financially assessed, they will have to pay the full cost of the services they receive up to the maximum charge of £558 per week.

3.7 CMBC are duty bound to make sure we leave a person with at least a minimum amount of money each week. In doing so, CMBC will adhere to the guidance provided by the Department of Health in their Local Authority Circulars which are usually reviewed and published in April of each year. These circulars can be found at [Local authority circulars - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

3.8 CMBC will always undertake a financial assessment to determine how much a person should contribute, except when it is clear that they have savings in excess of the upper capital limit.

3.9 If a person has savings in excess of the upper capital limit, they will be expected to meet the full cost of the care services they receive up to the maximum charge of £558 per week.

3.10 The upper and lower capital limits are reviewed and confirmed by the Department of Health in April of each year. The current capital limits are:

- Lower Capital Limit £14,250
- Upper Capital Limit £23,250

3.11 When a person's financial assessment has been completed, they will be told the maximum weekly charge they need to pay towards the cost of the care services they have. This is called an assessed weekly charge.

3.12 If the financial assessment process concludes that a person needs to pay towards the cost of their care and support services, the charge will be applied from the Monday following the start of the services, unless the care and support starts on a Monday, in which case the charge will be applied from the same day. This may be subject to change upon review.

3.13 Minimum and Maximum Charges

3.14 The current limit on the amount CMBC ask anyone to pay towards their care for community services is £558.00 per week. This is called the maximum weekly charge. Even if the cost of the care provided is more than £558.00 per week no one currently pays above this amount. The minimum weekly charge for adult care services is £1.00 a week.

3.15 What counts as income?

3.16 All income is taken fully into account in the financial assessment unless the regulations to the Care Act require that it should be disregarded either partially or fully. Income that is available or due to an individual but has not been sought or applied for may be taken into account as notional income in the financial assessment. Notional income may also apply where a person has reached retirement age and has a personal pension plan but has not purchased an annuity or arranged to draw down the equivalent maximum annuity income that would be available from the plan.

3.17 All State and Welfare benefits count as income. These could include but is not limited to:

- Guaranteed Pension Credit
- Employment Support Allowance (ESA)
- Universal Credit
- State Retirement Pension
- Disability Living Allowance (DLA)
- Attendance Allowance
- Personal Independence Payment (PIP)
- Universal Credit

All private income. These could include but is not limited to:

- Private pensions

- Works / Occupational pensions
- Tariff income
- Any other income received on a regular basis.

3.18 CMBC currently disregard some types of income when carrying out a financial assessment for community-based care services. These include:

- War Pension
- Pension Credit - Savings Credit
- PIP mobility
- DLA mobility

3.19 This list is not exhaustive. The Care and Support Statutory Guidance, Annex C: Treatment of Income provides further details on sources of income which must be disregarded. [Care and support statutory guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/care-and-support-statutory-guidance)

3.20 CMBC do not take into account:

- The difference between the higher and lower rate of Attendance Allowance (AA), unless night time care is being paid for by CMBC.
- The difference between the higher and middle rate of the care component of Disability Living Allowance unless night time care is being paid for by CMBC.

3.21 What counts as savings?

3.22 For the purpose of a community care-based services financial assessment, savings can include but is not limited to:

- Money held in a bank, building society or post office account (50% if a joint account)
- ISAs
- Stocks and shares
- Premium Bonds
- National Savings Certificates
- Property and/or land (other than the home in which they live).

3.23 How we work out Tariff Income

3.24 The tariff income calculation is based on guidance issued by the Department of Health and may be subject to change. Tariff income is meant to represent an amount a person with savings between the lower and upper capital limits should be able to contribute towards their care and support and is not representative of any interest- earning capacity of those savings.

3.25 If a person has savings between the lower and upper capital limits, we will include tariff income in our calculations.

3.26 We calculate a notional income of £1 per week for each £250 (or part thereof) of any amount between the lower and upper capital limits.

3.27 For example, savings of £16,400 will attract a tariff income of £9 per week (£16,400 - £14,250 ÷ £250 = £9)

3.28 What counts as outgoings?

3.29 Household expenditure can be taken into account. These will include; housing costs such as mortgage, rent (net of housing benefit), council tax (net of council tax benefit), and service charges. These are called Housing Related Expenses.

3.30 Expenses directly related to an illness/disability can be taken into account. This may include, for example, a domestic cleaner, excessive fuel costs (gas, electric, oil), excessive water and sewerage rates (if metered), specialist clothing etc. These are called Disability Related Expenses (DRE).

3.31 Eligibility for Disability Related Expenses (DRE)

3.32 If a person has any additional expenditure due to a disability or long-term health condition, this must be supported within their needs assessment as being necessary. As the DRE is allowed on the basis of an individual's needs, CMBC officers use the support plan to make a decision on whether an allowance should be made. Appendix 1 provides further information on DRE.

3.33 DRE will only be considered if a person is living at home and the spend is:

- necessary to meet any needs which are not being met by Calderdale Metropolitan Borough Council
- not something a person would pay for if they did not have a disability or medical condition
- not a health need that should be provided by a government agency like the NHS
- not covered by a grant or donation

3.34 In order to be eligible for DRE:

- A person must be in receipt of the care component of Disability Living Allowance, Personal Independence Payment (Care) or Attendance Allowance.
- The costs must be reasonable and can be verified.
- A person must be able to provide evidence for any amounts claimed. For example, with receipts, invoices, or appropriate documentation.
- The disability related expenditure will be limited to a maximum of the disability care benefit that a person is entitled to.

3.35 The onus is on the person or their representative to provide all of the evidence required for consideration of DRE (Appendix 2). If the person or their representative is unable to provide this evidence during the financial assessment, they will have 4 weeks to provide it. On receipt of the evidence being provided within 4 weeks, any award or reduction in charge due to the DRE will be backdated to the date of the assessment.

3.36 Where evidence requested by the council is not provided by the person or their representative within 4 weeks, the application will be treated as withdrawn. The council will only consider evidence provided after 4 weeks if there are extenuating circumstances and any reduction will be made from the date of receipt of the last supporting evidence. If no evidence is provided, then no allowance will be made.

3.37 As the council takes disability-related benefits into account in the financial assessment calculation, it must also allow the person to keep enough of these benefits to pay for necessary, reasonable disability-related additional costs to meet any needs which are not being met by social services. The council will carefully consider a person's level of disability-related expenditure in the financial assessment.

3.38 Regular and one-off expenses are calculated differently:

- Fuel costs and metered water charges are compared to the average usage for the type of property and household size that a person has. An allowance for above average costs is considered
- Basic gardening costs are considered March to October (34 weeks) and are calculated on an average weekly cost
- Regular expenses are calculated as an average weekly cost
- One-off expenses, usually for equipment, are calculated over an approximate life span, such as 1 year, 5 years or 10 years

3.39 In cases where a person is asking for a larger disability related expense than is usually allowed or is requesting an unusual disability related expense this may be referred to Adult Social Care for a decision.

3.40 Payments to family members are not usually considered as disability related expenses unless identified in the needs assessment and support plan for exceptional circumstances, including cultural or religious reasons.

3.41 Appendix 3 provides examples of common items for consideration. The guidance is neither exclusive nor exhaustive but represents items referred to within the Care and Support Statutory Guidance.

3.42 Mental Capacity

3.43 The Council will follow the Care and Support Statutory Guidance (CSSG) when undertaking a financial assessment and will establish whether the relevant adult has capacity to take part in the financial assessment.

3.44 Where an adult lacks capacity, the council will ascertain if the person has an 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 or 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)

3.45 People who lack capacity to give consent to a financial assessment and who do not have any of the above people with authority to be involved in their affairs, may require the appointment of a property and affairs deputyship if they have assets other than benefits. A family member could apply for this to the Court of Protection. In the absence of any family members Calderdale Metropolitan Borough Council may make the application for the appointment of a deputy for property and affairs.

3.46 If Calderdale Metropolitan Borough Council is appointed corporate appointee by the DWP then it will only provide benefit information for the purposes of the financial assessment, in the person's best interests. If there are other assets, and in the absence of others to do

so, an application will need to be made to the Court of Protection to provide CMBC with the authority to use this information for the purposes of the financial assessment and in the person's best interests, in accordance the Mental Capacity Act 2005.

3.47 Charging Couples

3.48 The Care Act 2014 requires that financial assessments are completed for clients as individuals. Where charges are related to couples who are both in receipt of services, the council will apportion these charges dependent on the cost of the individual's service charge. Charges are added together and posted to one of the couple's accounts.

3.49 A couple is defined (for the purposes of this charging policy) as two people living together as spouses or partners.

3.50 Light Touch Financial Assessments

3.51 In some circumstances, the council may decide that a full financial assessment is not necessary or appropriate. This type of financial assessment is defined as a "light touch financial assessment."

The light touch financial assessment will apply:

- If a person does not wish, or refuses, to disclose their financial information.
- If a person says they have significant financial resources and or savings above the limit of £23,250 and does not wish to go through a full financial assessment for personal reasons.
- Where the charges for the service are small and a person is able to pay and would clearly have the relevant minimum income left. Carrying out a financial assessment would be disproportionate.
- Where a person is in receipt of benefits, which show they would not be able to pay towards their care and support costs.

3.52 The council will inform a person when a light-touch assessment has taken place and will make it clear that the person has the right to request a full financial assessment.

3.53 Reviews of a person's financial assessment will be completed in accordance with Care Act guidance. These will be conducted on a regular basis, and at least annually. The review will take into account any changes to a person's financial circumstances. For example, a decrease in the level of their capital resources, or an increase in the level of their pensionable income.

3.54 Outcome of the financial assessment

CMBC will send the individual a letter to explain:

- How much they need to pay towards their care and support (if anything).
- How it has been calculated.
- How to pay it.

3.55 It is the individual's responsibility to check the letter carefully and let the Charging Assessment Team know straight away if anything is missing or incorrect.

4. Direct Payments

- 4.1 When an individual chooses to take their personal budget as a form of direct payment, assessed charges are deducted from the personal budget amount and a net payment is made by the Council for contribution to the personal budget.
- 4.2 If a person does not pay their assessed charge correctly into their direct payment account, CMBC will carry out an audit and send them an invoice for any underpaid charges.
- 4.3 There are regular reviews of direct payments to ensure money is spent appropriately.
- 4.4 Where direct payments are being made and the individual is not spending the direct payment for the appropriate purpose, the council will take steps to recover any payments that have been inappropriately used. In these cases, a review of the care assessment and the financial assessment will also be undertaken.
- 4.5 More information is available in CMBC's separate Direct Payments Policy.

5. Self-Funders - (full cost charging)

- 5.1 A "Self-Funder" financial assessment means that the person is required to pay the full amount of all qualifying charges for any means tested care and support they receive up to the maximum charge of £558.00 per week.
- 5.2 The council will treat a person as being a "Self-funder - full cost" financial assessment where they:
 - Have savings and other financial resources above the national upper limit, currently £23,250, it is expected they will need to pay for the full cost of support. The Council calls this "self-funding".
 - Choose not to disclose their financial information to enable a full financial assessment;
 - Fail to co-operate and/or do not provide a completed financial assessment form, within 1 month (30 days) (14 days for Care Alarms) of agreeing a Calderdale Metropolitan Borough Council Social Care Charging Policy support plan or the commencement of chargeable services (whichever is sooner);
 - Where possible the council will use other information sources available to complete the financial assessment, however, where this is not possible and the client (or their representative) fails to provide all of the information requested within 1 calendar month; the council will be deemed to have undertaken a financial assessment in accordance with regulation 10 of the "The Care and Support (Charging and Assessment of Resources) Regulations 2014 (as amended), and the client/representative will be charged the full cost of the care and support service(s).
 - Receive a declaration (including electronic declaration) that they are happy to pay the full cost of services received;
 - Receive a full financial assessment that deems they are assessed to contribute the full cost for their care and support.
- 5.3 Where a person is self-funding their support, they are still entitled to ask that the council help them arrange their services. There are a number of people who have either been

assessed as being able to afford the full weekly cost of social care or have not disclosed their financial information to the council and as such are required to pay the full charge. These people have the choice to have the council arrange a suitable social care package for them.

5.4 Former self funders

5.5 Former self funders are those individuals whose assets fall below the threshold to become eligible for council funding (below the £23,250 asset threshold). Former self funders may become eligible for social care funding once their resources have depleted below the statutory thresholds and will need Care Act and financial assessments to determine eligibility.

5.6 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.

5.7 Calderdale Metropolitan Borough Council will not be responsible for debts incurred before the former self funder or their representative has completed a financial assessment. Calderdale Metropolitan Borough Council will become responsible for paying for care:

- If the council assesses there that there are eligible care needs

AND

- a financial assessment has been completed and confirmed the individual is below the financial limit

5.8 The date that Calderdale Metropolitan Borough Council will assume responsibility for payment will be the date of the submission of the financial assessment, or the date at which the funds become depleted if it is after this.

5.9 The financial assessment will identify the former self funders contribution towards the cost of meeting their eligible care needs.

6. Services not provided as planned

6.1 Managed packages of care

6.2 For services where CMBC are given less than 24 hours' notice of a cancellation, charges will typically still apply and therefore there will be no reduction to the weekly charge (with the exception of unavoidable emergencies, such as emergency hospital admissions).

6.3 When the council are given more than 24 hours' notice or if there is an emergency, charges will not apply for this element of the service and the individuals account will be adjusted accordingly. However, because the council charge against the agreed weekly rate, cancellations will not necessarily result in a reduced overall charge.

6.4 There may be a number of reasons why services are cancelled in advance, such as hospital admissions, holidays or health appointments.

6.5 Direct Payments

- 6.6 If there is a period of no care, for example if person does not receive care because they are away with family or in hospital, and there are no costs paid to the provider or Personal Assistant (PA) for this period, the care charge payable will be reduced by the appropriate number of weeks (full weeks only).
- 6.7 If the person does not receive care and a retainer is paid to the provider or the PA, the care charge due will also be reduced by the appropriate number of weeks (full weeks only).
- 6.8 If the period of no care includes a part week, the person will be charged only for the cost of care delivered in that week. If the cost of care in the week is less than the assessed care charge, a reduction of the difference will be made for that week.

6.9 Mixed package

- 6.10 If there is a period of no care, for example if the person is away with family or in hospital, and the provider payable through the Direct Payment charges a retainer, the care charge due will be reduced by the number of weeks that the person was in hospital or away for both elements of the package.
- 6.11 If the period of no care includes a part week, the assessing CMBC Officer will calculate the charge due for the managed element and use the guidelines above for the Direct Payment element of the charge.

7. Duty to notify changes of circumstances

- 7.1 A new financial assessment needs to be completed when there is any change in the person's financial circumstances, for example where their income goes up or down or there is a change in their savings. Individuals must tell the Charging Assessment Team about any change within one month of the change happening who will then complete a new financial assessment from the date of the change.
- 7.2 If a person does not tell the Charging Assessment Team about any change within a month and the change means that they have been paying too much for their care, the assessing CMBC officer will only complete the financial assessment from the week CMBC are told about the change.
- 7.3 If a person does not tell the Charging Assessment Team about any change within a month and the change means they haven't been charged enough they will have to pay the extra charges going back to when the change happened or a maximum of 12 months if an annual review of finances has not been carried by the Charging Assessment Team since their last financial assessment.

8. Carers

- 8.1 The Care Act 2014 provides councils with the power to charge for support for carers, where they have an eligible support need in their own right.
- 8.2 The support which the council can charge the carer for must not be provided directly to the adult being cared for. The council does not presently routinely charge carers but can

exercise its discretionary power to only provide funding the council feels is appropriate to the “cared for” persons eligible care and support needs.

- 8.3 In some circumstances the council may not agree to fund certain support requested by a carer, in which case they would be expected to pay for this support themselves.

9. Careline

- 9.1 Calderdale Metropolitan Borough Council, in partnership with Progress Lifelines, offer a community care alarm service which offers direct access to a Contact Centre from an individual's home. The Centre provides emergency personal assistance 24 hours a day in a person's own home, 365 days a year.
- 9.2 There is a weekly charge for the Community Care Alarm Service and invoices will be sent annually. However, if the person has a careline installed midyear the invoice would start from that date up to April of the following year.
- 9.3 If the person is in receipt of any of the following, they will have to pay for their community care alarm:
- Have over £23,250 in capital
 - Attendance Allowance, Disability Living Allowance (DLA) or Personal Independence Allowance (PIP) - (High rate)
 - If they are pension age with total income of more than £194.00 per week
 - If they are working age with total income of more than £156.45 per week
- 9.4 It may be that the person is entitled to this service free of charge. The criteria for possible exemption are listed below:
- They are in receipt of Universal Credit (and if they are in work and earning less than £7,400 – net earned income)
 - They are in receipt of Pension Credit Guaranteed
 - They are in receipt of Employment and Support Allowance
 - They are in receipt of Job Seekers Allowance
 - They are in receipt of Income Support
 - They are in receipt of DLA or PIP (Low rate only)
 - They are a Section 117 client or CJD sufferer
 - They have under £23,250 in capital

10. In house day services

- 10.1 When an individual is assessed to attend day services, this includes a hot meal at lunchtime and transport if required. The charge is incorporated into what the individual pays to attend the day centre.

11. Recovery of debt

- 11.1 The Care Act 2014 consolidates the Council's powers to recover money owed for arranging care and support for people. These powers can be exercised where someone refuses to pay the amount they have been assessed as being able to pay.

11.2 The powers granted to the Council for the recovery of debt also extends to the person or their representative, where they have misrepresented or have failed to disclose (whether fraudulently or otherwise), information relevant to the financial assessment of what they can afford to pay.

11.3 Calderdale Metropolitan Borough Council will approach the recovery of debt in line with its Debt Recovery Policy which sets out the approach to debt recovery for Adult Social Care.

12. Review and appeals process

12.1 If an individual believes the result of their financial assessment is incorrect, due to inaccurate information being used, or if they wish to claim additional expenses, they can ask for a review of their assessed weekly charge by contacting the Charging Assessment Team below who will look at the calculation again and let them know the outcome.

Charging Assessment Team
Calderdale Council Adult Services and Wellbeing
PO Box 51
Halifax
HX1 1TP
charging.assessmentteam@calderdale.gov.uk

12.2 If the individual still disagrees, they can appeal the decision by email or in writing. The appeal will be acknowledged within ten working days. As soon as the appeal has been investigated, they will receive a response in writing.

12.3 If the individual is still not satisfied, they can make a complaint. The complaint can be made online, by email or by letter. They can do this themselves or they can ask someone to do it for them. Individuals should contact the complaints team below directly if they need help to do this

FREEPOST RTGL-EXHR-SRLH
Complaints and Compliments Team
Town Hall
Crossley Street
Halifax
HX1 1ZS
complaintsandcompliments@calderdale.gov.uk
01422 288001

www.calderdale.gov.uk/v2/council/consultation-and-feedback/compliments-and-complaints

12.4 If the individual is still not satisfied with the outcome of the complaint, the complaints team will provide them with contact details of the Health and Social Care Ombudsman.

Appendix 1

Disability Related Expenditure if you are living at home

“Is your life more expensive because of a disability or medical condition?”

What is Disability Related Expenditure (DRE)?

DRE are the extra costs you may have to pay because of your disability or medical condition. These expenses will be considered in your financial assessment for social care and support. You will need to provide proof of payment.

DRE will only be considered if you are living at home and the spend is:

- necessary to meet any needs which are not being met by Calderdale Council
- not something you would pay for if you did not have a disability or medical condition
- not a health need that should be provided by a government agency like the NHS
- not covered by a grant or donation

What might be considered as DRE?

Things that you have to spend money on each week, month or year because of your disability or medical condition.

Below is a list of some items we consider as DRE. We recognise that everyone's situation is different, and you may have other expenses you want to tell us about.

DRE	Description
Bedding	If you need to use special bedding, such as specialist continence sheets, or if you frequently have to replace bedding due to continence or wear and tear issues, we will take into account your additional costs.
Care Alarm System	If you pay for things like personal alarms and telecare so that you can contact someone in an emergency.
Clothing and footwear	If you have to buy clothing and/or footwear more often because of your disability or medical condition, we will consider this expense. This might be due to excessive wear and tear, continence issues, or the cost of alterations.
Disability related equipment	We will consider costs for such items including purchase, maintenance, and insurance costs if they cannot be supplied free of charge by Calderdale Council or the NHS.
Domestic help/cleaning or basic garden maintenance	If you pay someone privately to do your housework/cleaning or basic garden maintenance, because you and other people in your household are unable to do these tasks, we will take the reasonable costs into account.
Higher than average fuel and metered water costs	If your fuel bills are higher, because of your disability or medical condition, we will compare what you are paying with average costs for your house type and number of occupants.
Laundry	If you have additional laundry to do every week, because of managing your continence needs or risk of infection.

Special dietary needs	If you have a condition that means you have to eat or drink special foods, we will consider the additional cost over the average food price.
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How is DRE included as part of my financial assessment?

You need to tell us about your DRE by completing the DRE application form, which your social care assessor will give you.

How do we calculate DRE in your financial assessment?

Regular and one-off expenses are calculated differently.

- Fuel costs and metered water charges are compared to the average usage for the type of property and household size that you have. An allowance for above average costs is considered
- Basic gardening costs are considered March to October (34 weeks) and are calculated on an average weekly cost
- Regular expenses are calculated as an average weekly cost
- One-off expenses, usually for equipment, are calculated over an approximate equipment life span, such as 1 year, 5 years or 10 years

Are all DRE costs allowed in the financial assessment?

Not all costs will be considered as DRE, the table below gives some guidance.

Service / Item	Allowance
Care and support services purchased privately in addition to those agreed in your care and support needs assessment	Unless there are special circumstances why you have to pay for them privately in addition to the care and support you receive from Calderdale Council
Cash payments	Unless you provide proof of payment for it to be considered as DRE
Chiropody	Not usually allowed unless there are special circumstances, as this should be provided by the NHS.
Daily living costs	Standard costs should be paid from your Minimum Income Guarantee. For example, food, clothing, utility bills, entertainment/ recreational costs/hobbies and other costs not linked to your disability or medical condition The Department of Health and Social Care sets a 'Minimum Income Guarantee' for daily living costs dependent on individual circumstances.
Expensive items	If you buy more expensive items/services instead of a cheaper alternative, we will usually only allow the basic cost as DRE
Holidays	The standard cost of holidays is not covered by DRE but additional costs, because of your disability or illness, may be.

Appendix 2



Disability Related Expenditure Form

If you live at home and receive care and support services, please use this form to tell us about any expenses arising from your disability or medical condition.

Do not fill this form in if you live, or will be going to live, in a care home.

Name:		Date of Birth:	
Address:			
Postcode:			

- Please provide proof of payment for all expenditure claimed, where shown.
- For on-going costs that you must pay, please provide a minimum of 3 months' proof of expenditure.
- If you need help to complete this form, please speak to your social care assessor.

Type of expenditure	Amount you have paid in the last year	Evidence that we need
1. Do you need to buy clothing more frequently or have alterations made?	£	Receipts
Per year - which items of clothing do you need to replace (and how often) or have altered, because of your disability or medical condition? Please can you explain why this is?		
Type of expenditure	Amount you have paid in the last year	Evidence that we need
2. Do you frequently need to buy footwear or have alterations made?	£	Receipts

Per year - how many pairs of shoes do you need to replace, or have altered, because of your disability or medical condition? Please can you explain why this is?

Type of expenditure	Amount you have paid in the last year	Evidence that we need
3. Do you need to buy specialist bedding or frequently replace bedding?	£	Receipts

Per year - please can you tell us what specialist bedding you need to buy, and how often you need to replace it because of your disability or medical condition?

Type of expenditure	Total amount paid each year	Evidence requirement
4. Do you have high fuel costs because of your disability or medical condition?	£	Annual Bill

Please can you provide a copy of your gas/electric/metered water bill showing what you have been billed over the last 12 months or provide a forecast for the next 12 months?

Type of expenditure	Total amount paid each <u>week</u>	Evidence requirement
5. Do you pay for a Care Alarm System because of your disability or medical condition?	£	Invoice/receipts

Please can you tell us how much you pay and how often?

Type of expenditure	Total amount paid each <u>week</u>	Evidence requirement
6. Do you need to pay for domestic help/cleaning?	£	Invoice/receipts

If you need extra help around the house because of your disability or medical condition, please can you say what this and how often?

Type of expenditure	Total amount paid each year	Evidence requirement
7. Do you need to pay for garden maintenance?	£	Invoice/receipts

If you need a gardener because of your disability or medical condition, please can you say why this is, as well as how much you spend on gardening and how often?

8. Do you have to buy disability related equipment?

If you have had to buy any equipment because of your disability or medical condition, please list the item(s) below showing, how much each cost and how long will you keep it before it needs replacing.

Please provide proof of purchase(s).

Item	Cost	How often is it replaced?
	£	
	£	
	£	

9. Do you have to insure disability related equipment?

If you have to insure any specialist equipment because of your disability or medical condition, please can you say how much it costs and how often you need to renew the insurance policy?

Please provide a copy of the policy agreement showing the cost and period of cover.

Item	Cost	How often is the insurance renewed?
	£	

	£	
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10. Do you have to maintain disability related equipment?

If you have to maintain any specialist equipment because of your disability or medical condition, please can you say how much it costs and how often you need to pay this?

Please provide proof of payment.

Item	Cost	How often do you have these costs?
	£	
	£	
	£	

11. Do you need to wash your clothing/bedding more frequently because of your disability or medical condition?

How many loads of washing do you need to do for yourself every week?	Loads per week:	
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Do you have any other costs in your daily living that are caused by your disability or medical condition?

Type of expenditure	Amount paid	How often paid?	Invoice/ Receipt
12.	£		
Please tell us what it is and why you need to buy it			
13.	£		
Please tell us what it is and why you need to buy it			
14.	£		
Please tell us what it is and why you need to buy it			

Please write on a separate sheet if you need more space, and if you can provide the question number next to your response that would be most helpful to us.

Please return the completed form to:

Email: charging.assessmentteam@calderdale.gov.uk

Post: Charging Assessment Team
Calderdale Council
Adult Services & Wellbeing
PO Box 51
Halifax HX1 1TP

Appendix 3 – Disability Related Expenditure 2023-2024

Fuel

- based on RPI Fuel index at November 2021. At this date fuel prices had **increased** by 92% in the last 12 months.
- The figures are obtained from [Consumer price inflation tables - Office for National Statistics](#) from the download "consumer price inflation detailed reference tables". The figures are found in Table 41 detailed reference tables - % change over 12 months.
- **Costs 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 10.7 % uplift has been applied based on the November 2022 CPI rate.**

Community Alarm

Calder Care Line will remain the same for 2023/24 as it was for 2022/23.

- **Allowable if declared - £4.51 per week. To use 'Community Alarm' as the description.**

Private Alarm

- **To allow the actual cost of the alarm (converting the charge to a weekly amount)**
- **Proof of expense required, such as contract, bill or receipts**

Privately arranged Care (Not Personal Care)

Cleaning, Shopping, Odd Jobs, Ironing, Washing up, etc

- To allow up to £21.61 per hour for a maximum of 3 hours per week. (LA spot urban rate)
- Any expenses exceeding this to be referred to the Team Leader or Team Manager

Decorating

- Generally not allowable
- If there are exceptional circumstances to refer to Team Leader or Team Manager – if agreed to allow, we can only allow labour costs not materials.

Laundry

	2023 (10.7% increase)	2022 (5.1% increase)
Laundry cost	£4.56	£4.12

If there is excessive use (which should be on the Care Plan) check with Team Leader or Team Manager to see if allowable.

Special Dietary Requirements

- Average weekly expenditure (from the Family Expenditure Survey) and to allow extra expense due to special foods.
- Vitamins (related to a disability need – not to allow general vitamin supplements)
- To allow the actual cost of vitamins & supplements as long as not considered excessive and relevant to the needs of the individual.

Clothing/ Footwear

- Including specialised clothing or footwear, frequent replacement of clothing due to extra wear and tear, replacement due to weight loss/ gain etc. (link to Family Expenditure Survey)
- Evidence – receipts where possible.
- NB War Disablement sometimes has an allowance for clothing. If this is the case then do not allow extra expense.

Bedding

Such as wear and tear, frequent replacement due to medical conditions etc

- Sheets/ quilt/ pillow case, to allow up to £27.00 for set – over 1 year
- Mattress, to allow actual cost over 5 years
- Evidence – receipts where possible.

Heating Allowances

Annual inflationary update based on RPI Fuel index increase of 92% at November 2022

Standard Rate	2023/24		2022/23	
	Annual	Weekly	Annual	Weekly
Single Person – Flat/ Terrace	£2,761.73	£53.11	£1,438.41	£27.66
Couple – Flat/ Terrace	£3,643.68	£70.07	£1,897.75	£36.50
Single Person – Semi Detached	£2,933.32	£56.41	£1,527.77	£29.38
Couples – Semi Detached	£3,872.45	£74.47	£2,016.90	£38.79
Single – Detached	£3,568.76	£68.63	£1,858.73	£35.74
Couples – Detached	£4,704.40	£90.47	£2,450.21	£47.12

Accommodation type	1 Occupant	2 Occupants	Each additional adult occupant
Flat or Terraced house	£2,761.73	£3,643.68	£881.95
Semi-detached house	£2,933.32	£3,872.45	£939.13
Detached house	£3,568.76	£4,704.40	£1,135.64

To allow any excess heating expense if above the costing in the table above.

Evidence – latest bills

Metered Water Charges (Annual Rates)

If Water is charged through normal mains supply:

- **not allowable**

If Water is charged via a meter:

- **to allow excess over the Average Usage**

Average usage:

2023/24 Rates

	Number in house	1	2	3	4	5
Consumer Usage	Average	£310	£450	£589	£728	£797
2023/24	Rates published by Yorkshire Water	£240-£380	£380-£519	£519-£658	£658-£797	£727-£866

[Yorkshire Water - Could I save with a water meter?](#)

2022/23 Rates

	Number in house	1	2	3	4	5
Consumer Usage	Average £'s	286	417	547	677	743
2022/23	Rates published by Yorkshire Water (£'s)	221 - 351	351 - 482	482 - 612	612 - 742	677 - 808

Basic Gardening Costs

Generally, gardening expenses are incurred between March and October (34 weeks)

The allowance is based on individual costs, within reason. Only allow 'basic gardening' costs, i.e. general maintenance costs.

Evidence – bill or receipts

Disability Related Equipment (increased by 10.7% as per NAFAO model based on November 2020 CPI rate)

- Evidence of purchase required.

Disability Item		2023/24 (per week)	2022/23 (per week)
Wheelchair – manual	Evidence of purchase. No allowance if equipment provided free. Actual rate to allow -	£4.75	£4.29

Disability Item		2023/24 (per week)	2022/23 (per week)
Wheelchair – powered	Evidence of purchase. No allowance if equipment provided free. Actual rate to allow -	£11.55	£10.43
Powered Bed	Actual cost divided by 500 (10 yr life) up to a maximum of -	£5.25	£4.74
Turning bed	Actual cost divided by 500 (10 yr life) up to a maximum of -	£9.19	£8.30
Powered reclining chair	Actual cost divided by 500 (10 yr life) up to a maximum of -	£4.16	£3.76
Stair-lift	Actual cost divided by 500 (10 yr life) up to a maximum of -	£7.42	£6.70
Hoist	Actual cost divided by 500 (10 yr life) up to a maximum of -	£3.64	£3.29

Powered Scooters

Calculation

- Scooter price based over 5 years – Please check receipt. If bought more than 5 years ago CMBC will not allow any expenses for the purchase.
- Maintenance costs (servicing agreement), actual cost over 12-month period

Transport costs

If the client receives DLA (Mobility), only allow costs over and above the amount of DLA (Mob) are allowed.

- Bus Fares – not allowable for the client
- Taxi Fares – will only be allowed if reasonable, but to bear in mind the number of journeys taken and consider if this is reasonable
- Petrol/ Bus Fares/ Taxi Fares of relatives to be allowed only if they are being incurred to enable the relative to provide care or do tasks for the client. Petrol costs given to family who live away, for example, to enable the relative to come and “visit” the client, would not be allowable, whereas petrol costs given to relatives to enable the relative to take the client out would be allowable if the costs seem reasonable.

Holidays

	2023 (10.7% increase)	2022 (5.1% increase)
Maximum Holiday Allowance	£892	£806

To calculate what the normal holiday cost would be and then look at the extra being paid due to illness/ disability. Treat the extra expense as DRE. If the client spends more than this, they will have to pay the rest from their normal income – this includes the cost of a carer and the cost to the client. Costs of “family” are not allowable under any circumstances – “family” for holiday purposes is defined as Parents, Children or siblings.

Personal Assistance Costs & Personal Care Costs

To allow costs, providing they are required – refer to care plan. Evidence of expense should be provided where possible. Includes any household or other necessary costs if a personal assistant is needed. It can include:

- Private Operations
- Paying for meals for carers – up to a limit of £5 per week
- Transport costs for carers – fuel cost/ mileage
- Bathing/ Washing Services – where privately arranged and required
- Chiropody Costs – only allowable under special circumstances (ie it would be detrimental to mobility if regular chiropody not received)

Communications & Entertainment

Flat rate allowance:

	2023/24 (10.7% increase)	2022/23 (5.1% increase)
Communications & Entertainment	£6.17	£5.57

Use the set rate unless exceptional circumstances – see Team leader

Prescription & Medical Charges

- Cost of annual season ticket divided by 52 weeks or actual cost of prescription whichever is less.

Also, allow:

- Supplements & Creams if required – to check with care plan or Social Worker.

Housing Maintenance

	2023/24 (10.7% increase)	2022/23 (5.1% increase)
Housing Maintenance – Single	£14.28	£12.90
Housing Maintenance - Couple	£7.14	£6.45

Other DRE

To consider allowing other identified DRE that doesn't fit into a category above. Provided you feel it's a reasonable expense, to check with Group Leader or Team Manager before allowing.

Everyone different, everyone matters



<p>Directorate: Adult Services and Wellbeing</p> <p>Service Area: Adult Social Work</p>	<p>Lead Officer:</p> <p>Date completed: June 2023</p>
<p>Service / Policy / Function or Procedure to be assessed:</p> <p>The Charges Policy – Residential and Community Services</p>	
<p>Is this: New / Proposed <input type="checkbox"/></p> <p>Existing/Review <input checked="" type="checkbox"/></p> <p>Changing <input type="checkbox"/></p> <p>(Please tick appropriate box)</p>	<p>Review date:</p>

Part A - Initial Assessment to determine if a full Impact Assessment is required

What are the aims and objectives/purpose of this service, policy, function or procedure?

Adult Services and Well-being are reviewing and developing the Residential and Community Charges Policy. Officers are working with financial analysts, who bring with them appropriate experience and knowledge to facilitate a review of The Charges Policy which will be published and accessible through the Council website.

ASW has a duty to arrange care and support for those with eligible needs and a power to meet both eligible and non-eligible needs. This applies to adults aged 18 years or over who require support to perform some day-to-day activities because of age, illness, disability, or any significant change in their life. The Care Act, 2014, provides a single legal framework for charging and enables a Local Authority to charge a person when arranging to support a person's care and support. This is set out in Section 14 and 17 of The Care Act, 2014.

The aim of the Charges Policy is to provide a consistent and equitable framework for charging people who receive care and support, following an assessment of their individual needs and financial circumstances.

The Charging Policy will cover:

- **A Residential Charging Policy**
- **A Community Services Charging Policy**

The overarching principle is that where a person is required to pay for care and support, they should pay only what they can afford. Some people will be entitled to financial support on a means-tested basis and some people will be entitled to receive free care and support. The Charge Policy will provide information on this. ASW will also make the person, or their representative, aware of the availability of independent financial information when required.

The Charging Policy is based on the following principles:

- **Charges are affordable**
- **be clear and transparent**
- **promote well-being, social inclusion, support personalization**
- **be comprehensive and equitable**
- **support carers**
- **independence, well-being and choice**

- be sustainable for Calderdale Council
- apply the charging rules equitably
- be person-focused
- encourage employment, education, or training
- an appropriate assessment of care and support needs has been carried out and The Council has chosen to charge.

The demand for services is set to increase significantly over the coming years due to our ageing population as is the number of people with complex needs. Therefore, we need to ensure that everyone pays an appropriate amount for the care and support they receive – based on their ability to pay and to help ensure the future sustainability of care and support services provided by Calderdale Council. As a result, ASW is reviewing its Charges Policy to ensure that it is:

- relevant
- equitable
- clear and easy to understand
- fit for purpose
- provides necessary guidance and procedures to be followed.

Please indicate its relevance to equality by selecting yes or no

	Yes	No
Eliminating unlawful discrimination, victimisation, and harassment	Yes	
Advancing equality of opportunity	Yes	
Fostering good community relations	Yes	

If not relevant and this is agreed by your Head of Service, the Impact Assessment is now complete - please send a copy to your Directorate Equality Champion & to the Cohesion and Equality Team. **If relevant**, a full Impact Assessment needs to be undertaken (PART B below).

PART B: Full Impact Assessment

Step 1 – Identifying outcomes and delivery mechanisms (in relation to what you are assessing)

What outcomes are sought and for whom?	<p>Adult Service and Wellbeing (ASW) will develop an overarching Charges Policy to ensure clarity, equity and consistency is applied for everyone.</p> <p>The Care Act 2014 gives councils a discretionary power to charge adult recipients of residential and community services. The main principle to be applied in this Policy is that charges will be based on the full cost of the service and that individuals will pay 100% of this charge where they can afford to do so.</p> <p>This Policy will ensure that Calderdale's charging policy is reasonable and is demonstrably fair between different service users and that the overall objectives of social care, to promote the independence and social inclusion of customers, are not undermined.</p>
Are there any associated policies, functions, services or procedures?	<p>The Care Act 2014 gives local authorities powers to charge for care and support to cover the costs they incur when contracting for care and support. Local authorities have discretion to set their own charging policies subject to national guidance and can charge up to the actual cost to the local authority of care to meet assessed needs.</p> <p>The legislation, regulations and guidance that apply within this policy are;</p> <ul style="list-style-type: none">• The Care Act 2014• Equality and Diversity Policy statement

	<ul style="list-style-type: none"> • The Care and Support (Charging and Assessment of Resources) Regulations 2014 • Care and Support Statutory Guidance chapter 8 Annex A-E
How will this service be delivered? (e.g. direct service delivery, commissioned/outsourced etc)	Direct Service delivery. Internal Adult Social Work will work with the Charging and Assessment Team to deliver this.
If partners (including external partners) are involved in delivering the service, who are they?	N/A

Step 2 – What does the information you have collected, or that you have available, tell you?

What evidence/data already exists about the service and its users? (in terms of its impact on the ‘equality strands’, i.e. age, disability, gender identity, race, religion or belief, sex, sexual orientation, maternity/pregnancy, marriage/civil partnership and other socially excluded communities or groups) and **what does the data tell you?** e.g. are there any significant gaps?

The Care Act 2014 gives local authorities powers to charge for care and support to cover the costs they incur when contracting for care and support. Local authorities have discretion to set their own charging policies subject to national guidance and can charge up to the actual cost to the local authority of care to meet assessed needs. The main principle to be applied in this Policy is that charges will be based on the full cost of the service and that individuals will pay 100% of this charge where they can afford to do so.

This Policy will ensure that Calderdale's charges policy is reasonable and is demonstrably fair between different service users and that the overall objectives of social care, to promote the independence and social inclusion of customers, are not undermined.

The Charges Policy is in need of a full review since the Care Act was implemented in 2015.

Has there been any consultation with, or input from, service users, staff or other stakeholders? If so, with whom, how were they consulted and what did they say? If you haven't consulted yet and are intending to do so, please list which specific groups or communities you are going to consult with and when.

Are there any complaints, compliments, satisfaction surveys or customer feedback that could help inform this assessment? If yes, what do these tell you?

In line with Calderdale Council's priority to ensure that care in Calderdale is inclusive, compassionate and enables everyone to live the fullest life possible and the publication of the Equal Care 'Buying our Care, Experiences, Grievances and Hurdles Report, 2022 we will strive to ensure that recommendations are followed.

The Equal Care Report, recommendations include the need for:

- more personalised and tailored assessments of the needs of people receiving care, with a recognition of backgrounds, interests, and current and former wishes and aspirations.
- Greater involvement of individuals and their families in all stages of care, including assessments and forming support plans and a stronger voice in the care provided, ensuring everyone is aware of their rights
- Effective training and support for social and care workers in to providing culturally appropriate support, with a focus on religious practice, customs, and language

It is essential that the Charges Policy goes to public consultation for people we support, carers and staff to feedback. Consultation on the proposal will take place in the coming weeks. The consultation will take place on the Council's webpages. This is a developing proposal to agree an overarching charging policy. The proposed policy will provide a much-needed guide and clear pathway for applying charges in an equitable approach. It is important that people have access to clear information to gain access to clear information to gain an understanding of the charging policy. We recognise that people may need information in different languages and formats, and these will be provided upon request within a reasonable timeframe.

Step 3 – Identifying the impact

a. Is there any impact on individuals or groups in the community?

(think about age, disability, gender identity, race, religion or belief, sex, sexual orientation, maternity/pregnancy, marriage/civil partnership and other socially excluded communities or groups)

Barriers:

What are the potential or known barriers/impacts for the different 'equality strands' set out below? Consider:

- **Where** you provide your service, e.g., the facilities/premises.
- **Who** provides it, e.g., are staff trained and representative of the local population/users?
- **How** it is provided, e.g., do people come to you or do you go to them? Do any rules or requirements prevent certain people accessing the service?
- **When** it is provided, e.g., opening hours?
- **What** is provided, e.g., does the service meet everyone's needs? How do you know?

* Some barriers are justified, e.g., for health or safety reasons, or might actually be designed to promote equality, e.g., single sex swimming/exercise sessions, or cannot be removed without excessive cost. If you believe any of the barriers identified to be justified, then please indicate which they are and why.

Solutions:

What can be done to minimise or remove these barriers to make sure everyone has equal access to the service or to reduce adverse impact? Consider:

- Other arrangements that can be made to ensure people's diverse needs are met.
- How your actions might help to promote good relations between communities.
- How you might prevent any unintentional future discrimination.

	Barriers/Impacts identified	Solutions (ways in which you could mitigate the impact)
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Age (including children, young people and older people)	<p>. Delays in undertaking Financial Assessments – impact on debt.</p> <p>Older people may appear disproportionately affected as they make up the majority of individuals likely to access services of ASW and are more likely to be on a fixed income so paying for services may have more of an effect on this group.</p> <p>All age groups could be affected with rises in costs of living.</p>	All residents will have a timely and equitable financial assessment to determine their charge for services.
Disability (including carers)	People with disabilities may be disproportionately affected as they make up a significant percentage of users of ASW	<p>All residents will have a timely and equitable financial assessment to determine their charge for services</p> <p>Further mitigation relating to those severely disabled?</p>
Race (including Gypsies & Travellers and Asylum Seekers)	<ul style="list-style-type: none"> • Possible language barriers between individuals and staff members if English is not the first language. • Minority ethnic communities may experience Members of the barriers due to poor previous experience /confidence • Social isolation – lack of understanding of how services work/operate • Travellers / Gypsies may be transient • community may not have confidence in or want to use the service due to cultural/family 	<p>Utilise translation service as appropriate.</p> <p>Use inclusive publicity to market the service.</p> <p>Work with colleagues and community groups to increase public confidence in services and ensure services can meet the changing needs of communities.</p> <p>Ensure that individuals are aware of the consequences of not engaging in the financial assessment and or not disclosing their financial</p>

	<p>values</p> <ul style="list-style-type: none"> • Uptake may be lower from communities who are from deprived areas with higher levels of poverty And or those that do not wish to disclose their finances and thus become full charge. 	<p>details.</p>
<p>Religion or Belief (including people of no religion or belief)</p>	<p>No adverse impact identified at this time.</p> <p>Impact in relation to future clients:</p> <ul style="list-style-type: none"> • Members of some faith communities may not have confidence in or want to use the service due to faith needs/cultural or family values 	<p>Work with colleagues and community groups to increase public confidence in services and ensure services are able to meet the changing needs of communities.</p>
<p>Gender Re-assignment (those that are going through transition: male to female or female to male)</p>	<p>No adverse impact identified at this time but need to consider Is there sufficient awareness of Gender Reassignment with those completing the assessments</p> <p>No adverse impact identified at this time.</p> <p>Impact in relation to future clients:</p> <ul style="list-style-type: none"> • Continued uptake may be lower as there may be a perception that the service may not be able to meet the needs of the trans community and therefore, the individual does not wish to continue. 	<p>Work with colleagues and community groups to increase public confidence in services and ensure services are able to meet the changing needs of communities.</p> <p>To ensure that the market is stimulated to develop organic community services for individual and tailored groups and interests.</p>

Pregnancy and Maternity	No adverse impact identified at this time.	
Sex (either male or female and including impact on men and women)	No adverse impact identified at this time	.
Sexual orientation (including gay, lesbian, bisexual and heterosexual)	<p>No adverse impact identified at this time.</p> <p>Impact in relation to future clients:</p> <p>Continued uptake may be lower as there may be a perception that the service may not be able to meet the needs of the LGBT community.</p>	<p>Work with colleagues and community groups to increase public confidence in services and ensure services are able to meet the changing needs of communities.</p> <p>To ensure that the market is stimulated to develop organic community services for individual and tailored groups and interests.</p>

b. Is there/will there be any impact on staff?

(think about the diversity of the workforce delivering the service and relevant training and development needs)

Employee Characteristic	Barriers/Impacts identified	Solutions (ways in which you could mitigate the impact)
Age	This is a service driven review of The Charging Policy - no adverse staffing impact identified at this point in time.	Management to ensure that staff have the appropriate and relevant training to assist them with new developments.

Disability	This is a service driven review of the Charges Policy - no adverse staffing impact identified at this point in time.	Management to ensure that staff have the appropriate and relevant training to assist them with new developments.
Gender reassignment	This is a service driven review of The Charges Policy - no adverse staffing impact identified at this point in time.	Management to ensure that staff have the appropriate and relevant training to assist them with new developments.
Pregnancy & Maternity	This is a service driven review of The Charges - no adverse staffing impact identified at this point in time.	Management to ensure that staff have the appropriate and relevant training to assist them with new developments.
Marriage and Civil Partnership	This is a service driven review of The Charges Policy - no adverse staffing impact identified at this point in time.	Management to ensure that staff have the appropriate and relevant training to assist them with new developments.
Race	This is a service driven review of The Charges Policy - no adverse staffing impact identified at this point in time.	Management to ensure that staff have the appropriate and relevant training to assist them with new developments.
Religion or Belief	This is a service driven review of The Charges Policy - no adverse staffing impact identified at this point in time.	Management to ensure that staff have the appropriate and relevant training to assist them with new developments.
Sex	This is a service driven review of The Charges Policy - no adverse staffing impact identified at this point in time.	Management to ensure that staff have the appropriate and relevant training to assist them with new developments.
Sexual Orientation	This is a service driven review of The Charges Policy - no adverse staffing impact identified at this point in time.	Management to ensure that staff have the appropriate and relevant training to assist them with new developments.

Step 4 – Changes or mitigating actions proposed or adopted

**Having undertaken the assessment are there any changes necessary to the existing service, policy, function, or procedure?
What changes or mitigating actions are proposed?**

A collaborative approach between Adult Social Work and Charging and Assessment Team supports close and effective working and will aid production of an updated guidance regarding the financial assessment process and information packs that can be shared with customers.

The Charges Policy is a lengthy and technical document by nature of its content – a more accessible version can be developed and reviewed to make it easier for people in different ways focusing on an easy read version if required.

Step 5 – Monitoring

How are you going to monitor the existing service, policy, function or procedure?

- Feedback from users and families
- Outcome of Care Charging Assessments and Reviews
- Payment delays

Part C - Action Plan

Barrier/s or improvement/s identified	Action Required	Lead Officer	Timescale
New people entering the service	Further update and refresh of information held via Business Intelligence to ensure that the list remains reflective of the circumstances.	Team Manager, Charging Assessment Team	In situ prior to any formal Consultation going Live.
Financial review – To ensure that the information held is correct and this is then updated as part of the regular, annual Review.	Charging Team to conduct Financial Review as part of core function when alerted.	Team Manager, Charging Assessment Team	On-going
Ensure effective and inclusive communication to those affected as part of the Consultation and publicity for future individuals accessing Services.	Ensure reasonable adjustments are considered and put in place as appropriate to address communication barriers or understanding of the proposals	Allocated Social Worker	Throughout consultation and assessment
Proposal is to review monthly for the first 6 months and then quarterly		Principal Social Worker	

EIA approved by:

Relevant Head of Service: Sean Cook	Date: 14 July 2023
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Please send an electronic copy of the EIA to the Cohesion and Equality Team and unless the EIA contains sensitive or confidential information ensure the document is uploaded to the EIA Register on the Intranet.

A brief summary of the EIA will be placed on the Council's website.

Shameem.Suleman@calderdale.gov.uk, Cohesion and Equality Team

