



Policy

Lewisham Council

Adult Social Care Charging and Financial Assessment Framework

JULY 2021

Version	Author	Date	Changes
1.0	Working Group incl Counsel	12/07/2021	
2.0	Yvonne Smith	04.10.21	Insertion of Appointee charge 5.2(c) “ and/or appointeeship ”

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2 Introduction and principles

- 2.1 Social care and support services are not generally free of charge - people have always had to pay a contribution towards the cost of their care if they can afford to do so. The Care Act 2014 provides the legal foundation for charging for care and support. Section 14 and section 17 of the Act enables local authorities to decide if and how they will charge for care and support services that are arranged and funded by them. Income received from care charges helps the Council to meet its statutory funding commitments and set a balanced budget. It also helps to protect, develop and extend care and support services to ensure that high quality services are available to meet the needs of adults in the Council's area.
- 2.2 Lewisham Council's Adult Social Care ('ASC') Charging and Financial Assessment Framework has been designed to comply with The Care Act 2014 and its accompanying regulations and statutory guidance. This framework will be reviewed regularly, and any changes agreed by the Council will be reflected in an updated document. The main aim is to produce a consistent and fair framework for charging and financial assessment for all service-users who receive care and support services, following an assessment of their individual needs and in light of their individual financial circumstances.
- 2.3 For the purposes of this framework, an adult is a service-user aged 18 or above. Section 14 of the Care Act 2014 gives the Council the power to charge adults for care and support. This applies where adults are being provided with care and support to meet needs identified under section 18 or section 19 of the Care Act 2014 and where carers are being provided with support to meet their needs under section 20 of the same Act.
- 2.4 Lewisham Council will refer to the Care and Support (Charging and Assessment of Resources) Regulations 2014 and to the Care and Support Statutory Guidance (and its annexes) issued under the Care Act 2014, in all regards for specific requirements and guidance that relate to charging and financial assessment, and as such, these 'charging regulations' and this 'statutory guidance' form the basis for this framework.
- 2.5 More detailed information on financial assessment calculations, including the current capital limits are available on the Council's internet site (www.lewisham.gov.uk), and on request.

3 Guiding principles

- 3.1 The Council believes it is important that people pay the contribution to their care costs that they have been assessed to pay. The Council adheres to the following principles:
- a. ensure that people are not charged more than it is reasonably practicable for them to pay for care and support;
 - b. be comprehensive - to reduce variation in the way people are assessed and charged;
 - c. be clear and transparent - so people know what they will be charged;
 - d. promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control;
 - e. support carers to look after their own health and wellbeing and to care effectively and safely;
 - f. be client-focused - reflecting the variety of care and caring journeys and the variety of options available to meet their needs;
 - g. apply the charging rules consistently - so those with similar needs or services are treated the same and minimise anomalies between different care settings;
 - h. encourage and enable those who wish to stay in or take up employment, education or training, or plan for the future costs of meeting their needs to do so; and
 - i. be sustainable for the Council in the long-term.
- 3.2 Where the Council arranges care and support to meet your needs, it will charge you, except where the Council is required to arrange care and support free of charge.
- 3.3 Alongside this, the Council will endeavour to ensure there is sufficient information and advice available in a suitable format for your needs, in line with the Equality Act 2010 (in particular for those with a sensory impairment, with learning disabilities or for whom English is not their first language), to ensure that you or your representative are able to understand any contributions you are asked to make.
- 3.4 Section 4(1) of the Care Act 2014 requires the Council to establish and maintain a service for providing people in its area with information and advice in relation to care and/or support for adults and carers. In Lewisham this service is provided via the Council Website (www.lewisham.gov.uk), Carers Lewisham, Lewisham advice Finder and the Adult Social Care Gateway Team. The Council will also make you or your representative aware of the availability of independent financial information and advice, when required.

4 Legal Basis for Charging

- 4.2 The Care Act 2014, together with its accompanying regulations and statutory guidance, provides the legal framework for charging for care and support, whether within a care home setting and in settings other than care homes. They form the basis for the Council's charging policy. The Council will also refer in its financial assessment determinations to best practice guidance produced by the National Association of Financial Assessment Officers ('NAFAO').
- 4.3 Section 14 of the Care Act 2014 gives the Council the power to charge adults for care and support provided by the Council and to charge carers for support provided by it.
- 4.4 The Council must follow the regulations and guidance issued under the Care Act 2014. For example, in developing policies on charging and financial assessment, Councils must apply the following legislation, as amended from time to time:
- 'The Care and Support (Charging and Assessment of Resources) Regulations 2014, which in particular set out the rules on the treatment and calculation of income and capital within a financial assessment (including notional income and notional capital where a person has deliberately deprived themselves of an asset).
 - The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014 which set out the rules on the provision of preferred accommodation.
 - The Care and Support (Deferred Payment) Regulations 2014 which set out the rules on when a council must, or is permitted to, enter into a deferred payment agreement with an individual, for deferring part of their ongoing care and support costs. The regulations also set out a council's power to charge interest and administration costs of running the deferred payment scheme.
 - The Care and Support (Preventing Needs of Care and Support) Regulations 2014 which relate to the Council's general duty to provide services which will prevent, delay or reduce the care and/or support needs of adults within its area. The charging regulations do not apply to these services.

In addition, the Care and Support Statutory Guidance issued by the Department of Health and Social Care provides advice to councils, which they should follow, on all aspects of the Care Act 2014, including 'Charging and financial assessment' and 'Deferred payment agreements' (chapters 8 and 9) and associated annexes.

5 Charging

5.1 This framework applies to the following services:

- a. Residential care, including in a nursing home and short-term respite care
- b. Non-residential visiting care in an adult's own home, including extra-care or sheltered accommodation, other supported living accommodation and shared lives accommodation.
- c. Day care, including at a day care centre and elsewhere in the community
- d. All care packages, whether paid for directly by the Council or by means of direct payments made by the Council to the adult or someone on their behalf
- e. Assistive technology, such as telecare
- f. One-off services: e.g., intensive house cleaning, and/or clearance
- g. Telephone line rental and TV licences. However, this would be charged at cost unless exceptional hardship could be demonstrated
- h. Care arrangement charges

5.2 The following services are charged at a reasonable rate and are not subject to a financial assessment:

- a. Funerals provided under the duty set out under the Section 46 Public Health (Control of Disease) Act 1984 as this will be charged in accordance with the relevant protocol.
- b. Reasonable costs incurred by the Council in protecting the property (including pets) of those being cared for away from home.
- c. The costs incurred by the Council or any of its officers in connection with an application to the Court of Protection for deputyship, or any expenses incurred in the exercise of deputyship and/or appointeeship functions, save where these are recoverable from an alternative source.
- d. Telecare/ assistive technology purchased by individuals who have not been assessed as requiring the service but who wish to purchase it via the Council at full cost.
- e. An annual charge for arranging care services for those assessed to pay the full cost of their care and for any service-users who have chosen not to disclose their financial position to the Council.

5.3 As set out in section 14 of the Care Act 2014, there are a number of circumstances in which people will not be asked to contribute towards their care or support cost. These include:

- a. Information, advice and guidance about the availability of a service
- b. Assessments of need and care planning
- c. Any service or part of service which the National Health Service (NHS) is under a duty to provide, including Continuing Healthcare ('CHC') and the NHS contribution to Registered Nursing Care.
- d. Intermediate care - including enablement - which offers a short period of intensive therapies and support from health and social care

professionals to help people promote or regain their independence. Up to six weeks of non-chargeable support is available here, with charges beginning from the seventh week if support is still required.

- e. Community equipment and minor adaptations - small items of equipment or gadgets or small modifications designed to help you stay active and carry out everyday tasks without help from others.
- f. Care and support provided to people with Creutzfeldt-Jacob Disease.
- g. After-care services provided under section 117 of the Mental Health Act 1983.
- h. Support for carers provided directly to them in order to meet their assessed needs.
- i. Preventative services provided directly by the Council to prevent or delay care needs becoming more serious (for example training to self-manage a health condition or stress-management training for carers).

6 Financial Assessment

- 6.1 If the Council is minded to charge for care and/or support it can only do so if it carries out a financial assessment of the adult's or carer's means, using a standard form for you or for someone on your behalf to complete. It will seek to assess how much, if anything, you will have to pay as soon as it can.
- 6.2 As soon as the social worker or care manager involved in your case decides you need a service, they will ask the Council's financial assessment team to get in touch with you about this.
- 6.3 It is in your interests to provide promptly all of the financial information sought by the Council because if you do not, the Council will have to charge you the full cost of the service provided: you will be treated as a self-funder, i.e. someone who can afford to pay in full, and as such you will also be charged an annual fee for arranging care for you. If at a later date you provide the information, the Council in its discretion may decide that any decrease in your contribution will only be back-dated to when you provided it rather than to when you should have first provided it.
- 6.4 Your means will be reviewed every year.
- 6.5 Annual Review: at either the start of the new financial year or the annual review date, a new financial assessment will be sent to you. We will calculate any new charge using actual changes to benefit rates and changes to your care package and with assumed increases to your other income and costs. The onus is upon you to either validate the information provided, or to provide the correct financial information. The Council may interpret a failure to return a fully completed and signed financial assessment form as a refusal to provide information which will result in you being required to pay the full costs of services provided. Should you experience any difficulties in making these payments you or your representative should contact social work staff to

discuss what these may be and to request a financial re-assessment if necessary.

- 6.6 Wherever possible the financial assessment team will obtain financial information from the Department for Work and Pensions and the Housing Benefit and Council Tax departments of the Council. They will also take into account any financial information you provided during the initial care need discussion with a social work or care manager.
- 6.7 Where further evidence and/or information is required in order to complete the assessment, a financial assessment officer will liaise directly with you or your named representative as appropriate.
- 6.8 The financial assessment team will undertake a full benefits check and tell you or your representative, in writing, details of any benefits you might be able to claim.
- 6.9 During the care needs assessment process, the social worker or care manager may also advise that you may have to pay a contribution towards the costs of your care and support, subject to a financial assessment. It is the responsibility of you or your representative to advise the Council of any change in your financial circumstances as this may prompt a review of your contribution.
- 6.10 If you opt for a direct payment instead of a commissioned service, any payments towards care and support costs may be made net of your contributions.
- 6.11 Any assessed contribution you have to make will not exceed the full cost of care and support, or reduce your income to below a minimum amount set by Government Guidance.
- 6.12 If you choose to have your care and support provided directly by the Council, an invoice for your contribution will be sent to you. You will receive one invoice for all of your care and support. For example, if you receive homecare and day-care you will receive one invoice for both services.
- 6.13 If the Council arranges care services for you, you will be informed if you are considered as able to self-fund your care costs, or of the weekly amount you must contribute based on your financial circumstances. Most self-funding individuals will be supported to arrange their own care services, however in exceptional circumstances Council may make these arrangements on your behalf. You will not be charged more than the amount determined by the financial assessment, or the actual cost of your services, including an annual charge for arranging care services if you can self-fund your care and support costs. Contributions are normally payable from the date care commences.

- 6.14 Care providers can approach the Council for an increase in their fees at any time and it is important to note that this will impact your charges if you are assessed to pay the full cost of your services.
- 6.15 Where your financial assessment results in a NIL (£0.00) contribution, the Financial Assessment Team will notify you in writing and provide information about which benefits you may be entitled to, together with contact details in order for you or your representative to make a claim. It remains your responsibility to provide details of any change to your incomes and/or capital within a calendar month of that change taking place so that your financial assessment can be reviewed.

‘Light touch’ Financial Assessments

- 6.16 The Care Act 2014 introduces the concept of ‘light touch’ financial assessments in the situations set out in the statutory guidance. The guidance states that in some circumstances a local authority may choose to treat a person as if a financial assessment had been carried out. In order to do so, the local authority must be satisfied on the basis of evidence provided by you that you can afford, and will continue to be able to afford, any charges due. This allows Councils where possible, to undertake financial assessments by accessing Department for Work and Pensions information or through telephone discussion rather than visiting to verify financial information - or by implementing low flat rate charges.
- 6.17 The main circumstances in which the Council will consider carrying out a light touch financial assessment are:
- If you have significant financial resources, and do not wish to undergo a full financial assessment for personal reasons, but wish nonetheless to have the Council’s help in meeting your needs. In these situations, the Council may accept other evidence in lieu of carrying out the financial assessment and consider you to have sufficient financial resources to be able to pay the full cost of your care and support.
 - Where the Council charges a small or nominal amount for a particular service which you would clearly be able to pay and carrying out a financial assessment would be disproportionate.
 - If you are in receipt of benefits which demonstrate that you would not be able to contribute towards your care and support costs. This might include income from Jobseeker’s Allowance.
- 6.18 Ways the Council may be satisfied that you are able to afford any charges due might include evidence that you have:

- property clearly worth more than the upper capital limit when in a care home, where you are the sole owner or it is clear what your share is;
- savings clearly worth more than the upper capital limit when in a care home; or,
- sufficient income and tariff income from savings available to pay the charge due.

6.19 DWP information further supported by Housing Benefit and Council Tax information will form the initial basis for undertaking a light touch financial assessment.

6.20 Where it has not been possible to undertake a light touch assessment through the DWP, Housing Benefits or Council Tax system, or information exists which suggests a full assessment is necessary, the financial assessment team will contact you/your representative to verify contribution. The Council can decide to carry at its discretion to carry out a full financial assessment.

6.21 Where the Council is going to meet your care and support needs, and it proposes to undertake a light touch financial assessment, the Council will take steps to assure itself that you are willing, and will continue to be willing, to pay the assessed charges. The Council has the responsibility for ensuring that you are not charged more than the full cost of your services, including a charge for arranging care if you are self-funding. If you do not agree to the charges that you have been assessed as being able to afford, a full financial assessment may be needed.

6.22 When deciding whether or not to undertake a light touch financial assessment, the Council will consider both the level of the charge it proposes to make, as well as the evidence or other certification you are able to provide. The Council will also inform you when a light touch assessment has taken place and make clear that you have the right to request a full financial assessment should you so wish, as well as the option of seeking independent financial information and advice.

7 Management of Charges

7.1 Under the Care Act the Council has the power to charge from the moment it starts to meet your care and/or support needs. The Council will notify you of the outcome of its financial assessment, in writing, within 10 working days of receipt of a fully completed pre-service referral being received from adult social care staff. Once the financial assessment team receive confirmation from ASC that care and/or support has been agreed and implemented, the financial assessment will be back-dated to when it started.

- 7.3 Any increase or decrease in contributions due to an increase or decrease in benefits or other income or capital will take effect from the date this change takes effect. You must inform the Council of such a change and provide supporting evidence as soon as you can.
- 7.5 You will be billed for your assessed contribution every 4 weeks.
- 7.6 If there is a suspension to your non-residential services (for example, because of a hospital stay) you may be entitled to receive a reduction in your assessed charge depending on the duration of the suspension. This may not be the case if the Council still has to pay for your services or you are in receipt of a direct payment and are purchasing services whilst in hospital.
- 7.7 Any deviation from the timings above, whatever the reason, shall not invalidate the contribution due but will be taken into account if there is a dispute and/or arrears on the account.

8 How the Contribution is calculated

- 8.1 When the Council assesses your ability to pay a contribution towards the cost of your support, it ensures that you retain a portion of your income in order to pay for daily living expenses. If you are not in a care home, that portion will be calculated from year to year by reference to the minimum income guarantee provided for in the Care Act, the charging regulations and the statutory guidance. If you are in a care home, you will have a personal expenses allowance or 'PEA'.
- 8.2 The maximum contribution you can be required to pay each week is calculated using the financial information received from you and other information available to the Council. The calculation will take account of all relevant income and capital. Your assessed weekly charge will not exceed the cost of your services, unless you are a self-funder, in which case you will also be charged an annual fee for arranging care.
- 8.3 Details of what income and capital is and is not taken into account by the Council are set out in Appendices B and C below.

9 Charging for Non-Residential Services

- 9.1 The Council will, subject to a financial assessment, charge for all non-residential services it is allowed by law to charge for.
- 9.2 These services may include, for example:
- Home care, including in supported living, referred to as Extra Care in Lewisham, and shared lives accommodation
 - Sitting services
 - Day care services and activities, both indoors and outdoors

- Respite
- Enablement service after first 6 weeks
- Housing-related support services, e.g. housework
- Shopping services
- Outreach

9.3 Meals in day centres are outside the scope of the financial assessment since such meals are considered a substitute for ordinary living costs.

- 9.4 If you receive care and support that is likely to be ongoing you will have your costs administered through a personal budget. A personal budget is the total amount of money we assess will be needed to meet your eligible care and support needs, inclusive of any required respite care. A personal budget includes the amount you contribute towards the cost and the amount of funding support that the local authority will provide. Personal budgets may also contain funding towards care and support costs from the NHS.
- 9.5 If you have an eligible on-going care and support need, the Council will calculate how much your personal budget might be. This 'guide' amount is known as the 'indicative budget'. Once the indicative budget is calculated, the care and support planning and authorisation process, taking into account your views and your agreed social care outcomes, will determine the final personal budget required.
- 9.6 You might choose varied forms of care and support to meet your specific desired outcomes, as defined in your care and support plan. If respite is identified as necessary within your care and support plan this will be calculated within the cost of the care and support package across the course of a year.
- 9.7 If you are not self-funding your care and support costs you will have the option to take a personal budget as Council-commissioned services, as a direct payment, or a combination of both.
- 9.8 The Council publishes guidance that sets out the criteria for care and support being managed through direct payments. This information is available on the Council website at www.lewisham.gov.uk or, on request, in a leaflet format.
- 9.9 If you receive your care and support by means of direct payments you will usually receive payments every four weeks in advance. These payments will reflect the agreed weekly budget, less your financially assessed contribution. At the Council's discretion some direct payments will be paid including the financially assessed contribution and invoices will be raised for the contribution.

9.10 It is a requirement of the direct payment scheme that financially assessed contributions are paid. If you are not using your direct payment funding for a period of time you may request an adjustment to your contribution. The Council will look at your spend over the last financial year, and establish if you have spent less than your financial contribution for this period, and make any necessary adjustments to both the Council funding as well as your own personal contribution.

9.11 Direct payments will not be made to anyone self-funding their care and support costs unless this is agreed as an 'exceptional circumstance' case by Council officers. The reason for this is that in such a case the Council would be paying the direct payment amount and then invoicing you to recover this same amount, which is administratively burdensome.

9.12 As a minimum, your assessed contribution will be reviewed on an annual basis and you will be advised when this is taking place; this date is typically in line with the increase in State benefits and is at the beginning of April each year. Changes to circumstances may also lead to a new financial assessment being undertaken. If requested by you, your contribution can be reviewed, and if you feel it necessary you can request a further review of the financial assessment decision. Such a request would need to be supported with evidence showing why you believe an error or omission has occurred within the financial assessment calculation.

9.13 The review procedure is fair and equitable. You will be given an explanation for any decisions made, and a chance to provide further information if relevant to the financial assessment.

10 Charging and Financial Assessment of Residential Services

Permanent admission to a care home

10.1 If you have care and support needs identified that can only be met in a care home, you may, subject to a financial assessment, need to make a contribution to the care home fees.

- If your capital assets (such as savings and investments) are above the upper capital limit, you will need to pay the full cost of your care home fees – usually directly to the care home.
- If your capital assets are below the upper capital limit, we will carry out a financial assessment with you to work out how much you can afford to pay towards your care home fees. This is called an 'Assessed Weekly Charge'.

- If you have a beneficial interest in a property, i.e. you own it or part of it, the charging regulations set out when its value must be disregarded – see Appendix B Treatment of Capital for further details.
- If your care home placement is partially funded through NHS Funded Nursing Care, you will not need to pay towards the cost of your NHS Funded nursing care element.

Exceptions to being charged

10.2 You will not be charged or your financial resources assessed:

- If your care home placement is provided as an after-care service under section 117 of the Mental Health Act 1983.
- If your care home placement is fully paid for by the NHS through Continuing Healthcare, (CHC).

10.3 Enablement services are provided free of charge for up to the first six weeks. Any services following enablement that are arranged by the council are chargeable in line with this charging policy document, and any enablement service still being received beyond six weeks will be chargeable from the beginning of the seventh week.

If you are responsible for the full cost of care home fees

10.4 If your identified needs indicate that you need to live permanently in a care home and your savings/investments (excluding your former home) are well above the upper capital limit, we will arrange advice and support to help you choose a suitable care home that will meet your needs.

10.5 Some important things to consider when choosing a suitable care home are:

- find out from the care home what would happen if your savings/investments fell to the upper capital limit – for example – would that care home accept local authority payment rates or would they ask you to nominate someone to pay a top-up, which is an additional payment to make up any shortfall. If you don't have anyone willing and able to pay a top-up, and it is possible that your savings/investments may reduce over time to the upper capital limit, you should choose a care home that will accept local authority rates.
- You will be responsible for paying the full care home fees directly to the provider of the care home accommodation. If you are eligible for an NHS contribution towards Registered Nursing Care (in a nursing home), your care home will reduce the level of your fees by the amount of funding they receive from the NHS.
- While you are responsible for paying the full costs of your care home

fees (excluding any fees that the NHS covers), you are likely to be entitled to receive Attendance Allowance (if you are aged 65 or over) or Disability Living Allowance (Care Component) or Personal Independence Payment (Daily Living Component). These benefit payments will help go towards meeting your care home fees. More information on these benefits can be found on the www.gov.uk website.

- It is important to seek independent financial information and advice so that you can make informed decisions about how to manage your financial resources. We can help you to access independent financial information and advice.
- If, over time, your savings/investments reduce to approach the upper capital limit, you should contact the local authority where you live to request a care assessment and ask for help with your care home costs. The local authority will also review your care and support needs at that time to make sure that the care home still meets your identified needs.

Working out your Assessed Weekly Charge for your care home

10.6 If your capital is below the upper capital limit, we will use a financial assessment 'assessed weekly charge' for your care home accommodation.

10.7 If you have chosen to move to a care home that is more expensive than the care homes that we have identified to meet your needs, you will in general need to identify a person who is willing and able to make top-up payments – to make up the shortfall.

How we work out your Assessed Weekly Charge

10.8 The calculation of your assessed weekly charge for your care home takes into account the following:

- Weekly Income
- 'Tariff income' on savings/investments
- Personal Expenses Allowance
- Savings disregard (where this applies)
- Allowable expenses (where these apply)

Weekly Income: is the amount of income you receive that is included in your financial assessment. Your income is converted to a weekly figure in the financial assessment. We apply the charging regulations and the statutory guidance when working out what income can and cannot be taken into account

Tariff Income on savings / investments: is a weekly amount calculated from capital assets (such as savings and investments) that are not

disregarded. The weekly amount is added to your weekly income in your financial assessment. The way in which tariff income is calculated is shown in Appendix B. Again, we apply the charging regulations and the statutory guidance in order to work out what capital can and cannot be taken into account

Personal Expenses Allowance: Your financial assessment will always make sure you are left with an amount for you to use for your day-to-day personal expenses in the care home, which is a standard amount set by the charging regulations from year to year

Savings Disregard: If you are aged 65 or over, and you are in permanent residential accommodation and have more than a basic pension income, or savings, you may be given an additional allowance called a savings disregard allowance

Other specified allowances

- The legislation allows gives councils the discretion to increase the Personal Expenses Allowance where it would not be appropriate to leave a person with only the standard Personal Expenses Allowance.
- In certain situations, there are allowances for continuing home commitments (for example, where committed costs on previous accommodation need to be paid for a period of time).
- If you enter into a deferred payment agreement with us, your Personal Expenses Allowance will be replaced by a 'disposable income allowance'.

10.9 The Care Act 2014 requires financial assessments to be carried out for service-users as individuals. Where capital is held and income is received on a joint basis, then it is assumed, subject to proof to the contrary, that each party is entitled to 50% of that capital/income. A couple is defined (for the purposes of this charging policy) as two people living together as spouses or partners.

Changes to benefits when you move to a care home

10.10 Often a permanent move to a care home will mean a change in some benefit payments to you. It is best to contact the office that pays you the benefit as soon as possible in order to tell them that you have moved to a care home, and the date.

10.11 When we carry out a financial assessment with you, we will tell you if there are any changes to benefit entitlements and give you information about how to notify the DWP of your change of address. Where new claims have been made, we will tell you how the award of a new welfare benefit might affect your assessment outcome.

If you own your property

- 10.12 If you have a beneficial interest in the property you have been living in, i.e. you own it or part of it, we will need to consider whether the value of that interest is to be disregarded, in accordance with the charging regulations and the statutory guidance.
- 10.14 For example:
- If your spouse or partner still lives in the property, the value of your interest in it will be disregarded for as long as your spouse/partner continues to live there.
 - If you have a relative aged over 60, or a disabled relative, who still lives in the property, the value of your interest in the property will be disregarded for as long as that relative, or relatives, continues to live there.
- 10.15 The charging regulations specify who is a relative for this purpose and the statutory guidance provides more information about this point.
- 10.16 The regulations also give local authorities a discretion to disregard property in other situations – see ‘Discretionary Disregard of Property’ below.
- 10.17 In any case, the value of your interest in your former home is disregarded for up to the first 12 weeks of moving permanently to a care home.
- 10.18 You are still required to pay your assessed weekly charge during those 12 weeks, but your assessed weekly charge is based on your financial situation excluding the value of your interest in your former home - see ‘12-week Property Disregard’ below.
- 10.19 It is important that you seek independent financial information and advice so that you have good information when considering options for your future funding.
- 10.20 If the value of your interest in your former home is not disregarded, you may need to sell it in order to pay care home fees or you may be able to enter into a deferred payment agreement, or DPA, with the Council.
- 10.21 The Council will make DPAs available under its Deferred Payment Agreement Scheme as long as eligibility criteria are met.
- 10.22 Details of deferred payment eligibility and agreements can be found within the Council’s ‘Deferred payments for people in permanent residential care’ fact-sheet, which is available on the Council’s website, and in leaflet format on request. The Council charges set-up costs, an annual monitoring and administration fee, termination costs, and interest on all deferred payment loans agreed from April 2015 onwards.

10.23 Any properties you own other than your main or only home, either in the UK or abroad, will be included within the financial assessment as a capital asset. The only exception to this rule is where you are taking steps to occupy these premises as your permanent home where this is feasible to do so. In this case, subject to evidence of the same, the asset value will be disregarded for a maximum of 26 weeks.

12-Week Property Disregard

10.24 The purpose of the 12-week property disregard is to provide breathing space to allow a long-term decision about the property to be made.

10.25 The 12-week property disregard applies if:

- you move into a care home for the first time, and, as a result of your ownership of your former home, you are responsible for the full cost of the care home fees; or you moved into a care home on a temporary basis initially but have now become a permanent resident in the care home; or
- you are already living in a care home, and your property was previously disregarded in your financial assessment under a 'statutory disregard' (where the charging regulations require it to be disregarded) or under a 'discretionary disregard' (where the Council decide to disregard it), but, due to a change of circumstances those disregards are no longer relevant and the value of the property means you would be responsible for the full cost of your care home fees. A change of circumstances could be, for example, a partner or relative living in the property goes into a care home themselves, or moves house, or dies.

10.26 The 12-week property disregard only applies to your sole or main residence prior to moving to a care home. It does not apply to any other property or land you own.

10.27 If you have savings and investments above the upper capital limit at the start of your placement in a care home, and you own a property, you have the opportunity to make decisions about what to do with your property during the period you are able to fund yourself - unless this is less than 12 weeks. In this event you will be entitled to the remaining period of the 12-week property disregard from the start of your placement.

Your financial contribution during the Property Disregard period

10.28 We will carry out a financial assessment with you to work out your Assessed Weekly Charge for your care home during the period of the property disregard.

10.29 This financial assessment will be based on your financial situation excluding the value of your main property. This will take account of your income and any

savings or assets above the lower capital limit and leave you with a personal expenses allowance.

10.30 The Assessed Weekly Charge is due for payment at the time we raise an invoice to you.

If you receive Attendance Allowance or Disability Living Allowance (Care Component) or Personal Independence Payment (Daily Living Component):

If you receive one of these benefits listed above, these benefits continue to be paid to you by the DWP for only the first four weeks after being in a care environment. A care environment is a hospital or a care home. After those first four weeks, these benefits are **not** payable to you while a council provides funding towards your care home costs. At the end of your property disregard period, you become responsible for the full cost of your care home placement, and your entitlement to have Attendance Allowance or Disability Living Allowance (Care Component) or Personal Independence Payment (Daily Living Component) restarts.

Discretionary Disregard of Property

10.31 The charging regulations set out a number of situations in which the value of your interest in your former home must be disregarded. However, there may be other circumstances when we consider it appropriate to disregard that value, even though we are not required by the regulations to do so. This is a discretionary disregard.

10.32 We have to balance the use of this discretion with the need to ensure that residents with assets are not maintained at public expense.

10.33 If you ask us to consider a discretionary disregard because your property is being occupied by a person other than a 'relative' (see above), we will consider:

- Why they are living there
- When they moved in
- Any other relevant issue or circumstance

How do I ask the Council to consider a request for a Discretionary Property Disregard?

10.34 You can ask the financial assessment team.

10.35 We will gather relevant information from you about your property and details of who lives there now. We will gather any other information relevant to your request and will talk to you about any other information that is needed from you.

10.36 Once all relevant information has been gathered a decision will be made and notified to you in writing.

- 10.37 All the facts of the case will be considered, and a decision made on the merits of the case, whether to agree to a disregard. In cases of difficulty the Head of Service will seek advice from the Council's legal advisers. We will keep you updated about the progress of your request.
- 10.38 If your request for a discretionary property disregard is turned down, we will tell you the reasons. The financial assessment team will put these reasons in writing to you and will tell you how to request a review of the decision if you disagree with the outcome.

Accommodation located outside of Lewisham

- 10.39 We understand that being close to family support is a key factor in people's selection of preferred accommodation. The location of preferred accommodation is not limited to the boundaries of Lewisham; accommodation anywhere within the United Kingdom (England, Wales, Scotland or Northern Ireland) is permitted, provided it still meets the other criteria - such as suitability, availability and cost. Chapter 21 of the statutory guidance provides more information about cross-border placements:
www.gov.uk/guidance/care-and-support-statutory-guidance.

Although we aim to ensure that people have a choice of accommodation to meet their assessed care and support needs in the Council's area, we will sometimes place people in other areas if there is not enough suitable accommodation here (if they need very specialist support, for example) or if their needs would be best met in a different area.

- 10.40 We may refer to our own usual costs when making placements in another council area. However, because costs vary from area to area, we will negotiate with the provider to determine a reasonable cost to meet the assessed needs as outlined in the person's care and support plan. If accommodation in another council area is more expensive than someone's personal budget for their assessed needs, and it is identified as the most suitable accommodation to meet a person's needs, we will meet this additional cost.
- 10.41 We will ensure that satisfactory arrangements are made before a person moves to accommodation in another council area, including planning for regular reviews. We, rather than the local council, will be responsible for any changes to the person's accommodation such as moving to a different provider, unless there is an emergency situation, when we will become involved as soon as we can.

Residence when moving to accommodation outside Lewisham

- 10.42 If you move to accommodation outside of the Council's area while we are responsible for funding your care (either through choice, or because of the availability of suitable accommodation there to meet your care and support needs), the Council will remain as responsible for you as if you were still living

in its area, i.e. you will remain 'ordinarily resident in its area. Only if you later choose to move by private arrangement may you become ordinarily resident in your new area. If this happens, your new council becomes responsible for any future care and support assessment and/or funding. If you fund your own care and support and choose to move to a different area for accommodation to meet your needs (for example, to be closer to your family) you will usually become ordinarily resident in the new area. If you become eligible for support from adult social care services in the future, the council for your new area would be expected to fulfil this responsibility.

The Cost of Accommodation

10.43 We use your assessment and support planning to identify your personal budget, which is the amount of money we would expect to pay for care and support to meet your assessed needs.

- For care home accommodation, we identify the expected cost of your accommodation based on the amount we would normally pay to meet your assessed needs in a residential or nursing home, reflecting the local market conditions.
- For supported living accommodation, including extra-care or sheltered housing, the housing costs are normally separate to your care and support package. You would own or rent your accommodation and pay for this independently (claiming Housing Benefit and using this to pay the landlord of a shared house if you have a tenancy or licence agreement, for example). We will work with you to make sure you have suitable accommodation for your care and support needs to be met.

10.44 When establishing how much we would expect to pay for your care and support, we will take account of your individual circumstances such as medical, cultural or dietary needs, to ensure that your needs can be properly met.

Choosing more expensive accommodation:

Care homes

10.45 If your preferred care home is more expensive than your personal budget for your assessed needs, you will be advised of the higher cost of your choice. You will be given the opportunity to make an alternative choice that fits within your personal budget, or to put in place a 'top-up' arrangement to meet the additional cost – see Appendix A, 'Choice of Accommodation and Additional Payments'.

People who pay the full cost of their care and support

- 10.46 If someone paying the full cost of their care and support has made their own private arrangement for services, the provider may take any action needed to obtain outstanding payments including legal action against the person or third-party who signed the contract and agreed to make payments but who has failed to do so. The provider can also cancel the contract and give notice requiring the person to leave their accommodation.
- 10.47 If you pay the full cost of your care and support we will encourage you to consider what will happen if, over time, your savings/investments reduce and you become eligible for financial support from the Council. If you have existing accommodation that is more expensive than we would usually expect to pay, this may result in you having to move to other accommodation, unless arrangements can be secured by way of another alternative such as a top-up. In this instance, we will support you to find an alternative placement of your choice, provided this meets the Council's criteria for suitability, availability, conditions, cost and quality.
- 10.48 If a reassessment shows that your needs can only be reasonably met in the accommodation you are in, we will pay the difference between your assessed contribution and the fees we negotiate with the care home.
- 10.49 If you are eligible to receive local authority funding support, but your care assessment indicates that your wellbeing is better met by residing in another council area, the Council will have regard to the cost of care in that area when setting the personal budget and will match the usual local authority rate for accommodation in that area.

New residents

- 10.50 The Council will undertake a financial assessment and benefits check if you are entering residential care on a permanent basis. Whenever possible this is done before you go to the home. Contributions are payable from the date care commences. The Council publishes a fact-sheet containing details about residential care charging, which is available on the Council's website, and in leaflet format on request.

Self-funders, i.e. those paying the full cost of their services

- 10.51 A self-funder is a service-user whose capital exceeds the upper capital limit and/or whose income is deemed to be sufficient to pay the weekly cost of their care in full, for example, from private pensions, investment funds, and property rental income.
- 10.52 Residential care service-users in this position will need to make their own arrangements with the care home and the Council can provide a range of

information and guidance to help them. If, however, they lack the mental capacity to do so and there is no-one else who is willing and able to do so on their behalf, the Council will make arrangements with the care home on their behalf.

- 10.53 If the Council makes arrangements with the care home on your behalf you will be charged an annual arranging care fee.
- 10.54 If your capital falls below the upper capital limit, a needs assessment will be carried out in order to determine your eligibility for care and support from the Council and a financial assessment will be carried out in order to determine your financial circumstances.

Short Term, Respite and Temporary Stays in Care Homes

- 10.55 The Council will charge for care and support it provides under the Care Act in a care home on a temporary basis, unless it is enablement care for up to 6 weeks.
- 10.56 The financial assessment for temporary stays will completely disregard your main or only home where you intend to return to that home. This decision will be reviewed, and continuation of the property disregard will depend on the extended length of stay in a care home after 52 weeks has elapsed, and the individual circumstances affecting this.
- 10.57 The Council will ensure that where your spouse or partner remains living in your home they will receive at least as much as they entitled to in income support or pension credit (basic level).
- 10.58 The Council will ensure that where housing benefit is paid, this will be disregarded so that it can continue to meet the housing costs, as intended.
- 10.59 The Council will ensure that payments made by you to keep and maintain your home, such as rent, water rates, insurance premiums are disregarded when assessing your income. Similarly, expenses that you would normally incur and would continue to pay may also be disregarded. Contributions are usually payable from the date care commences. A new financial assessment will be required each financial year where you require respite accommodation in a care home.
- 10.60 Following a needs assessment, it may be decided you would benefit from a temporary stay in a care home. A temporary resident is defined as a person whose need to stay in a care home is intended to last for a limited period of time and where there is a plan to return home. The service user's stay should be unlikely to exceed 52 weeks, or in exceptional circumstances, unlikely to substantially exceed 52 weeks.

10.61 If you have a temporary stay in a care home that becomes permanent you will be assessed for a permanent stay at the date permanency is confirmed and the care plan is amended accordingly.

10.62 **If your capital (disregarding the value of your interests in your main or only home) is above the upper capital limit:** you will need to pay the full cost of your accommodation. We will signpost you to advice and support to arrange this with a care home provider of your choice. If you wish us to arrange your care for you we will charge you as highlighted in Section 5.2f.

10.63 **If your total savings and investments are below the upper capital limit:** we will carry out a full financial assessment with you to work out how much (if anything) you can afford to pay for your care and support. Your financial assessment will show your 'Assessed Maximum Weekly Contribution'.

11 Deprivation of Assets

11.1 People with care and support needs are free to spend their own money as they see fit, including making gifts to friends and family. This is important for promoting their wellbeing and enabling them to live fulfilling and independent lives. However, it is also important that people pay their fair contribution towards their care and support costs.

11.2 There are some cases in which a person may have tried deliberately to avoid paying for their care and support through depriving themselves of assets, whether capital or income, for no value or for less than the asset is worth. Where the Council considers it can establish this, it may either charge the person as if they still possessed the asset, as notional income or capital, or, if the asset has been transferred to someone else, seek to recover from that person, the transferee, the difference between the amount it would have charged if there had been no transfer and the amount it has charged. However, the Council cannot recover more than the transferee gained from the transfer.

11.3 If you say you have disposed of an asset you must be able to show that this is so. Failure to do so may result in the Council treating you as if you still possess the asset. Examples of acceptable evidence of the disposal of an asset include: a trust deed, deed of gift, receipts for expenditure, proof that debts have been repaid.

11.4 Even if you prove you no longer have the asset, the Council may still consider you to have the asset for the purposes of assessment, because of a deliberate deprivation. In particular, the timing of the disposal will be taken into account when considering if this is so.

11.5 Where, for the purpose of avoiding or reducing a contribution, capital that would not have been disregarded has been converted into an asset that is to be disregarded, the current market value of that asset will nonetheless be taken into account.

11.6 If in depriving yourself of an asset, you have converted it into another asset of lesser value, you will be treated as notionally possessing the difference between the value of the new asset and the one it replaced.

11.7 If the Council decides you have notional income or capital (see above), it will charge you accordingly and may seek to recover the debt from you as a lump sum or in instalments.

11.8 The Council will determine whether to conduct an investigation into whether a deprivation of income or capital has occurred. Where an investigation is conducted, this will be done in accordance with the Regulation of Investigatory Powers Act 2000. Following the investigation, if the Council decides that you have deprived yourself deliberately of an asset in order to reduce or avoid a charge for care and support, the Council will charge you as though you still possess the asset, i.e. as notional income or capital.

12 Charging for Support for Carers

12.1 Under the Care Act, a local authority can come under a duty to provide support directly for a carer and otherwise has a power to do so and it can charge them for the cost of this support. Currently the Council does not charge.

It values carers within its local community as partners in care and recognises the significant contribution they make. They help to maintain the health and wellbeing of the person they care for, support their independence and enable them to stay in their own homes for longer.

13 Pension Reforms

13.1 The Council will follow the guidance set out on the treatment of income and capital in Appendices [B and C] and treat a person's assets accordingly. Where a person has chosen to withdraw funds from their pension pot and to manage them directly, these funds may be treated as capital in accordance with Appendix B.

14 Methods of Payment and Debt Recovery

14.1 The following methods of payment are available:

- Direct Debit

- Bank Transfer
- Debit or Credit card – online or by phone
- Post Office
- PayPoint

14.2 The Council's preferred method of payment is direct debit. Where you have been advised of the weekly amount of your contribution, you will be provided with a direct debit form. Full details of how to make payments are at Appendix F.

14.3 The Care Act 2014 consolidates the Council's powers to recover money owed for the arrangement and provision of care and/or support for a service-user. These powers can be exercised where a service-user refuses to pay the amount they have been assessed as being liable to pay.

14.4 If you fail and/or neglect and/or refuse to pay your assessed contribution, the Council will take steps to recover any amounts owing, including if appropriate by legal action. This will be in line with the Council's Debt Recovery policy.

15 Review of Financial Assessment

15.1 You or someone acting on your behalf have the right to ask the Council for a review of a charge for which you have been assessed, if you consider that you cannot pay it or believe that:

- The charge is too high
- Information given may have been misrepresented
- Some information may have been missed
- A change in circumstances has occurred
- A mistake may have been made in applying the charging guidance
- The calculation is inaccurate
- There are other exceptional circumstances that need to be considered

15.2 Other than in response to a change of circumstances, the Council will ordinarily only consider requests for reviews received within 3 months of the date on which you have been notified of the charge but in its discretion it may consider requests received later than this.

15.3 There are two stages to the review process.

Stage 1: Informal review

15.4 You, or the representative acting on your behalf, should write to the department giving details of why you are requesting a review.

15.4 When a request for a review is received by the assessing officer, they will reassess the information provided by the service-user at the time of assessment. Any additional information that was omitted from the initial assessment will be considered upon submission of evidence. However, the Council is under no obligation to back-date the outcome to the date of the original assessment but will consider the appropriate effective date for any change during the review process. An exception to this is where benefit income has stopped without your prior knowledge and where you could not have been reasonably expected to know your benefit income had ceased, which will always result in a back-dated charging decision to coincide with the date the benefit income ceased to be payable.

15.5 Where there is disagreement with the outcome of the first stage of the informal review, the service user or their representative may request a second stage informal review in writing. Within that second stage request, there must be a clear and material reason provided for why the reviewed outcome remains incorrect.

15.6 For each stage the review will take place within 14 working days of the Council receiving your request. You will be advised of the outcome of the review within 7 working days of a decision being taken. If the charge is found to be incorrect, this will be explained in writing, with reason within a further 7 working days. Overall, this stage should take no longer than 28 working days.

Stage 2: Contributions Review Panel

15.7 If you or your representative remain unhappy after the charge has been reviewed under Informal Stage 1 and 2, you or your representative should contact the Council in writing.

You or your representative should provide clear information about why you remain dissatisfied with the outcome, which must relate to a material fact within the reviewed assessment and include evidence to support the basis for your dissatisfaction and concerns.

15.8 A Contributions Review Panel will be convened in order to review the assessment to date and the initial review. The panel will consist of an Adult Social Care manager and a Finance manager with advice from the legal department of the Council.

15.9 The panel will make recommendations and you will be informed of the outcome and any effect on your charges within 14 days.

15.10 Where the Council still considers that the financial assessment is correct, and the service user does not agree with this decision, any resultant complaints about the level of charge are subject to the Care and Support Complaints Procedure, as set out in the Local Authority Social Services and NHS Complaints Regulations 2009. The Council will make clear what its complaints

procedure is and provide information and advice about how to lodge a complaint.

15.11 Written requests for reviews should be directed to:

Financial Assessment Team
4th floor, Laurence House
Catford
SE6 4RU

Email: financialassessment@lewisham.gov.uk

16 Complaints

16.1 The Council welcomes feedback and has dedicated officers to manage complaints.

16.2 If you are dissatisfied with the way in which you have been treated during the financial assessment process, or with the service that you receive, you have the right to make a complaint to the complaints officer. The Council has a statutory complaints process to ensure that service-users' views and concerns are considered and dealt with appropriately and the Council holds itself accountable to the highest standards

16.3 Complaints should be directed to:

Community Services Customer Relations Team
5th floor Laurence House
Catford
London
SE6 4RU

Email: community.services@lewisham.gov.uk

17 Use of Financial Information and Privacy

17.1 The information the Council collects and keeps about you is confidential and can only be seen by authorised staff. This information will only be shared with other relevant people and agencies in accordance with the Data Protection Act 2018. This Act also gives you the right to see information that the Council keeps about you at any stage.

18 Equality Impact

18.1 The Council has considered the impact this framework will have on the diverse communities in its area. The purpose of this framework is to apply the Care Act 2014, its accompanying regulations and guidance and the Council does not consider it discriminates unlawfully against any person whose characteristics are protected by the Equality Act 2010. The risk of it doing so has been considered and appropriate steps taken.

19 Reviewing the Contributions Guidance

19.1 This framework will be reviewed as and when there are material amendments or additions to the Care Act 2014 and its accompanying regulations and guidance.

20 Phasing of changes

20.1 Where a decision is taken by the Council, including a change to this framework, results in an increased charge to a service-user, the Council may decide not to implement this immediately with existing service users and may, instead, phase the increase. Decisions on this phasing will be taken by the Council's Executive.

Appendix [A]: Choice of Accommodation and Top-up Payments

Introduction

1. This Appendix covers:
 - Choice of accommodation when arranging care and support in an accommodation setting
 - Making additional payments for preferred accommodation
- 1.1. A person's ability to make an informed choice is a key element of the care and support system. This extends to where the care and support planning process has determined that a person needs to live in a specific type of accommodation to meet their care and support needs.
- 1.2. The care and support planning process will have determined what type of accommodation will best suit the person's needs. This could be, for example, a care home, shared lives accommodation or extra-care housing. Where the type of accommodation is one of those specified in regulations, the person will have a right to choose the particular provider or location, subject to certain conditions. Where this is the case, the following guidance should be applied and in doing so, the Council will have regard to the following principles:
 - good communication of clear information and advice to ensure well-informed decisions
 - a consistent approach to ensure genuine choice
 - clear and transparent arrangements for choice and any 'top-up' arrangements
 - clear understanding of potential consequences should 'top-up' arrangements fail, with clear exit strategies
 - the choice is suitable to the person's needs
- 1.3. The Council is aware that the regulations and guidance on choice of accommodation and topping-up apply equally to those entering care for the

first time, those who have already been placed by the Council, and those who have been self-funders but who, because of diminishing resources, are on the verge of needing local authority support.

Choice of Accommodation

- 1.4. Where the Council is responsible for meeting a person's care and support needs and their needs have been assessed as requiring a particular type of accommodation, that person will have the right to choose between different providers of the specified type of accommodation and/or its location, as long as:
- the accommodation is suitable to their assessed needs
 - to provide would not cost the Council more than the amount specified in the adult's personal budget for accommodation of that type
 - the accommodation is available
 - the provider of the accommodation is willing to enter into a contract with the Council to provide the care at the rate identified in the person's personal budget on the Council's terms and conditions – or the extra cost of the preferred accommodation can be met by means of a top-up (see below)
- 1.5. This choice is not to be limited to those settings or individual providers with which the Council already contracts or operates, or those that are within the Council's geographical boundary. It will be a genuine choice across the appropriate provision.
- 1.6. If a person chooses to be placed in a setting that is outside the Council's area, the Council will still arrange for their preferred accommodation. In doing so, the Council will have regard to the cost of care in that area when setting a person's personal budget.

Suitability of Accommodation

- 1.7. In exercising a choice, the Council will ensure that the accommodation is suitable to meet a person's assessed needs and identified outcomes established as part of the care and support planning process which will also include communication with the care provider.
- 1.8. People are able to express a preference about the setting in which their needs are met through the care and support planning process. This process considers both the person's needs and preferences. Once this is agreed, the choice is between different settings, not different types. For example, a person cannot exercise the right to a choice of accommodation to choose a shared lives scheme when the care and support planning process, which involves the person, has assessed their needs as needing to be met in a care home.

Cost

- 1.9. The care and support planning process will identify how best to meet a person's needs. As part of that, the Council will provide the person with a personal budget.
- 1.10. The personal budget is defined as the cost to the Council of meeting the person's needs which the Council is required to meet. However, the Council will endeavour to take into consideration cases or circumstances where this 'cost to the Council' may need to be adjusted to ensure that needs are met. For example, a person may have specific dietary requirements that can only be met in specific settings. In all cases the Council will have regard to the actual cost of care in deciding the personal budget to ensure that the amount is one that reflects local market conditions. This should/will also reflect other factors such as the person's circumstances and the availability of provision. In addition, the Council will not set arbitrary amounts or ceilings for particular types of accommodation that do not reflect a fair cost of care.
- 1.11. A person must not be asked to arrange a 'top-up' towards the cost of their accommodation because of market inadequacies or commissioning failures and must ensure there is a genuine choice. The Council will therefore ensure that at least one option is available that is affordable within a person's personal budget and will endeavour to identify more than one. If no preference has been expressed and no suitable accommodation is available at the amount identified in a personal budget, the Council will arrange care in a more expensive setting and adjust the personal budget accordingly to ensure that needs are met. In such circumstances, the Council will not expect there to be a top-up. Only when a person has chosen more expensive accommodation can there be a top-up payment. Refer to point 1.36 of this policy which sets out further guidance about top-ups.

Availability

- 1.12. The Council has specific duties to shape and facilitate the market of care and support services locally, including ensuring sufficient supply where possible. As a result, a person should not have to wait for their assessed needs to be met. However, in some cases, a short wait may be unavoidable, particularly when a person has chosen a particular setting that is not immediately available. This may include putting in place temporary arrangements – taking into account the person's preferences and securing their agreement – and placing the person on the waiting list of their preferred choice of provider for example. The Council acknowledges that such arrangements can be unsettling and reasonable attempts will be made to avoid this situation wherever possible.
- 1.13. In such cases, the Council will endeavour that in the interim adequate alternative services are provided. In establishing any temporary arrangements, the Council will provide the person with clear information in writing on the detail of the arrangements as part of their care and support plan. This will include providing information about the operation of the waiting

list for their preferred setting alongside any other information that may be relevant. If any interim arrangements exceed 12 weeks, the person may be reassessed to ensure that both the interim and the preferred option are still able to meet the person's needs and that their choice remains the same.

- 1.14. Where a person contributes to the cost of their care following a financial assessment they will not be asked to pay more than their assessment shows they can afford.
- 1.15. In some cases a person may decide they wish to remain in the interim setting, even if their preferred setting subsequently becomes available. If the setting where they are temporarily resident is able to accommodate the arrangement on a permanent basis this will be arranged and the person will be removed from the waiting list of their original preferred setting. Before doing so, the Council will make clear any consequences of that choice, including any financial implications.

Choice that Cannot be Met and Refusal of Arrangements

- 1.16. Whilst the Council will do everything it can to meet a person's choice, inevitably there will be some instances where a choice cannot be met, for example if the provider does not have capacity to accommodate the person. In such cases, the Council will set out in writing where appropriate why it has not been able to meet that choice and will endeavour to offer suitable alternatives.
- 1.17. The Council will attempt to do everything it can to take into account a person's circumstances and preferences when arranging care. However, in all but a very small number of cases, such as where a person is being placed under guardianship under Section 7 of the Mental Health Act 1983, a person has a right to refuse to enter a setting whether that is on an interim or permanent basis. Where a person unreasonably refuses the arrangements, the Council is entitled to consider that it has fulfilled its statutory duty to meet needs and may then inform the person in writing that as a result they need to make their own arrangements. This is a step of last resort and the Council will consider the risks posed by such an approach, for both the Council itself and the person concerned. Should the person contact the Council again at a later date, the Council will consider re-assessing their needs as necessary and re-open the care and support planning process.

Contractual Terms and Conditions

- 1.18. In supporting a person's choice of setting, the Council may need to enter into a contract with a provider that they do not currently have an arrangement with, in which case the provider will need to agree to the Council's terms and conditions.

Additional (or 'Top-up') Payments

- 1.19. In some cases, a person may actively choose a setting that is more expensive than the amount identified for the provision of the accommodation in their personal budget. Where they have chosen a setting that costs more than this, an arrangement will need to be made as to how the difference will be met. This is known as an additional cost or 'top-up' payment, which represents the difference between the amount specified in the personal budget and the actual cost. In such cases, the Council will arrange for them to be placed there, provided a third party, or in certain circumstances the person in need of care and support, is willing and able to meet the additional cost.
- 1.20. The following sections of the policy only apply where the person has chosen a more expensive setting. Where someone is placed in a more expensive setting solely because the Council is unable to make arrangements at the anticipated cost, the personal budget will reflect this amount. The person would then contribute towards this personal budget according to the financial assessment. The additional cost provisions will not apply in such circumstances.

Agreeing a 'Top-up' Fee

- 1.21. Having chosen a setting that is more expensive, based on good information and advice, the Council will endeavour to ensure that the person understands the full implications of this choice, bearing in mind that this is often a point of crisis. This will include for example that a third party, or in certain circumstances the person needing care and support, will need to meet the additional cost of that setting for the full duration of their stay and that should the additional cost not be met the person may be moved to an alternative setting.
- 1.22. The Council needs to satisfy itself that the person paying the 'top-up' is willing and able to meet the additional cost for the likely duration of the arrangement, recognising that this may be for some time into the future. Therefore, the Council will ensure that the person paying the 'top-up' enters into a written agreement with the Council, agreeing to meet that cost. The agreement will include the following:
- the additional amount to be paid
 - the amount specified for the accommodation in the person's personal budget
 - the frequency of the payments
 - to whom the payments are to be made
 - provision for reviewing the agreement
 - provision for the consequences of ceasing to make payments
 - provision for the effect of any increases in charges that a provider may make
 - provision for the effect of any changes in the financial circumstances of the person paying the 'top-up'

- 1.23. Before entering into the agreement, the Council will endeavour to provide the person paying the 'top-up' with sufficient information and advice to ensure that they understand the terms and conditions, including actively considering the provision of independent financial information and advice.
- 1.24. Ultimately, if the arrangements for a 'top-up' were to fail for any reason, the Council will conduct a needs assessment and offer in the first instance suitable alternative arrangements. In cases where alternative arrangements are deemed not feasible, the Council will endeavour to meet the cost of the 'top-up' until a suitable alternative is established.

The Amount to be Paid

- 1.25. The amount of the 'top-up' will be the difference between the fees charged by the preferred provider and the amount that the Council has set in the personal budget to meet the person's eligible needs (or the amount set as the limit for the cost of after-care services under section 117 of the Mental Health Act 1983) by arranging or providing accommodation of the same type.

Frequency of Payments

- 1.26. In agreeing any 'top-up' arrangement, the Council will clearly set out how often such payments need to be made, e.g. on a weekly or monthly basis.

Responsibility for Costs and to whom the Payments are Made

- 1.27. When entering into a contract to provide care in a setting that is more expensive than the amount identified in the personal budget, the Council is responsible for the total cost of that placement. This means that if there is a breakdown in the arrangement of a 'top-up', for instance if the person making the 'top-up' ceases to make the agreed payments, then the Council would be liable for the fees until it has either recovered the additional costs it incurs or made alternative arrangements to meet the cared-for person's needs.
- 1.28. In terms of securing the funds needed to meet the total cost of the care (including the 'top-up' element) the Council has three options, except where the care and support is being funded via a Deferred Payment Agreement (in which case it is added to the amount owed). In choosing which option to take the Council will need to consider the individual circumstances of the case and assure itself of the security of the arrangements, including that there is no undue pressure on the person making the 'top-up' payment to increase the level of payment beyond what they can afford. The options are:
 - Treat the 'top-up' payment as part of the person's income and therefore recover the costs from the person concerned through the financial assessment (where the 'top-up' payments are being made by a third

party rather than the cared-for person, this is on the assumption that the third party makes the payment to the person with care needs); or

- Agree with the person, the third party paying the 'top-up' (if this is not the cared-for person) and the provider that payment for the 'top-up' element can be made directly to the provider with the Council paying the remainder.
- The person making the 'top-up' payments pays the 'top-up' amount to the Council. The Council then pays the full amount to the provider.

Provisions for Reviewing the Agreement

1.30. As with any financial arrangement, an agreement to make a 'top-up' payment must be reviewed. The Council will set out in writing details of how the arrangements will be reviewed, what may trigger a review and circumstances in which any party can request a review.

Consequences of Ceasing to Make Payments

1.31. The Council will advise in writing the consequences should there be a breakdown in the arrangement to meet the cost of the 'top-up'. This should include that the person may be moved to alternative accommodation where this would be suitable to meet their needs and affordable within their personal budget. As with any change of circumstance, the Council will undertake a new assessment before considering this course of action, including consideration of a requirement for an assessment of health needs, and have regard to the person's wellbeing.

Price Increases

1.32. Arrangements will need to be reviewed from time to time, for example in response to any changes in the circumstances of the cared-for person, the person making the 'top-up' payments (if not the cared-for person), the Council's commissioning arrangements or a change in provider costs.

1.33. The Council will set out in writing its approach to how any increased costs may be shared or met. This will include details of how agreement will be reached on the sharing of any price increases. This will also state that there is no guarantee that these increased costs will automatically be shared evenly should the provider's costs rise more quickly than the amount the Council would have increased the personal budget by and there is an alternative option that would be affordable within that budget.

1.34. Where the person has a change in circumstances that requires a new financial assessment and this results in a change in the level of contribution they make, this may not reduce the need for a 'top-up' payment.

Consequences of Changes in Circumstances of the Person Making the 'Top-up' Payment

1.35. The person making the 'top-up' payment could see an unexpected change in their financial circumstances that will impact on their ability to continue to pay the 'top-up' fee. Where a person is unable to continue making 'top-up' payments, the Council may seek to recover any outstanding debt and has the power to make alternative arrangements to meet a person's needs, subject to a needs assessment. The Council will set out in writing how it will respond to such a change and what the responsibilities of the person making the 'top-up' payment are in terms of informing the Council of any change in circumstances.

First Party 'Top ups'

1.36. The person whose needs are to be met by the accommodation 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 Council
- Where they are provided with accommodation as an after-care service under section 117 of the Mental Health Act 1983

People who are Unable to Make Their Own Choice

1.37. There will be cases where a person lacks capacity to express a choice for themselves. The Council would therefore act on the choices expressed by the person's advocate, carer, attorney or deputy in the same way as they would on the person's own wishes, unless in the Council's opinion it would be against the best interests of the person.

Self-funders who ask the Local Authority to Arrange Their Care

1.38. In supporting self-funders to arrange care, the Council may choose to enter into a contract with the preferred provider or may broker the contract on behalf of the person. Where the Council is arranging and managing the contract with the provider, it will ensure that there are clear arrangements in place as to how the costs will be met.

1.39. Ultimately, the Council will ensure that robust contractual arrangements are in place in such circumstances that clearly set out where responsibilities for

costs lie and ensure that the person understands those arrangements. Self-funders will have to pay for the costs of their care and support.

- 1.40 In addition to the care home fees and any top-up, the Council will charge self-funders an annual fee for arranging care for them.

Choice of Accommodation and Mental Health After-Care

- 1.40. Regulations made under section 117A of the Mental Health Act 1983 enable persons who qualify for after-care under section 117 to express a preference for particular accommodation if it is accommodation of a type specified in the regulations and is provided as part of that after-care. The Council is required to arrange the provision of the preferred accommodation if the conditions in the regulations are met.
- 1.41. The regulations give people who receive mental health after-care broadly the same rights to a choice of accommodation as someone who receives care and support under the Care Act 2014. After-care is provided free of charge. The person will be fully involved in the care planning process.
- 1.42. An adult has the right to choose accommodation provided that:
- The preferred accommodation is of the same type that the Council has decided to provide or arrange
 - It is suitable for the person's needs
 - It is available for mental health after-care purposes
 - Where the accommodation is not provided by the Council, the provider of the accommodation agrees to provide the accommodation to the person on the Council's terms
- 1.43. Where the cost of the person's preferred accommodation is more than the amount set as the limit for the cost of after-care services, then the Council will arrange for them to be placed there, provided that either they or a third party is willing and able to meet the additional cost.
- 1.44. In securing the funds needed to meet the additional cost, the Council may:
- Either agree with the person and the provider (and in cases where a third party is paying the 'top-up', agree with that third party) that payment for the additional cost can be made directly to the provider with the Council paying the remainder
 - Or the person or the third party pays the 'top-up' amount to the Council and the Council then pays the full amount to the provider

Information and Advice

1.46. Where a 'top-up' arrangement is being entered into, all parties should fully understand their responsibilities, liabilities and the consequences of the arrangements. The Council will provide the third party with sufficient information and advice to support them to understand the terms of the proposed written agreement before entering into it.

Appendix [B]: Treatment of Capital

Introduction

1.47. This Appendix covers the treatment of capital when conducting a financial assessment in all circumstances.

1.48. The Council must assess the income and capital of the person when undertaking a financial assessment. This Appendix covers the treatment of capital and should be read in conjunction with Appendix [C] on the treatment of income. The details of the sources of capital which the Council will disregard are set out in the regulations.

1.49. The financial assessment will consider all of a person's resources – both capital and income – deciding which is capital and is income - and will assess them according to the charging regulations and the statutory guidance. The Council will refer to Appendix [C] on the treatment of income and Appendix [E] on deprivation of assets when conducting a financial assessment. The treatment of income will vary depending on the type of setting a person is receiving care in. The treatment of capital, as set out in this Appendix, is broadly the same for all settings. Where there is a distinction between care homes and all other settings, this is clearly set out.

1.50. In assessing what a person can afford to contribute the Council must apply the upper and lower capital limits.

1.51. A person with capital above the upper capital limit will be deemed to be able to afford the full cost of their care. Those with capital between the lower and upper capital limit will be deemed to be able to make a contribution, known as 'tariff income', from their capital. Any capital below the lower capital limit is disregarded.

Tariff income is £1 per week for each £250, or part thereof, between the upper and lower limits, e.g. if a person has £20,250 in capital their tariff income will be £24 per week.

Defining Capital

1.52. Capital can mean many different things and the intention is not to give a definitive definition here as the Council will consult the regulations and consider the individual asset on its merits. In general, it refers to financial resources available for use and tends to be from sources that are considered more durable than money in the sense that they can generate a return.

1.53. The following list gives examples of capital. This list is intended as a guide and is not exhaustive.

- a. Buildings
- b. Land
- c. National Savings Certificates
- d. Premium Bonds
- e. Stocks and shares
- f. Trust funds
- g. Any savings held in, for example:
 - Building society accounts
 - Bank current accounts
 - Deposit accounts
 - Special investment accounts

In a Care Home Setting

2.9. In assessing what a person can afford to contribute towards their care and support in a care home, the Council will apply the upper and lower capital limits.

2.10. A person with assets above the upper capital limit will be deemed to be able to afford the full cost of their care. Those with capital between the lower and upper capital limit will be deemed as able to make a contribution, known as 'tariff income', from their capital (see above).

2.11. If a person clearly has capital in excess of the upper capital limit, there will be no need to carry out a full financial assessment. If a person is near the upper capital limit, the Council will plan ahead for when their capital falls below that limit because of them paying care home fees.

2.12.

Outside a Care Home Setting

2.14. The capital limits are applied in exactly the same way.

Cases where it is Not Clear Whether a Payment is Capital or Income

2.18. Assets should only be treated as income or capital but not both. If a person has saved money from their income then those savings should normally be treated as capital. They will not be assessed as both income and capital over the same period, i.e. over the period they are received as income they will not also be assessed as capital.

- 2.19. In assessing a person's assets it may not be immediately clear where a resource is capital or income, particularly where a person is due to receive planned payments. In general, a planned payment of capital is one which is:
- a. Not in respect of a specified period; and
 - b. Not intended to form part of a series of payments.
- 2.20. The Council will also have regard to the statutory guidance on capital treated as income.

Who Owns the Capital?

- 2.21. Ownership of a capital asset is normally defined as belonging to the person in whose name it is held, the legal owner. However, in some cases this may be disputed and/or beneficial ownership argued. Beneficial ownership is where someone enjoys the benefits of ownership, even if another person has sole legal ownership of the same asset. In most cases the same person will be both the legal and beneficial owner.
- 2.22. Where ownership is disputed, the Council will request written evidence to prove where the ownership lies. If a person states they are holding capital for someone else, the Council will obtain evidence of the arrangement, the origin of the capital and intentions for its future use and return to its rightful owner.
- 2.23. Where a person has joint beneficial ownership of capital, except where there is evidence that the person owns an unequal share, the total value will be divided equally between the joint owners and the person will be treated as owning an equal share.
- 2.24. In some cases, a person may be the legal owner of a property but not the beneficial owner of a property. They have no rights to the proceeds of any sale. In such circumstances the property will not be taken into account.

Calculating the Value of Capital

- 2.25. The Council will work out what value a capital asset has in order to take account of it in the financial assessment. Other than National Savings Certificates, valuation must be the current market or surrender value of the capital asset, e.g. property, whichever is higher,

minus:

- a. 10% of the value if there will be any actual expenses involved in selling the asset. These must be expenses connected with the actual sale and not simply the realisation of the asset. For example, the costs to withdraw funds from a bank account are not expenses of sale, but legal fees to sell a property would be; and

- b. any outstanding debts secured on the asset, for example a mortgage.
- 2.26. A capital asset may have a current market value, for example stocks or shares, or a surrender value, for example premium bonds. The current market value will be the price a willing buyer would pay to a willing seller. The way the market value is obtained will depend on the type of asset held.
- 2.27. Where a precise valuation is required, a professional valuer may be asked to provide a current market valuation. Once the asset is sold, the capital value to be taken into account is the actual amount realised from the sale, minus any actual expenses of the sale.
- 2.28. Where the value of a property is disputed, the Council will aim to resolve this as quickly as possible. The Council may obtain an independent valuation of the person's beneficial share of the property within the 12-week disregard period where a person is in a care home. This will enable the Council to work out what charges a person should pay and enable the person, or their representative, to consider whether to seek a deferred payment agreement.
- 2.29. The value of National Savings Certificates (and Ulster Savings Certificates) or Premium Bonds is assessed in the same way as other capital assets. To enable an accurate value for the savings certificates the person must provide details of the:
- certificate issue number(s);
 - purchase price;
 - date of purchase.

Assets Held Abroad

- 2.3. Where capital is held abroad and all of it can be transferred to the UK, its value in the other country will be obtained and taken into account less any appropriate deductions. Where capital is held jointly, it will be treated the same as if it were held jointly within the UK. The detail will depend on the conditions for transfer to the UK.
- 2.31. Where the capital cannot be wholly transferred to the UK due to the rules of that country, for example currency restrictions, the Council will require evidence confirming this fact. Examples of acceptable evidence could include documentation from a bank, government official or solicitor in either this country or the country where the capital is held.
- 2.32. Where some restriction is in place, the Council will seek evidence showing what the asset is, what its value is and to understand the nature and terms of the restriction so that should this change, the amount can be taken into account. The Council will also take into account the value that a willing buyer would pay in the UK for those assets but it will be aware that it may be less than the market or surrender value in the foreign country.

Capital Not Immediately Realisable

- 2.4. Capital which is not immediately realisable due to notice periods, for example National Savings Bank investment accounts or Premium Bonds, will be taken into account in the normal way at its face value. This will be the value at the time of the financial assessment. It may need to be confirmed and adjusted when the capital is realised. If the person chooses not to release the capital, the value at the time of assessment will be used and it will be reassessed at intervals in the normal way.

Notional Capital

- 2.5. In some circumstances a person may be treated as possessing a capital asset even where they do not actually possess it. This is called notional capital.

- 2.51. Notional capital may be capital which:

- a. would be available to the person if they applied for it;
- b. is paid to a third party in respect of the person;
- c. the person has deprived themselves of in order to reduce the amount of charge they have to pay for their care.

- 2.52. A person's capital will therefore be the total of both actual and notional capital. However, if a person has actual capital above the upper capital limit, it may not be necessary to consider notional capital.

- 2.53. Where a person has been assessed as having notional capital, the value of this will be reduced over time. The value of notional capital will be reduced weekly by the difference between the weekly rate the person is paying for their care and the weekly rate they would have paid if notional capital did not apply.

- 2.54. Where a person is benefiting from the 12-week property disregard and has chosen to pay a top-up fee from their capital resources between the upper and lower capital limits, the level of tariff income that applies during those 12 weeks is the same as it would be if the person were not using the capital to top-up.

Capital Disregarded

- 2.6. The following capital assets will be disregarded:
- a. Property in specified circumstances;
 - b. The surrender value of any:
 - i. Life insurance policy;
 - ii. Annuity.

- c. Payments of training bonuses of up to £200;
- d. Payments in kind from a charity;
- e. Any personal possessions such as paintings or antiques, unless they were purchased with the intention of reducing capital in order to avoid care and support charges.
- f. Any capital which is to be treated as income or student loans;
- g. The value of funds held in trust or administered by a court which derive from a payment for personal injury to the person. For example, the vaccine damage and criminal injuries compensation funds; □ The value of a right to receive:
 - Income under an annuity;
 - Outstanding instalments under an agreement to repay a capital sum;
 - Payment under a trust where the funds derive from a personal injury;
 - Income under a life interest or a life-rent;
 - Income (including earnings) payable in a country outside the UK which cannot be transferred to the UK;
 - An occupational pension;
 - Any rent. Please note however that this does not necessarily mean the income is disregarded. Please see Appendix C for treatment of income.
- j. Capital derived from an award of damages for personal injury which is administered by a court or which can only be disposed of by a court order or direction;
- k. The value of the right to receive any income under an annuity purchased pursuant to any agreement or court order to make payments in consequence of personal injury or from funds derived from a payment in consequence of a personal injury and any surrender value of such an annuity;
- l. Periodic payments in consequence of personal injury pursuant to a court order or agreement to the extent that they are not a payment of income and are treated as income (and disregarded in the calculation of income);
- m. Any Social Fund payment;
- n. Refund of tax on interest on a loan which was obtained to acquire an interest in a home or for repairs or improvements to the home;
- o. Any capital resources which the person has no rights to as yet, but which will come into his possession at a later date, for example on reaching a certain age;
- p. Payments from the Department of Work and Pensions to compensate for the loss of entitlement to Housing Benefit or Housing Benefit Supplement;

- q. The amount of any bank charges or commission paid to convert capital from foreign currency to sterling;
 - r. Payments to jurors or witnesses for court attendance (but not compensation for loss or earnings or benefit);
 - s. Community charge rebate/council tax rebate;
 - t. Money deposited with a Housing Association as a condition of occupying a dwelling;
 - u. Any Child Support Maintenance Payment;
 - v. The value of any ex-gratia payments made on or after 1st February 2001 by the Secretary of State in consequence of a person's, or person's spouse or civil partner's imprisonment or internment by the Japanese during the Second World War;
 - w. Any payment made by a local authority under the Adoption and Children Act 2002 (under section 2(b)(b) or 3 of this act);
 - x. The value of any ex-gratia payments from the Skipton Fund made by the Secretary of State for Health to people infected with Hepatitis C as a result of NHS treatment with blood or blood products;
 - y. Payments made under a trust established out of funds provided by the Secretary of State for Health in respect of persons suffering from variant Creutzfeldt-Jakob disease to the victim or their partner (at the time of death of the victim);
 - z. Any payments under Section 2, 3 or 7 of the Age-Related Payments Act 2004 or Age Related Payments Regulations 2005 (SI No 1983);
- (aa) Any payments made under section 63(6)(b) of the Health Services and Public Health Act 1968 to a person to meet childcare costs where he or she is undertaking instruction connected with the health service by virtue of arrangements made under that section;
- (ab) Any payment made in accordance with regulations under Section 14F of the Children Act 1989 to a resident who is a prospective special guardian or special guardian, whether income or capital.

Property Disregards

- 2.7. In the following circumstances the value of the person's *main or only* home will be disregarded:

- a. Where the person is receiving care in a setting that is not a care home;
- b. If the person's stay in a care home is temporary and they:
 - i. intend to return to that property and that property is still available to them; or
 - ii. are taking reasonable steps to dispose of the property in order to acquire another more suitable property to return to.
- c. Where the person no longer occupies the property but it is occupied in part or whole as their main or only home by any of the people listed below, the mandatory disregard only applies where the property has been continuously occupied since before the person went into a care home (for discretionary disregards see below):
 - i. the person's partner, former partner or civil partner, except where they are estranged;
 - ii. a lone parent who is the person's estranged or divorced partner;
 - iii. a relative as defined in paragraph 35 of the person or member of the person's family who is:
 - Aged 60 or over, or
 - Is a child of the resident aged under 18, or
 - Is incapacitated.

2.8. For the purposes of the disregard a relative is defined as including any of the following:

- a. Parent (including an adoptive parent)
- b. Parent-in-law
- c. Son (including an adoptive son)
- d. Son-in-law
- e. Daughter (including an adoptive daughter)
- f. Daughter-in-law
- g. Step-parent
- h. Step-son
- i. Step-daughter
- j. Brother
- k. Sister
- l. Grandparent
- m. Grandchild
- n. Uncle

Example of emotional attachment to a property:

Bea is 62 years' old and lives with her family in Kent. Her father Patrick is a widower who has been living in the family home in Teddington that she and her sister grew up in and where she occasionally stays to help her father. Patrick has been assessed as having eligible care and support needs that are best met by moving into a care home.

Although Bea is over the age of 60, the family home is not her main or only home and the property is therefore not disregarded.

Example of occupying a property when not physically present:

Matt is 60 years old and has been living overseas for the past 10 years due to his job in the diplomatic service. When he is in England, he lives at the family home he grew up in. His father Ken has been assessed as having eligible care and support needs that are best met by moving into a care home. In Ken's financial assessment, the value of his property is disregarded as his son Matt is a qualifying relative that occupies the property as his main or only home. Although Matt is not physically present at the property at the point Ken moves into the care home, his alternative accommodation is only as a result of his employment and the family home is his main home.

- o. Aunt
- p. Nephew
- q. Niece
- r. The spouse, civil partner or unmarried partner of a to k inclusive.

- 2.9. A member of the person's family is defined as someone who is living with the qualifying relative as part of an unmarried couple, married to or in a civil partnership.
- 2.10. For the purposes of the disregard the meaning of 'incapacitated' is not closely defined. However, it will be reasonable to conclude that a relative is incapacitated if either of the following conditions applies:
- a. the relative is receiving one (or more) of the following benefits: incapacity benefit, severe disablement allowance, disability living allowance, personal independence payments, armed forces independence payments, attendance allowance, constant attendance allowance, or a similar benefit; or
 - b. the relative does not receive any disability related benefit but their degree of incapacity is equivalent to that required to qualify for such a benefit. Medical or other evidence may be needed before a decision is reached.
- 2.11. For the purpose of the property disregard, the meaning of 'occupy' is not closely defined. In most cases it will be obvious whether or not the property is occupied by a qualifying relative as their main or only home. However, there will be some cases where this may not be clear and the Council will undertake a factual inquiry weighing up all relevant factors in order to reach a decision. An emotional attachment to the property alone is not sufficient for the disregard to apply.
- 2.12. Circumstances where it may be unclear might include where a qualifying relative has to live elsewhere for the purposes of their employment, for example a member of the armed services or the diplomatic service. Whilst they live elsewhere in order to undertake their employment, the property

remains their main or only home. Another example may be someone serving a prison sentence. It would not be reasonable to regard the prison as the person's main or only home and they may well intend to return to the property in question at the end of their sentence. In such circumstances the Council will consider the qualifying relative's length of sentence and the likelihood of them returning to the property. Essentially the qualifying relative is occupying the property but is not physically present.

Example of local authority discretion to apply a property disregard:

Jayne has the early signs of dementia but wishes to continue living in her own home. She is not assessed as having eligible needs, but would benefit from some occasional support. Her best friend Penny gives up her own home to move in with Jayne. At this point, there is no suggestion that Jayne may need care in a care home.

After 5 years Jayne's dementia has reached the point where she needs a far greater level of care and support and following an assessment it is agreed her needs would best be met in a care home. On moving into the care home, the Council uses its discretion to apply the property disregard as this has now become Penny's main or only home.

2.13. The Council will take account of the individual circumstances of each case and will consider the following factors in making a decision:

- Does the relative currently occupy another property?
- If the relative has somewhere else to live do they own or rent the property (i.e. how secure/permanent is it?)
- If the relative is not physically present is there evidence of a firm intention to return to or live in the property
- Where does the relative pay council tax?
- Where is the relative registered to vote?
- Where is the relative registered with a doctor?
- Are the relatives belongings located in the property?
- Is there evidence that the relative has a physical connection with the property?

2.14. A property will be disregarded where the relative meets the qualifying conditions (e.g is aged 60 or over) and has occupied the property as their main or only home since before the resident entered the care home.

Discretionary Disregard

2.15. The Council has a duty to ensure that expenditure incurred in relation to the cost of care is properly and fully recovered from qualifying assets. This means that, for any person receiving care, the cost of that care is properly met from income and capital assets, in accordance with legislative provision and guidance.

Such guidance also provides that the Council may wish to apply their discretion in disregarding property other than in those cases where it is mandatory to do so. The Council will consider such applications as may be

made, however, Guidance also states that decisions must also be balanced against the need to ensure that a person's assets are not preserved at public expense.

In making a decision on whether to agree a discretionary disregard of your property we will consider our financial resources, and the following factors:

- What is the nature and closeness of the relationship between you and the person remaining in the property?
- Has the person cared for you and for how long? If so, what is the level and nature of the care provided by the person? Has any care been provided by others? If so what is the relationship to you and what is the level and nature of that care?
- How long has the person lived in the property?
- Where did the person reside (live as their main or usual place of residence) before moving in to the property and what has happened to their former accommodation and any proceeds of sale?
- What was the main reason for the person to move into your home? Were there any other factors affecting the decision to move into your home?
- What is the age, employment status and financial circumstances of the person?
- When did you first have identified care needs?
- When was care home accommodation first considered as an option for you?

The Council will consider such applications on a case by case basis.

12-week Property Disregard

- 2.16. A key aim of the charging policy is to prevent people being forced to sell their home at a time of crisis. The regulations under the Care Act 2014 therefore create space for people to make decisions as to how to meet their contribution to the cost of their eligible care needs.
- 2.17. The Council will disregard the value of a person's *main or only* home when the value of their non-housing assets is below the upper capital limit for 12 weeks in the following circumstances:
- a. When they first enter a care home as a permanent resident; or
 - b. When a property disregard other than the 12-week property disregard unexpectedly ends because the qualifying relative has died or moved into a care home.
- 2.18. In addition, the Council has discretion to choose to apply the disregard when there is a sudden and unexpected change in the person's financial

circumstances. In deciding whether to do so, the Council will consider the individual circumstances of the case. Such circumstances might include a fall in share prices or an unanticipated debt. An example is given below.

Example of an unexpected change in financial circumstances:

Harry is a widower who owns his own home. 10 months ago he moved into a care home as a self-funder. He has been meeting the bulk of his costs from shares he received as part of his redundancy package. Due to an unexpected event, the value of his shares is suddenly reduced by half, meaning he is unable to meet the cost of his care.

Although already in a care home and likely to remain responsible for paying for this care, Harry approaches the Council for assistance and to seek a Deferred Payment Agreement. During the financial assessment the Council agrees that the circumstances could not have been foreseen and uses its discretion to disregard the value of his property for the first 12 weeks. This provides Harry with the space he needs to make arrangements for the Deferred Payment Agreement to be put in place and enable him to continue to meet the cost of his care.

Business Asset partial disregard 26-Week Disregard

- 2.19. The following capital assets must be disregarded for at least 26 weeks in a financial assessment. However, the Council may choose to apply the disregard for longer where it considers this appropriate. For example, where a person is taking legal steps to occupy premises as their home, but the legal processes take more than 26 weeks to complete.
- i. Assets of any business owned or part-owned by the person in which they were a self-employed worker and has stopped work due to some disease or disablement but intends to take up work again when they are fit to do so. Where the person is in a care home, this should apply from the date they first took up residence. [Schedule 2 Paragraph 9 of the Care and Support (Charging and Assessment of Resources) regulations]
 - ii. Money acquired specifically for repairs to or replacement of the person's home or personal possessions provided it is used for that purpose. This should apply from the date the funds were received.
[Schedule 2 Paragraph 12 of the Care and Support (Charging and Assessment of Resources) regulations]
 - iii. Premises which the person intends to occupy as their home where they have started legal proceedings to obtain possession. This should be from the date legal advice was first sought or proceedings first commenced.
[Schedule 2 Paragraph 22 of the Care and Support (Charging and Assessment of Resources) regulations]

- iv. Premises which the person intends to occupy as their home where essential repairs or alterations are required. This should apply from the date the person takes action to effect the repairs. [Schedule 2 Paragraph 21 of the Care and Support (Charging and Assessment of Resources) regulations]
- v. Capital received from the sale of a former home where the capital is to be used by the person to buy another home. This should apply from the date of completion of the sale. [Schedule 2 Paragraph 6 of the Care and Support (Charging and Assessment of Resources) regulations]
- vi. Money deposited with a Housing Association which is to be used by the person to purchase another home. This should apply from the date on which the money was deposited. [Schedule 2 Paragraph 11 of the Care and Support (Charging and Assessment of Resources) regulations]
- vii. Grant made under a Housing Act which is to be used by the person to purchase a home or pay for repairs to make the home habitable. This should apply from the date the grant is received. [Schedule 4 Paragraph 22 of the Care and Support (Charging and Assessment of Resources) regulations]

52-week Disregard

- 2.20. The following payments of capital will be disregarded for a maximum of 52 weeks from the date they are received.
- a. The balance of any arrears of or any compensation due to non-payment of:
 - i. Mobility supplement
 - ii. Attendance Allowance
 - iii. Constant Attendance Allowance
 - iv. Disability Living Allowance / Personal Independence Payment
 - v. Exceptionally Severe Disablement Allowance
 - vi. Severe Disablement Occupational Allowance
 - vii. Armed forces service pension based on need for attendance
 - viii. Pension under the Personal Injuries (Civilians) Scheme 1983, based on the need for attendance
 - ix. Income Support/Pension Credit
 - x. Minimum Income Guarantee
 - xi. Working Tax Credit
 - xii. Child Tax Credit
 - xiii. Housing Benefit
 - xiv. Universal Credit
 - xv. Special payments to pre-1973 war widows.

As the above payments will be paid for specific periods, they will be treated as income over the period for which they are payable. Any money left over after the period for which they are treated as income has elapsed will be treated as capital.

[Schedule 2 Paragraphs 10 and 11 of the Care and Support (Charging and Assessment of Resources) regulations]

- b. Payments or refunds for:
 - i. NHS glasses, dental treatment or patient's travelling expenses;
 - ii. Cash equivalent of free milk and vitamins;
 - iii. Expenses in connection with prison visits. [Schedule 2 Paragraph 22]

- d. Personal Injury Payments.

2 Year Disregard

2.21. The Council will disregard payments made under a trust established out of funds by the Secretary of State for Health in respect of vCJD to:

- a. A member of the victim's family for 2 years from the date of death of the victim (or from the date of payment from the trust if later); or
- b. A dependent child or young person until they turn 18. [Schedule 2 Paragraph 27]

Other Disregards

2.22. In some cases a person's assets may be tied up in a business that they own or part own. Where a person is taking steps to realise their share of the assets, these will be disregarded during the process. However, the person will be required to show that it is their clear intention to realise the asset as soon as practicable. In order to show their intent, the Council will request the following information:

- i. A description of the nature of the business asset;
- ii. The person's estimate of the length of time necessary to realise the asset or their share of it;
- iii. A statement of what, if any, steps have been taken to realise the asset, what these were and what is intended in the near future; and
- iv. Any other relevant evidence, for example the person's health, receivership, liquidation, estate agent's confirmation of placing any property on the market.

2.23. Where the person has provided this information to show that steps are being taken to realise the value of the asset, the Council will disregard the value for a period that it considers to be reasonable. In deciding what is reasonable the Council will take into account the length of time of any legal processes that may be needed.

2.2.4. Where the person has no immediate intention of attempting to realise the business asset, its capital value will be taken into account in the financial assessment. Where a business is jointly owned, this will apply only to the person's share.

Treatment of Investment Bonds

2.25. The treatment of investment bonds is currently complex. This is in part because of the differing products that are on offer. As such, the Council will seek advice from Legal Services.

2.26. Where an investment bond includes one or more element of life insurance policies that contain cashing-in rights by way of options for total or partial surrender, then the value of those rights will be disregarded as a capital asset in the financial assessment.

Capital Treated as Income

2.27. The following capital payments will be treated as income. The Council therefore will have regard to Appendix C before conducting their assessments.

- a. Any payment under an annuity.
- b. Capital paid by instalment where the total of:
 - i. the instalments outstanding at the time the person first becomes liable to pay for their care, or in the case of a person in temporary care whom the Council had previously decided not to charge, the first day on which the local authority decided to charge; and
 - ii. the amount of other capital held by the resident is over £16,000. If it is £16,000 or less, each instalment should be treated as capital. [Regulation 16 of the Care and Support (Charging and Assessment of Resources) regulations]

Earnings

2.28. Any income of the person derived from employment will be treated as earnings and not taken into account in the financial assessment.

Income Treated as Capital

2.29. The following types of income will be treated as capital:

- a. Any refund of income tax charged on profits of a business or earnings of an employed earner; Any holiday pay payable by an employer more than 4 weeks after the termination or interruption of employment;
- b. Income derived from a capital asset, for example, building society interest or dividends from shares. This should be treated as capital from the date it is normally due to be paid to the person. This does not apply to income from certain disregarded capital;
- c. Any advance of earnings or loan made to an employed earner by the employer if the person is still in work. This is as the payment does not form part of the employee's regular income and would have to be repaid;

- d. Any bounty payment paid at intervals of at least one year from employment as:
 - i. A part time fireman; ii. An auxiliary coastguard; iii. A part time lifeboat man; iv. A member of the territorial or reserve forces.
- e. Charitable and voluntary payments which are neither made regularly nor due to be made regularly, apart from certain exemptions such as payments from AIDS trusts. Payments will include those made by a third party to the person to support the clearing of charges for accommodation.
- f. Any payments of arrears of contributions by a local authority to a custodian towards the cost of accommodation and maintenance of a child. [Regulation 18 of the Care and Support (Charging and Assessment of Resources) regulations]

Capital Available on Application

2.30. In some instances a person may need to apply for access to capital assets but has not yet done so. In such circumstances this capital will be treated as already belonging to the person except in the following instances:

- a. Capital held in a discretionary trust;
- b. Capital held in a trust derived from a payment in consequence of a personal injury;
- c. Capital derived from an award of damages for personal injury which is administered by a court;
- d. Any loan which could be raised against a capital asset which is disregarded, for example the home. [Regulation 21(2) of the Care and Support (Charging and Assessment of Resources) regulations]

2.31. The Council will distinguish between:

- a. Capital already owned by the person but which in order to access they must make an application for. For example:
 - i. Money held by the person's solicitor;
 - ii. Premium Bonds;
 - iii. National Savings Certificates;
 - iv. Money held by the Registrar of a County Court which will be released on application; and
- b. Capital not owned by the person that will become theirs on application, for example an unclaimed Premium Bond win. This will be treated as notional capital. [Regulation 21(2) of the Care and Support (Charging and Assessment of Resources) regulations]

2.32. Where the Council treats capital available on application as notional capital the Council will do so only from the date at which it could be acquired by the person. [Regulation 21(2) of the Care and Support (Charging and Assessment of Resources) regulations]

2.33. When applying notional income to a defined contribution pension this will be calculated as the maximum income that would be available if the person had taken out an annuity. Further guidance is provided in Appendix C.

Appendix [C]: Treatment of Income

3.1 The treatment of income when conducting a financial assessment in all circumstances. This is divided into:

- Care homes;
- All other settings;

3.12. The Council will assess the income of the person when undertaking a financial assessment.

3.13. There are differences in how income is treated in a care home and in all other settings. Charging a person in a care home is provided for in a consistent national framework. When charging a person in all other settings, the Council has more discretion to enable it to take account of local practices and innovations. This policy sets out the common issues and then those particular to each setting.

3.14. This Appendix covers the treatment of income and should be read in conjunction with Appendix B on the treatment of capital. The detail of the sources of income which the Council will disregard is set out in this policy.

Common issues

3.2. The following section sets out the issues common to charging for all settings.

3.21. Only the income of the cared-for person can be taken into account in the financial assessment of what they can afford to pay for their care and support. Where this person receives income as one of a couple, the starting presumption is that the cared-for person has an equal share of the income. The Council will also consider the implications for the cared-for person's partner.

3.22. Income is net of any tax or National Insurance contributions.

3.23. Income will always be taken into account unless it is disregarded under the regulations.

3.24. Income that is disregarded will either be:

- a. Partially disregarded; or
- b. Fully disregarded.

3.25. In all cases, irrespective of setting, employed and self-employed earnings are fully disregarded. Any income earned by the service user's spouse, partner, or family member residing in the same address will also be fully disregarded

3.26. Earnings in relation to an employed earner are any remuneration or profit from employment. This will include:

- a. Any bonus or commission;
- b. Any payment in lieu of remuneration except any periodic sum paid to the person on account of the termination of their employment by reason of redundancy;
- c. Any payments in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
- d. Any holiday pay except any payable more than four weeks after the termination or interruption of employment;
- e. Any payment by way of a retainer;
- f. Any payment made by the person's employer in respect of any expenses not wholly, exclusively and necessarily incurred in the performance of the duties of employment, including any payment made by the person's employer in respect of travelling expenses incurred by the person between their home and the place of employment and expenses incurred by the person under arrangements made for the care of a member of the person's family owing to the person's absence from home;
- g. Any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
- h. Any such sum as is referred to in section 112 of the Social Security Contributions and Benefits Act 1992 (certain sums to be earnings for social security purposes);
- i. Any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
- j. Any remuneration paid by or on behalf of an employer to the person who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because of illness;
- k. The amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001.

3.27. Earnings in relation to an employed earner do not include:

- a. Any payment in kind, with the exception of any non-cash voucher which has been taken into account in the computation of the person's earnings – as referred to above;
- b. Any payment made by an employer for expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
- c. Any occupational/personal pension.

3.28. Earnings in the case of employment as a self-employed earner mean the gross receipts of the employment. This includes any allowance paid under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 to the person for the purpose of assisting the person in carrying on his business.

3.29. Earnings in the case of employment as a self-employed earner do not include:

- a. Any payment to the person by way of a charge for board and lodging accommodation provided by the person;
- b. Any sports award.

3.30. Earnings also include any payment provided to prisoners to encourage and reward their constructive participation in the regime of the establishment, this may include payment for working, education or participation in other related activities.

Benefits

3.31. The Council will take most of the benefits people receive into account. Those the Council will disregard are listed below. However, the Council will ensure that in addition to the minimum guaranteed income or personal expenses allowance – details of which are set out below – people retain enough of their benefits to pay for things to meet those needs not being met by the Council.

3.32. Any income from the following sources will be fully disregarded:

- a. Direct Payments;
- b. Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme;
- c. The mobility component of Disability Living Allowance;
- d. The mobility component of Personal Independence Payments.

3.33. Please refer to Table 1 below which details benefits that will be included in the assessment and benefits which will be disregarded in part or in full for people living in a 'Care Home Setting' and 'Any Other Setting'.

Care Home Setting	Any Other Setting	Table 1 Name of Benefit
Attendance Allowance, including Constant Attendance Allowance	Included I thought they stopped receiving AA when in a perm care home? If a person goes in for a temporary period this benefit will be disregarded in full.	Included The Night Care element when the benefit is paid at the higher rate, will be disregarded if the care and support package does not include care during the night. Night services are defined as the period from when the household closes down for the night. Dressing in the morning and undressing before going to bed are daytime activities.
Disability Living Allowance (Care component)	Included As above If a person goes in for a temporary period this benefit will be disregarded in full.	Included The Night Care element when the benefit is paid at the higher rate, will be disregarded if the care and support package does not include care during the night. Night services are defined as the period from when the household closes down for the night. Dressing in the morning and undressing before going to bed are daytime activities.
Personal Independence Payment (Daily Living component)	Included As above If a person goes in for a temporary period this benefit will be disregarded in full.	Included with a disregarded element The Night Care element when the benefit is paid at the higher rate, will be disregarded if the care and support package does not include care during the night.

Appendix [D]: Household Related Expenditure (HRE)

What is HRE?

4.1. Household related expenditure is the cost incurred by the service user in maintaining their home. For this purpose the “home” is the service user’s main place of residence. Allowable housing costs (e.g. rent/mortgage/council tax) will only be allowed in the financial assessment where the service user is liable to pay these costs. Where the service user is not liable for these costs, but contributes towards these through a private board agreement or similar, then the service user will be expected to meet this expenditure from their guaranteed income

What expenditure can be taken into account?

4.12. The following items of HRE are fully taken into account in the financial assessment:

- **Council Tax** (net of Council Tax support)
- **Rent** (if payments are classed as rent for housing benefit purposes, amount taken into account is net of housing benefit if in payment)
- **Mortgage Payments** (unless paid through Income Support/Pension Credit)
- **Ground Rent Hire purchase** agreement to buy the home (e.g. caravan)
- Any other items of reasonable household expenditure that the service user wishes to claim for will need to be evidenced and included in the financial assessment form that is completed.

Appendix [E]: Disability Related Expenditure (DRE)

5.1. Disability related expenditure is the additional cost or costs incurred by the service user, as a direct result of their disability or medical condition.

Service users who are in receipt of care, with the exception of permanent care in a care home, and are in receipt of disability benefits (Attendance Allowance/Disability Living Allowance and Personal Independence Payment) will have a standard rate of DRE automatically applied to their financial assessment in recognition of their disability. The service user will also be invited to request a review of the DRE award within the assessment notification letter, if they feel the standard rate does not meet their current needs

5.2. Only costs incurred and evidenced by the service user will be considered as part of the assessment as allowable expenditure. The Council presently uses guide weekly disregard allowance rates for certain types of disability related expenditure, and usually these are treated as maximum amounts that can be disregarded in the financial assessment calculation.

5.3. However, individual circumstances are taken into account, and reasonableness is applied during the financial assessment determination process based on the information and evidence provided.

5.4. The Council has the right not to allow costs that should be met by other agencies, such as the NHS. This applies to therapies such as physiotherapy, chiropody and incontinence pads.

5.5. The Council will consider the following DRE within the financial assessment calculation:

- payment for any community alarm system;
- excessive laundry costs, bedding etc. due to incontinence. However, the Council will not make allowances at a higher rate where a reasonable alternative is available at a lower cost;
- heating or metered water costs, above average levels for the area and housing type, occasioned by age, medical condition or disability; special clothing and footwear; special medically advised dietary needs;
- reasonable costs of basic garden maintenance, cleaning or domestic help, if such is necessitated by the service user's disability and is not already met; reasonable costs paid to a personal assistant (not a household member) who carries out necessary tasks, for example, around the house;
- purchase, maintenance and repair of disability related equipment, including equipment or transport needed to enter or remain in work; this may include, for example, IT costs, where necessitated by the disability;
- specialist internet access, for example, for blind and partially sighted people; transport costs necessitated by illness or disability, including costs of transport to day centres, over and above the mobility component of DLA or PIP, if in payment. Where the Council provides transport and the service user wishes to use alternative transport at a higher cost, the cost of Council provision will be used to determine any allowance
- All other expenditure will usually be assessed as either an everyday living cost, or will be reviewed as a specific need against the service users' care and support plan, taking individual circumstances into account.

5.6. Expenditure which is the responsibility of another organisation (such as the NHS/PCT) will not be considered as DRE by the Local Authority. Examples of this includes but is not limited to:

- a. Physiotherapy
- b. Travel to and from Hospital

5.7. In assessing disability-related expenditure, the authority should include the following (which costs may need to be evidenced):

- a. Payment for any community alarm system (net of Housing Benefit or Supporting People Grant)
- b. Costs of any privately arranged care services provided it is agreed necessary to meet eligible social care needs, including respite care
- c. Costs of any speciality items occasioned by disability, e.g.:
 - i. Specialist washing powders or laundry
 - ii. Additional costs of special dietary needs due to illness or disability (the user may be

asked for permission for us to approach their GP in cases of doubt)

iii. Special clothing or footwear, for example, where this needs to be specially made, or additional wear and tear to clothing and footwear caused by disability

iiii. Additional costs of bedding, for example, because of incontinence

iv. Any heating costs or metered costs of water, above the average levels for the area and housing type, occasioned by age, medical condition, or disability

vi. Reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by the individual's disability and not met by social services

vii. Purchase, maintenance, and repair of disability-related equipment, including equipment or transport needed to enter or remain in work, this may include IT costs, where necessitated by the disability; reasonable hire costs of equipment may be included, if due to waiting for supply of equipment from the local council

viii. Personal assistance costs, including any household or other necessary costs arising for the user

ix. Other transport costs necessitated by illness or disability, including costs of transport to day centres, over and above the mobility component of DLA, if in payment and available for these costs. In some cases, it may be reasonable for council not to take account of transport e.g. council-provided transport to day centres is available but has not been used

x. In other cases, it may be reasonable for Council not to allow for items where a reasonable alternative is available at lesser costs. For example, private purchases of incontinence pads, as these are available from the NHS.

Appendix [F]: Deferred payments

If you need to pay for your care but can't access all your money (for example, because it is tied up in a property you own) then a deferred payment agreement might be the right option for you.

Deferred payments have been introduced nationally as part of the Care Act and mean that people should not have to sell their homes to pay for their care, as they have sometimes had to do in the past.

With a deferred payment agreement we pay an agreed part of your weekly care and support bill for as long as necessary. You also pay a weekly contribution towards your care – that you have been assessed as being able to pay – from your income and other savings.

You can delay repaying us until you choose to sell your home, or until after your death.

How to find out if you are eligible for a deferred payment agreement Deferred payment agreements will suit some people's circumstances better than others and not everyone will be eligible. You should be eligible for a deferred payment agreement if you:

- are receiving care in a care home (or you are going to move into one soon)
- own your own home (unless your partner or certain others live there)
- have savings and investments of less than £23,250 (not including the value of your home or your pension pot).

Use the online calculator on our website (link below) to give you an indication to whether you would be eligible to apply for a deferred payment and the amount you may receive.

The calculator does not replace our financial assessment.

<https://www.lewisham.gov.uk/myservices/socialcare/adult/money/Pages/Deferredpayments-scheme.aspx>

When to repay a deferred payment agreement

You have the option to sell your home and pay us back at any point. Or you can have a deferred payment agreement for the full length of your stay in a care home and pay it back out of your estate, following your death.

The amount you can defer by having a deferred payment agreement

The amount you can defer will depend on the value of your home, which determines your equity limit. As a guide, most people can use 80% to 90% of the equity available in their home.

The limit on equity is to protect you from not having enough money to pay for the costs of selling the property (like solicitor fees) and to protect us against a drop in housing prices and the risk that it may not get all the money back.

Applying for a deferred payment agreement if your spouse or civil partner lives in your house

If you need to move into a care home but your partner lives in your home then we will consider your partner's circumstances as well as your own.

Provided your partner lives in your home as their main or only home, and you are not estranged or divorced, then we will exclude the value of your home when it assesses your finances to work out how much you will have to pay for care and will not need a deferred payment agreement.

If you and another person part-own your property (and is disregarded) and you would otherwise be eligible for a deferred payment, we can consider a deferred payment.

How to pay

There are lots of different ways to pay.
Just choose the method that suits you best.

PayPoint

Take your invoice and payment (cash only) to anywhere that displays the PayPoint sign. At the PayPoint they will scan the barcode on the front of your invoice and ask you the amount you want to pay. Please give the amount stated on your invoice. To find your nearest PayPoint visit: www.paypoint.co.uk/locator



Please allow three working days for the payment to reach us.

Post Office

Take your invoice and payment to any Post Office. You can pay by cash, debit card and cheque only. You cannot pay by credit card. Cheques should be made payable to Post Office Ltd. At the Post Office they will scan the barcode on the front of your invoice and ask you the amount you want to pay. To find your nearest Post Office visit: www.postoffice.co.uk



Please allow three working days for the payment to reach us.

Debit or credit card

You can pay with most debit or credit cards except Diners Club and American Express.

You can make a payment at www.lewisham.gov.uk. Select 'pay it' and choose the service you wish to pay for. You will need to log in to the payment system or first time users will need to register. Enter your invoice number when prompted for the reference number. When paying for more than one invoice you will need to pay for each invoice separately.

Overdue invoices – commercial customers

We reserve the right to claim statutory interest at 8% above the Bank of England reference rate in force on the date the debt becomes overdue and at any subsequent rate where the reference rate changes and the debt remains unpaid in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 as amended and supplemented by the Late Payment of Commercial Debts Regulations 2013.

By phone

You can make a credit or debit card payment through our touchtone service by phoning 020 8690 8707 (option 6). Please ensure you have your invoice number(s) when you phone.

Bank transfer

You can pay your invoice with an electronic transfer (BACS) from your bank or building society.

In your instruction to your bank, please include:

- Barclays Bank Plc
1 Churchill Place, Canary Wharf,
London E14 5HP
- sort code 20 00 00
- account number 93380513
- your invoice number only as the reference

When paying electronically please send a remittance advice quoting the invoice number(s):

Lewisham Council
Financial Transactions Team
3rd Floor Laurence House
Catford, London SE6 4RU

Or email:

cashcontrolteam@lewisham.gov.uk

Please allow five working days for the payment to reach us.

Direct Debit

Direct Debit is a quick, simple and safe way to pay and means you can spread the cost of your invoices over the year. The payment will be automatically collected from your account on a specified date. If you wish to pay by direct debit please call the Debtors Collection team on 020 8314 3633 Monday–Friday 9am–4.30pm to request a mandate.

If you have difficulty understanding this document in English please call the number below.

Për të marrë informacion mbi këtë dokument, ju lutemi telefononi numrin e mëposhtëm.
Albanian

Pour plus d'informations sur ce document, veuillez appeler le numéro ci-dessous.
French

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请拨打如下电话。

Mandarin

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Somali

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Tamil

Bu doküman hakkında bilgi için lütfen aşağıdaki numarayı arayınız.

Turkish

Để biết thêm thông tin về tài liệu này, quý vị hãy gọi số điện thoại sau.

Vietnamese

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Communications Unit.
Ref: 262-1f/Debt

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