

NORTH LINCOLNSHIRE COUNCIL

PEOPLE CABINET MEMBER

FINANCIAL FRAMEWORK FOR ADULTS RECEIVING COMMUNITY SOCIAL CARE

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To approve the changes to the financial framework for adults receiving community services to be implemented from 1 September 2014.
- 1.2 The financial framework complies with national guidelines and enables preparation for implementation of the Care Act 2014.

2 BACKGROUND INFORMATION

- 2.1 Councils have a statutory duty to provide financial support to residents with assessed care needs to enable them to fund their packages of care. For people in residential care determination of an individual's financial means is based on statutory guidance 'Charging for Residential Accommodation Guide' (CRAG). For people who are cared for in their own home 'community services' the council sets out how the determination of an individual's financial circumstances is undertaken using national guidelines. This report relates to the framework for financial support for people who are receiving care in their own home.
- 2.2 The process of assessing the level of subsidy applicable to a person's cost of care requires a determination of their financial circumstances. This assessment considers their assets, capital, and overall income before applying various disregards. The person's level of contribution is then calculated by comparing their financial circumstances to the cost of their care and support package.
- 2.3 This report outlines proposals to update the council's Community Contributions Policy in readiness for the implementation of the Care Act 2014.
- 2.4 The Care Act 2014 incorporates recommendations of the Dilnot review of the cost of social care. The Care Act 2014 proposes to introduce a cap on the costs that people have to pay to meet their assessed needs; therefore from April 2016 the cap will be set at £72,000 for people of state pension age and over. Financial support will continue to be available from April 2016 and new charging guidance will be published.
- 2.5 The report sets out options to move the local financial framework closer to the national norm and to provide a smoother transition for people when the Care Act 2014 is enacted.

3 OPTIONS FOR CONSIDERATION

Option 1

- 3.1 Revise and update the policy 'Financial Framework'.

The key changes cover the following:

3.1.1 Update the Treatment of Capital

Long Term Investments: It is proposed for clarity and consistency to adopt the national norm and use the rules on eligible capital and savings as defined in The Charging for Residential Accommodation Guide.

3.1.2 Approve the Local Buffer:

The local policy supports an income buffer of 15% in addition to the national guidance requirement of 25% equating to 40%.

3.1.3 Approve maximum contribution:

The financial framework sets a maximum level of contribution to an individuals cost of care. It is proposed that the maximum level be maintained at £250 per week.

4 ANALYSIS OF OPTIONS

Option 1 **Revise and update the policy: Financial Framework**

- 4.1 The policy revisions are in line with existing national guidelines published by the Department of Health in respect of charging for non residential adult social care services.
- 4.2 The policy revisions will bring the Community Services financial assessment in line with that of Residential Care thus enabling an equality of choice for people to remain independent for as long as possible.
- 4.3 The implementation of the new framework will enable better preparation to be made for the national policy changes in respect of cost of care. This will help service users in the transitional arrangements.
- 4.4 The changes complement plans to complete financial assessments earlier in the person's care journey so that they are better informed about the options available to them.
- 4.5 Long Term Investments: Financial products have changed considerably since 2004 and therefore the exclusion of long term investments from the assessment can be open to challenge as it discriminates on the basis of financial products not any substantive difference between individuals ability to contribute.
- 4.6 This change brings equity to the financial circumstances considered for people with a residential care package. The community contributions assessment also takes account of any costs related to someone's disability to ensure the most vulnerable have resources to meet those needs.
- 4.7 The local buffer is designed to ensure individuals have a basic level of income to live on. This is set nationally based on the basic level of income support, allowances and premiums according to age, level of disability and family status or the appropriate Guarantee Credit of Pension Credit plus 25%. North Lincolnshire currently supports an additional buffer added of 15%. The total local buffer of 40% supports the council's aim of protecting our most vulnerable by supporting people to remain living at home for as long as they choose.
- 4.8 The policy will be implemented for new community services users from 1 September 2014. For existing users their financial circumstances will be re-assessed during 2015.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 Financial implications – Contributions from service users are planned for in the existing budgets.
- 5.2 Staffing implications – None
- 5.3 Property implications – None
- 5.4 IT implications – None

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (if applicable)

- 7.1 There are no diversity issues for specific groups but there is awareness that individuals will have differing abilities to cope with the complexities of their personal financial situation. This is addressed as part of the assessment processes.
- 7.2 The policy proposals fit with the existing national guidance and the national policy direction outlined in the Care Act 2014. The policy revisions support more efficient and effective administration of financial assessments; can demonstrate fairness to all individuals and groups and can demonstrate value for taxpayer's money.

7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTEREST DECLARED

- 7.3 The Department of Health undertook extensive consultation with service users, carers' national organisations and charities when producing the original 'Fairer Contributions Guidance' with which these proposed changes conform.
- 7.4 The Dilnot Commission and Government have undertaken extensive engagement with the public and interest groups in developing the Care Act 2014 with which these proposals are in keeping.
- 7.5 The proposals reflect learning from officer engagement with other professionals regionally and nationally to consider best practice and learn from what has worked well elsewhere.
- 7.6 Local consultation has been undertaken with representatives from three 3rd Sector organisations that provide benefits and other advice to the public and in particular vulnerable adults and their carers. This independent group of professionals were supportive of the proposed policy and operational application of the policy which are aimed at streamlining and simplifying community contributions in particular the move to complete financial assessments earlier in the person's care journey. They also recognised the value of incremental changes to policy, which begin a transition towards the Care Act 2014 implementation.

8. RECOMMENDATIONS

- 8.1 That Cabinet Member approves the policy 'Financial Framework for Adults Receiving Community Services' to be implemented from 1 September 2014.
- 8.2 That Cabinet Member approves the local buffer rate at 15% above the national guidelines and the maximum contribution for 2014-15 at £250 per week.

DIRECTOR OF PEOPLE

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Background Papers used in the preparation of this report:

Fairer Charging Policies for Home Care and other non-residential Social Services (Department of Health 2001)

Fairer Contributions Guidance - Calculating an Individual's Contribution to their Personal Budget (Department of Health July 2009)

Charging for Residential Accommodation Guide (CRAG) in support of the National Assistance (Assessment of Resources) Regulations 1992.

North Lincolnshire Council Corporate Charging Framework.

Adult Social Services Cabinet Member report April 2010 - Service User Charging System

FINANCIAL FRAMEWORK FOR ADULTS RECEIVING COMMUNITY SERVICES

(NON-RESIDENTIAL CARE SERVICES)

**DRAFT
2014**

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Introduction

North Lincolnshire Council's Financial Framework for Adults Receiving Community Services has been designed to comply with the Government's Fairer Charging and Fairer Contributions Guidance. Its aim is to provide a consistent and fair framework for all customers who receive council funded community based services following an assessment of their individual needs, and their individual financial circumstances.

Contributions towards residential services are governed by the Department of Health Charging for Residential Accommodation Guide (CRAG).

1.0 Legal Basis for Charging

- 1.1 Section 17 of the Health and Social Services and Social Security Adjudications Act 1983 gives local authorities discretionary power to charge adult recipients of day and domiciliary care services.
- 1.2 To ensure consistency and fairness, the Department of Health (DoH) has issued guidance in its publications "Fairer Charging Policies for Home Care and other Non-Residential Services" supplemented by "Fairer Contributions Guidance – Calculating an Individual's Contribution towards their Personal Budget" using powers conferred under Section 7 of the Local Authorities Social Services Act 1970.
- 1.3 The DoH guidance for non residential services provides councils with a framework for the assessment of community contributions, therefore the detail in relation to the treatment of income and capital to be included or disregarded and charging principles for financial assessments is taken from the relevant sections of the DoH 'Charging for Residential Accommodation Guide (CRAG)'.

2.0 Diversity and Equality

- 2.1 The council is fully committed to the principles of social justice and is opposed to any form of discrimination and oppression. It therefore willingly accepts not only its legal responsibilities but also wishes to embrace best practice in all areas of its work in order to secure equality of both treatment and outcome.
- 2.2 The council is committed to ensuring that no one is treated in any way less favourably on the grounds of personal differences such as age, race, ethnicity, mobility of lifestyle, religion, marital status, gender, sexual orientation, physical or mental impairment (disability), caring responsibilities and political or other personal beliefs.

3.0 Framework Objectives

3.1 The principles underpinning this Framework are:

- **Our services promote independent living within the community;**
- **Support for people to utilise their resources and liberate control and choice over their care needs;**
- **The framework is clear and understandable and promotes fairness and equity to all customers;**
- **The framework enables choices that are based on fairness;**
- **All customers will be offered appropriate welfare benefits advice, and support to claim any additional benefits they may be entitled to;**
- **Charging for services is consistently applied, financial assessments are fair, and any contributions are affordable;**
- **Information regarding the cost of the service, contribution calculations, the assessment process and payment methods and debt recovery is clear;**
- **That there will be a process for appeals that is simple and timely;**
- **That contributions will be re-assessed whenever there is a change in the customers' financial circumstances or the cost of services being provided**
- **Service delivery must demonstrate value for money and contributions towards the cost of services must be applied where applicable.**

4.0 Services Covered by the Framework

4.1 As defined within "Fairer Charging for Home Care and Other Non-Residential Social Services", local authorities have the discretion to charge for providing services. This Framework outlines how a financial assessment will be undertaken in order to determine the levels of subsidy available to individual customers who are assessed as being eligible for the following services:

- personal care – care and support in their own home, or in the community on a 1:1 basis;
- Day care activities services provided away from a person's home in a group setting, including supported employment that does not lead to paid employment;
- Supported Living – where a person is residing, and receive support in a supported living environment;
- Direct payment of a personal budget – including for planned short breaks whether in a residential setting or not;

4.2 In accordance with the Community Care (Delayed Discharges etc.) Act (Qualifying Services) (England) Regulations 2003 Regulation 4) Intermediate and reablement care is provided free of charge for initially up to 6 weeks. "Intermediate care" means a qualifying service which consists of a structured programme of care provided for a limited period of time to assist a person to maintain or regain the ability to live in his home." People who meet the North Lincolnshire criteria for reablement are not required to contribute to their service. This includes both care home and community reablement services. At the end of the reablement period any

services that are received will be subject to the council's normal contribution rules and this Framework will be applied for services in the home or the community.

- 4.3 North Lincolnshire Council administers adult social care resource for longer-term needs in the form of personal budgets. Details of how a personal budget is determined are included in *Factsheet 2 - Planning The Way I Want To Live* or visit the [Connect to Support Website](#)
- 4.4 The following services are free of charge and therefore are outside the scope of this Framework:
- social work support;
 - occupational therapy;
 - information and advice;
 - intermediate care (reablement, see 4.2);
 - assessment and care management services;
 - aftercare provided under Section 117 of the Mental Health Act 1983. Customers receiving care that is not part on an aftercare plan will be assessed to contribute towards that care;
 - services for people suffering from Creutzfeldt Jacob Disease
 - services that are the responsibility of the NHS (e.g. Continuing Health Care funded at 100%).

5.0 Reduced level of Contribution – Financial Circumstances Test

- 5.1 A charge based on the full cost of provision will be made for the services listed in Section 4.1. Prior to the commencement of any of those services the customer will be informed that they will be charged the full cost if they are not eligible for council funding or do not apply for a reduced contribution. In order to apply for a reduced contribution the customer will need to disclose their personal financial details so the council can undertake a financial assessment.
- 5.2 With the customers permission the relevant caseworker will request a financial assessment which includes checking that the customer is accessing all relevant benefit entitlements. This is ideally done before the customer starts receiving care.
- 5.3 The financial assessment will take into account a person's income, any capital assets (except where they own the home they live in), and will allow for any eligible disability related expenses.
- 5.4 There is no upper capital limit applied within the Community Contributions. This means that whatever level of capital assets a person may be eligible for reduced costs of care (the council does follow the capital rules in CRAG for care home placements). If a customer chooses not to disclose details of their financial circumstances it is not possible to assess for eligibility for a reduced contribution, therefore there will be no alternative other than charging the full cost of the services provided.

- 5.5 The following is a list of items that are considered as capital but is not exhaustive:
- bank and building society balances;
 - cash;
 - premium bonds;
 - stocks, shares and investment bonds (excluding bonds with an element of life insurance);
 - owned property (except the property the person normally lives in);
 - land;
 - unit trusts;
 - Trust funds (except those set up and administered by the Court of Protection).

5.6 The financial assessment takes into account the following income:

- State Retirement Pension;
- Occupational/Private Pensions;
- Incapacity Benefit;
- Disability Living Allowance Care Component – Personal Independent Payment;
- Jobseekers Allowance;
- Employment and Support Allowance;
- Attendance Allowance;
- Income Support and the Guarantee Credit Element of Pension Credit;
- Income from investment bonds;
- Tariff income from savings (as determined in CRAG)

The following are examples of types of income that will be noted but disregarded from the financial assessment:

- Earnings from paid work;
- Mobility component of Disability Living Allowance;
- Working or Child Tax Credit;
- Carer's Premium;
- Savings Credit element of Pension Credit;
- War Disablement and War Widow Pensions;
- Guaranteed Income Payments (GIPs) made under the Armed Forces Compensation Scheme (AFCS) to disabled ex-service personnel
- Compensation Payments (as detailed in CRAG);
- The higher rate element of Disability Living Allowance or Attendance Allowance if care is not provided during the night;
- Guaranteed Income Payments

5.7 Income will be assessed after deduction of any Income Tax and National Insurance contributions payable and after deduction of housing costs and Council Tax. Housing costs and Council Tax should be assessed after deduction of any Housing Benefit or Council Tax Benefit payable.

5.8 The financial assessment will require information about any additional expenditure that is incurred as a direct result of any disability. In order for these expenses to be disregarded evidence of this additional expenditure must be submitted. A guide to Disability Related Expenditure is set out in operational guidance and updated annually.

- 5.9 To ensure that all customers have adequate money to live on after their care needs are met, the assessment will ensure that they have the equivalent of the basic level of income support plus 25%. This is known as a buffer and is added on to the basic level of income support, allowances and premiums according to age, level of disability, and family status or the appropriate Guarantee Credit or Pension Credit. In addition a local buffer of 15% is also applied so that only 85% of the person's net income is included in the assessment.
- 5.10 All customers will be asked to sign a form to authorise the council to obtain benefits information from the Department of Work and Pensions, Job centre Plus, Disability Benefits Centres, Pensions Service and the council's benefits section.
- 5.11 The contribution will be based on the full cost of the services provided to the person up to a weekly maximum. This will be set annually and for 2014-15 is £250 per week.
- 5.12 Customers will be informed in writing of their level of subsidy and contribution value within 21 working days of all relevant information being made available.
- 5.12 All customer contributions will be reassessed each year following the changes in rates of state benefits each April and the customer will be notified in writing of the date from which the revised contribution will apply.
- 5.13 Customers should inform the council immediately if there is a change in their financial circumstances. This will prompt a review of eligibility for council funded care and if applicable the liability to contribute towards the cost reassessed.
- 5.14 If a person fails to promptly disclose a change in their financial circumstances, which would affect their eligibility for a subsidy, or the level of their subsidy the council will backdate the reassessment and make a charge for services that should have been paid for.
- 5.15 Longer-term customers who have a planned care review will be asked about their personal finance situation and any changes that may affect their contribution. This will also provide an opportunity to discuss any payment issues.

6.0 Financial Assessment Considerations

6.1 Deprivation of assets

Deprivation is the disposal of capital assets (both property and investments) in order to avoid or reduce care charges. Disposal could take the form of transfer of ownership or conversion into a disregarded form, and will be treated as notional capital when calculating non-residential care contributions. The council recommends that people seek independent legal advice if they are considering taking this course of action as prior to receiving or whilst in receipt of care as any disposal may also affect their eligibility for funded residential or nursing care if you need it in the future, and their entitlement to welfare benefits.

6.2 Dependent Children

The assessment of contributions will take into account dependent children. Any additional allowance will be based upon individual customer circumstances, and the council reserve the right to disregard income as appropriate.

6.3 Treatment of Couples / Partners income and assets

For the purposes of this Framework a service user will be financially assessed on their sole income, savings and capital assets. However, if there are savings and capital held jointly with another person it will be assumed that 50% belongs to the social care customer unless proven otherwise. A couple is defined (for administration of their financial affairs) as two people living together as spouses/civil partners/partners.

6.4 Home Owners and other Property

If a person owns the home they normally live in, it will not be considered a capital asset under this Framework and will not be taken into consideration in the financial assessment for community (non-residential care) services. Customers that own or have a financial interest in other properties will have the value of each property included as capital within the financial assessment.

6.5 Independent Living Fund

Customers in receipt of Independent Living Fund (ILF) funding will have this taken into consideration as part of the assessments process as being excluded.

7.0 **Payment of Contribution**

7.1 The customer's application for a reduced contribution should normally be within 21 days of the start of a chargeable service. Whilst allowance for personal circumstances will be made, the council reserves the right to apply the contribution from the date of the financial assessment forms being signed by the customer or their representative.

7.2 Once the contribution has been determined, the customer is notified of the amount they are required to contribute and how to pay. This will vary depending on the type of service that is required and the level of contribution that has been determined.

8.0 **Ability to pay**

8.1 Where the customer wishes to query the level of the contribution or the accuracy of the calculations they can approach the financial assessor directly or via their caseworker. The council will review its assessment within 21 days and may ask for more information.

8.2 Where after a review of the assessment or the Severe Hardship Guidance has been applied the customer remains dissatisfied the complaints Policy should be used.

8.3 If a person declines to provide their financial information or engage in any review process the council will have no alternative but to charge them the full cost for their services.

8.4 Any customer who has concerns about this Framework or its application can, at any time, make use of the council's complaints policy. (See Schedule 2 for more information)

9.0 Debt Management Process

- 9.1 Each customer is individually assessed on their ability to contribute towards the cost of their care.
- 9.2 Whilst the council will ensure that any arrears are pursued in a timely manner, and in a firm but fair way, it does recognise that the management of outstanding debt for certain individuals will require a more sensitive approach.
- 9.3 To enable customers to understand this approach, there is a detailed and staged recovery process that will be followed to ensure that all preventative action has been taken. This process is outlined in the Debt Recovery Policy.

Schedules

Schedule 1 – Summary of Services, Applicable Contribution and payment options

Service	Contribution Type	Guidance	Payment Options
Assessment, care management, social work, information and advice	No charge		N/A
Care home (residential and nursing)	Means Tested Contribution	CRAG	Following assessment the contribution will be payable direct to the care home. The Council will pay the care home for its contribution to the package where applicable.
Community Based Services: Personal Care in the home Direct Payments - Personal Budgets Day care activities Supported living	Means Tested Contribution	North Lincolnshire Financial Framework for Community Services in conjunction with Fairer Charging Policies	Council package of service – the contribution shall be payable to the council monthly for example by standing order, Girobank Personal Budgets – the cash payment will be the balance of total personal budget less contribution (i.e. customer retains their own income to purchase care and support)
Intermediate and Reablement	People who meet the criteria for reablement are not required to contribute		No contribution payable. At the end of the reablement period any services that are received will be subject to the council's normal contribution rules and this Framework will be applied for services in the home or the community.

Schedule 2 - Charges for Community (non-residential) services – routes of appeal

Under section 17 (3) of the Health And Social Services And Social Security Adjudications Act 1983 (HASSASSA) customers have the right to request a review of their contribution if they consider that the calculation is incorrect, that it is unfair or that it is not affordable. The service user must satisfy the council that they have insufficient means for it to be reasonably practicable to pay for the service the amount, which they would otherwise be obliged to pay before consideration can be given to a charge being amended to the reasonable level.

Fairer Charging guidance requires that careful consideration is given to any request for a contribution to be reviewed and emphasises that any consideration to reduce or waive a contribution must take account of the circumstances of the customer, and the possible implications for other customers.

Where the customer wishes to query the level of the contribution or the accuracy of the calculations they can approach the financial assessor directly or via their caseworker. The council will review its assessment and may ask the customer for more information relating to household income and expenditure, together with any other information that will substantiate and support the request.

If a person declines to provide their financial information or engage in any review process the council will charge them the full cost for their services.

If a customer believes that they are unable to afford the calculated contribution and paying it would result in financial hardship Severe Hardship Guidance will be applied.

Where after a review of the assessment and/or the Severe Hardship Guidance has been applied the customer remains dissatisfied the complaints Policy should be used.

Any customer who has concerns about this Framework or its application can, at any time, make use of the council's complaints policy.

Schedule 3 – Summary of publications referred to in this Framework

Health And Social Services And Social Security Adjudications Act 1983:

<http://www.statutelaw.gov.uk/content.aspx?LegType=All&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmendment=0&sortAlpha=0&PageNumber=0&NavFrom=0&activeTextDocId=2109217&parentActiveTextDocId=0&showAllAttributes=1&hideCommentary=0&suppressWarning=0&versionNumber=1>

Fairer Charging Policies for Home Care and other Non-Residential Services

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4117930

Fairer Contributions Guidance – Calculating an Individual’s Contribution towards their Personal Budget

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_121224

Local Authorities Social Services Act 1970

http://www.google.co.uk/url?q=http://www.england-legislation.hmso.gov.uk/acts/acts1970/pdf/ukpga_19700042_en.pdf&sa=U&ei=eYfmTI7ZJ4nQhAexvYDSDA&ved=0CBEQFjAA&usq=AFQjCNF4-cZAWuFVL0YkQMSTLko3WoWt0w

Mental Health Act 1983

<http://www.cqc.org.uk/guidanceforprofessionals/mentalhealth/workingwithpeoplewhoserightsarerestricted/mentalhealthact1983.cfm>

Charging for Residential Accommodation Guidance (CRAG)

http://www.dh.gov.uk/dr_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_115533.pdf

Section 46 NHS and Community Care Act 1990

<http://www.legislation.gov.uk/ukpga/1990/19/contents>

Chronically Sick and Disabled Persons Act 1970

<http://www.opsi.gov.uk/acts/acts1970a>