

**Adult Social Care Non-Residential
Charging Policy**

Live from: 01.04.2024

Live until: 31.03.2027

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1. Summary

- 1.1 In accordance with the Council's financial regulations and the Care Act 2014, the policy sets out the legal and regulatory context, the financial assessment process and the review and appeals process for non-residential charging. It provides a fair and transparent framework consistent with the Council's wider fees and charges and debt management protocols.
- 1.2 Any conflict between the policy and legislation will be resolved by reference to the legislation.

2. Context

- 2.1 The Care Act 2014 provides a single legal framework for charging for care and support under Sections 14 and 17. It enables a local authority to decide whether to charge a person when it is arranging to meet a person's care and support needs or a carer's support needs. The framework is intended to make charging fairer and more clearly understood by everyone.
- 2.2 The Statutory government guidance – Fairer Charging Policies for Home Care and other non-residential Social Services, is in place to ensure that all charges are fair, and that service users' incomes are not reduced below defined limits as a result of charging. This policy has been produced in accordance with that guidance.

3. Purpose

- 3.1 The purpose of this policy is to provide clear guidance for all Council officers, partners and Middlesbrough residents on the Council's approach to ensure consistency of assessment, fairness and clear and transparent charging for non-residential care.
- 3.2 It also promotes wellbeing, social inclusion, and supports the Council's vision for social care of personalisation, independence, choice and control having regard to the principles provided in the statutory guidance.

4. Objectives

- 4.1 The Council's non-residential charging policy achieves the following objectives:
 - i. To provide a framework that sets the criteria and process for financial assessment of non-residential care charges ensuring consistency and fairness of approach;
 - ii. To ensure consistency and equity so that those with similar needs and in similar financial circumstances are treated equally.
 - iii. To provide a clear, transparent and comprehensive guide on how the charge for care is made.
 - iv. To ensure the sustainability of adult social care services in Middlesbrough.

5. Outcomes

- 5.1 The outcomes expected are that:

- i. Service users are charged the correct and fair amount for their non-residential care.
- ii. Financial assessments are determined within 28 days provided all supporting evidence is provided.
- iii. Service users are informed and clear about what they will be required to pay towards the costs of their care and support.
- iv. Those service users who wish to stay in or take up paid employment are encouraged to do so if able.

6. Definitions

- 6.1 **Attendance Allowance (AA)** is a benefit that you might be able to claim if you need help with care or have an illness or disability.
- 6.2 **Disability Living Allowance (DLA)** is extra money you might be able to claim for your child if they have a health condition or physical or mental disability and are under 16.
- 6.3 **Disability Related Expenses (DRE)** are extra costs that a person may have to pay because of their disability or care need. DRE only relates to non-residential care and to people who have been assessed to contribute towards the cost of their care.
- 6.4 **Minimum Income Guarantee (MIG)** is an amount set aside to ensure you keep a level of income to cover your everyday living expenses when you receive local authority arranged home care.
- 6.5 **Personal Independent Payment (PIP)** is a benefit for people who need help with daily activities or getting around because of a long-term illness or disability.

7. Scope

- 7.1 This policy applies to all service users who receive local authority arranged home care and require financial help and support to sustain living in their own home. The policy will apply to all non-residential care services, whether taken as a Direct Payment, Virtual Budget or a managed service arranged by the Council.

8. Legislative and Regulatory Framework

- 8.1 The key elements of the legislative and regulatory framework are set out below:

The Care and Support (Charging and Assessment of Resources) Regulations 2014	Provides the local authority with the legal authority to set local social care charges.
Care and Support Statutory Guidance, Department of Health, 2014	Provides Local Authorities with a framework to ensure that care charging policies are fair, reasonable, transparent and consistent.
The Care Act 2014	Provides a single legal framework for charging for care and support under Sections 14 and 17. It enables a local authority to decide whether or not to charge a person when it is arranging to meet a person's care and support

	needs or a carer's support needs. This framework is intended to make charging fairer and more clearly understood by everyone.
Equality Act 2010.	The 2010 Act is an amalgamation of previous anti-discrimination laws. It is a law which protects from discrimination of unfair treatment on the basis of certain personal characteristics such as age.
General Data Protection Regulation 2016 (GDPR) and Data Protection Act 2018 (DPA2018)	The GDPR / DPA2018 place a duty on local authorities to comply with the data protection principles relating to processing of personal data: (1)(a) Lawfulness, fairness, and transparency; (1)(b) Purpose limitation; (1)(c) Data minimisation; (1)(d) Accuracy; (1)(e) Storage limitation; (1)(f) Integrity and confidentiality (security); (2) Accountability (including the rights of data subjects).
Freedom of Information Act (FOIA) 2000	Under the FOIA, a local authority has a duty to make information available to the public upon request, unless specific exemptions apply. It is also obliged to proactively and routinely publish information that has been frequently requested in the past in its Publication Scheme.
Local Government Acts 1972, 1985, 1988 and 1992, Lord Chancellor's Code of Practice on Records Management (S46 Freedom of Information Act)	The Acts establish requirements for the management of records and information and gives implied authority to share certain kinds of information with partners.
Care Act 2014 and Statutory Guidance Annex D	The Act by which the local authority is authorised to charge for social care support; and the rules imposed on the local authority regarding recovery of such debt.
Family Law Act 1996	An Act of Parliament governing divorce and marriage.
Safeguarding Vulnerable Groups Act 2006	An Act to make provision in connection with the protection of children and vulnerable adults.
Modern Slavery Act 2015	An Act designed to combat modern slavery in the UK.
Tribunal Courts and Enforcement Act 2007	An act which makes provision for tribunals and inquiries, particularly relating to the enforcement of judgments and debts.
Regulation of Investigatory Powers Act 2000 (RIPA)	RIPA governs the use of covert surveillance by public bodies.

9. Roles and Responsibilities

Director of Finance / Chief Financial Officer	Under Part 7 of the Council's Constitution, the Chief Financial Officer (Section 151 Officer) is responsible for regulating and controlling the finances of the Council and hence that person will be responsible for the proper administration of the Council's financial affairs.
Director of Adult Social Care and Health Integration	Responsible for the Council's Adult Social Care and Health Integration service provision.
Head of Service – Resident and Business Services	Policy Owner and overall responsibility for the delivery of Adult Social Care Finance services within the Resident and Business Support Service.
Service Delivery Manager / Strategic Business Managers / Support Services Managers.	Where appropriate, responsibility for overseeing day-to-day compliance with this policy and the standards set out within it by their staff and other personnel they manage or commission.
All staff, contractors, consultants, interns and any other interim or third parties	Responsible for individual compliance with this policy.
Data Protection Officer	Responsible for provision of advice and guidance to the Council on its obligations in relation to data protection.

10. Supporting Policies, Procedures and Standards

10.1 The following policies, procedures and standards support this Non-Residential Charging Policy:

Welfare Support Policy	Provides a framework (inclusive of a number of policies – S13a, Crisis Support, Food poverty, etc.) for a joined-up approach to welfare advice and support service for Middlesbrough residents.
Data Protection Policy	Summarises the Council's Data Protection Policy and how it will comply with legislation, associated codes of practice and official guidance in relation to the processing of personal data.
Records Retention Schedule	Defines how long different records should be retained to comply with legal, regulatory or other requirements and the proper arrangements for archiving and destruction.
Records Management Policy and supporting procedures	Provides a framework for ensuring that the Council's records are well kept and that the systems used to hold them are fit-for-purpose.
Information Security and Infrastructure Security Technical Policies	Set out the policies and standards for the management and maintenance of the security of Council infrastructure and applications.
Vital Records Standards	Sets out how vital records will be identified and the steps to be taken to ensure their protection and preservation.

Vulnerability Policy	Intended for use by Middlesbrough Council employees when engaging with residents/customers where payment of a collectable debt is being considered.
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11. Chargeable Services

11.1 For Council-arranged care and support to meet a person's needs, charges will apply, except where the Council is required to arrange care and support free of charge. These charges will commence from the date when the service started.

11.2 Chargeable services to which this policy applies:

- Home Care
- Personal care
- Domestic Support (where identified as a care need)
- Supported Housing Extra Care
- Sitting Services
- Shared Lives Service and Carer Breaks
- Day Care Services (building-based and in the community)
- Befriending
- Transport
- Respite that is not in a residential care home
- Telecare
- Housing Related Support Services
- Personal Budgets taken as a Direct Payment, virtual budget, or managed service.
- Outreach and Enablement Services
- Support and Recovery Services for carers as outlined in their care plan.
- Joint funded services – service users will be required to contribute towards the total cost of the services funded by the Council.

11.3 Non-Chargeable Service:

- Advice about the availability of services
- Assessment (including community care needs)
- Any services provided as After Care Services under section 117, Section 3 or Community Treatment Order of the Mental Health Act 1983
- Intermediate Care/Support and Recovery/Reablement for a period of up to six weeks
- Services provided to people suffering from Creutzfeldt Jakob Disease

12 Couples (as defined under the Care Act)

12.1 Where only one of a couple is a service user and the couple elects to be assessed individually, then the Council will only have regard to the resources of the service user, unless there are reasonable grounds to suggest that a partner has a resource to which the service user has a legal entitlement e.g., the service user lacks capacity, and their income is being paid directly to the partner. In these circumstances this resource may be taken into consideration.

12.2 Where it would be financially beneficial for the service user and their partner to be treated as a couple then the service user can request a "better off" financial assessment to be undertaken.

13. Financial Assessment

- 13.1 A means-tested financial assessment will be undertaken for all service users who receive chargeable non-residential services to establish their ability to contribute towards the services they receive.
- 13.2 The financial assessment will be carried out by an appropriate officer within 28 days providing all the supporting evidence is available.
- 13.3 If a service user declines a financial assessment or refuses to disclose full financial information, they will be required to pay the full cost of their non-residential care services. Any requests for a backdated assessment will only be considered for a maximum of the 3 months prior.
- 13.4 The basis of the financial assessment is to ensure that service users have sufficient money to meet both their housing costs and their disability related expenditure with a further allowance as a protected income – refer to para 15.1.1.
- 13.5 The financial assessment will consist of:
- i. An assessment of capital and income
 - ii. An assessment of disregards and allowances
 - iii. A comprehensive benefit check
- 13.6 The application form can be completed online at: <https://www.middlesbrough.gov.uk/asc-financial-assessment> or in some circumstances, a home visit can be arranged for the those residents who are considered vulnerable, as outlined in the Council's Vulnerability Policy [att1018260.pdf \(middlesbrough.gov.uk\)](#)
- 13.7 Confirmation of charges will be sent in writing or by electronic means following the completion of the financial assessment and any additional checks that may be necessary. Care charges will apply from the date of when the service commenced.
- 13.8 This section should be read in conjunction with the Care and Support (Charging and Assessment of Resources) Regulations 2014 Annex B (Treatment of capital) and Annex C (Treatment of income). Follow the link here <https://www.legislation.gov.uk/uksi/2014/2672/made>
- 13.9 All service users will have their financial assessment reviewed annually in line with the annual April uprating of benefits by the Department for Work & Pensions.
- 13.10 The Council will apply a lower hourly cost for care and the cost will be published on the Council's website.
- 13.11 Service users will be informed as to the calculations on which the assessment was based. Any changes to income or circumstances that may impact upon any contribution must be reported within 14 days of the change. Service users can request a financial assessment review at any time if they believe their circumstances have changed.

- 13.12 Failure to report a relevant change of circumstances will result in the service user being invoiced for the increased contribution from the date that the change occurred once this has been identified by the local authority.
- 13.13 Whilst the Council will undertake an annual review of all assessments, this does not mitigate the need for service users to report changes in their circumstances – please refer to para 13.12.

14 Assessment of Capital and Income

14.1 Treatment of Capital

14.1.1 The majority of capital is considered in the financial assessment. The following list contains the main capital types that are included; however, this list is not exhaustive:

- i. Bank / Building Society balances
- ii. Stocks and Shares
- iii. Premium Bonds
- iv. National Savings Certificates
- v. Income from any Trust Funds (except for any personal injury funds administered by the High Court, the County Court or the Court of Protection, which income is disregarded)
- vi. The value of the service user's interest in a property that is not their main or only home (the circumstances surrounding this would be considered and legal advice sought on a case-by-case basis if required).

14.2 Capital Limits

14.2.1 The lower limit £14,250 (£28,500 for a couple) below which capital is disregarded in full.

14.2.2 The upper limit £23,250 (£46,500 for couples) from which point the full cost for services provided will apply, and this may also include an arrangement fee.

14.2.3 Services users with capital between the upper and lower capital limits will be treated as having a "tariff" income of £1 for every £250 or part thereof.

14.3 Treatment of Investment Bonds

14.3.1 The value of investments bonds will generally be included in the financial assessment as a capital asset. The main exception to this will be where the bond includes one or more elements of life insurance policies that contain cashing-in rights for total or partial surrender, in which case the value of these rights will generally be disregarded.

14.3.2 The Council recognises that investment bonds can be complex, and it retains the discretion to consider the treatment of these on a case-by-case basis.

14.4 Treatment of income

14.4.1 The majority of income (which also includes most benefits) will be taken in account and are shown below. It should be noted that this list is not exhaustive.

- Attendance Allowance ¹
- DLA Care Component ²
- PIP Daily Living Component
- Carers Allowance
- Employment and Support Allowance
- Incapacity Benefit
- Severe Disablement Allowance
- Income Support
- Job Seekers Allowance
- Pension Credit
- State Retirement Pension
- Industrial Injuries Disablement Benefit
- Occupational (work) Pensions
- Universal Credit (less Payments made for housing costs)
- Income generated from a Personal Injury Award will be included in full whether paid as a lump sum capital payment, monthly income or interest payments.

14.5 Disregarded Income

14.5.1 There are some income types that are fully disregarded – these include:

- All income from earnings or self-employed income
- Child Tax Credit
- Child Benefit (except in circumstances where the adult is accompanied by the child for whom Child Benefit is paid, and accommodation is provided for that child under the Care Act)
- DLA Mobility Component
- PIP Mobility Component
- War Disablement Pension
- War Pensioners Mobility Supplement
- War Widows Payments
- Guaranteed Income Payments made under the Armed Forces Compensation Scheme to disabled ex-service personnel.
- Charitable or Voluntary Payments
- Fostering Allowance
- New Deal payments linked to work-based activity.

14.6 Notional income

14.6.1 There are instances where a person(s) may be treated as having income even if they do not. This is known as notional income. This might include:

- Income that would be available on application, however, has not yet been applied for
- Income that is due but not yet received

¹ DLA (care) and Attendance Allowance is taken into consideration except for the night-time care/enhanced element of the higher rates which will be disregarded unless care is available/provided at night.

² See Footnote 1

- Income that the service user has deliberately deprived themselves of for the purpose of reducing the amount they are liable to pay for their care.
- Where a service user who has reached retirement age and has a personal pension plan but has not purchased an annuity or arranged to draw down the equivalent maximum annuity income that would be available from the plan

14.7 Deprivation of Assets

14.7.1 Following investigation by the relevant officer is found that there is evidence that would suggest a service user has deliberately given away or disposed of assets (capital or income) in order to avoid care charges, then the Council will treat that person as still having those assets.

15 Disregards and Allowances

15.1 Minimum Income Guarantee (MIG)

15.1.1 The Council will ensure that a person's income is not reduced below the equivalent of the value of Basic Income Support/ Pension Credit and will provide an additional 25% (*The additional 25% can be subject to review and can go up or down*)

15.1.2 The MIG is set annually by the Department of Health and is designed to cover a person's usual general living costs such as food, clothing, fuel costs, household bills, pet care, leisure activities and contributions towards household costs.

15.2 Household Expenses

15.2.1 Where applicable the following items of expenditure will be disregarded: (The Council may ask for evidence that demonstrates that payments are being made and/or received).

- Rent after benefit payments.
- Mortgage Payments
- Council Tax after discount and/or reduction
- Court Agreed Maintenance Payments
- Standard non-dependent deductions where the service user is a non-dependent and the tenant/homeowner has housing costs (a standard amount will be disregarded).

15.3 Disability Related Expenditure (DRE)

15.3.1 In addition to the disregards detailed above, an allowance may be made for certain extra costs which arise from the service user's age, disability etc. This is in line with the National Association of Financial Officers (NAFO) and benchmarked information available to the Council. Clear evidence will be necessary to demonstrate where the additional costs are being incurred.

15.3.2 Such additional costs may include:

- Dietary requirements
- Laundry
- Clothing/footwear
- Bedding

- Water and fuel costs
- Transport costs in excess of any DLA mobility component / Personal Independence Payments
- Personal assistance costs
- Cleaning
- Domestic help
- Gardening
- Wear and tear on furniture

15.3.3 DRE's will be assessed on an individual basis and allowance will be made for costs which are reasonably incurred and subject to appropriate evidence.

15.3.4 Where evidence is required, service users will be given 28 days from the issue date of the letter to provide the relevant information. Where evidence is provided within this timescale the amount of the DRE will be backdated to the date the evidence was requested.

15.4.5 Where evidence is provided outside of the 28 days then the effect on any user contribution will be from the Monday following receipt of the evidence (subject to approval).

16 How the Contribution is Calculated

16.1 The assessed contribution is calculated as follows:

<p>Total weekly income</p> <p>Less</p> <p>Income Disregards, household expenses and Disability Related Expenditure (DRE).</p>

16.2 Any remaining amount after the disregards have been deducted will be the maximum assessed contribution a service user will be required to make, dependent on the actual cost of the service.

17 Payment

17.1 An invoice will be sent every four weeks, which can be paid in any of the following ways:

- Direct Debit
- At the Post Office/Pay Point using the bar code on the invoice
- By debit or credit card (details will be provided on the invoice)
- Via the Council's website (details will be provided on the invoice)
- By telephone or online banking (details will be provided on the invoice)
- By PayPal

17.2 The Council's preferred method of payment is by Direct Debit.

17.3 Service users who receive a Direct Payment and commissioned services will follow the payment arrangements above. Service users who receive a Direct Payment only will be advised individually whether they will be required to pay their contributions into their Direct Payments bank account or if they will be sent an invoice.

18. Benefits Advice

- 18.1 All service users who are subject to a financial assessment will be offered a welfare benefits-check and where appropriate help and advice to complete any claims for benefits to which they may be entitled.
- 18.2 Should the service user require assistance to appeal against rejection of a claim for welfare benefits, they will be signposted to the Council's relevant supporting team if required.
- 18.3 A financial re-assessment will be undertaken following the award of benefits to recalculate the charges payable under this policy.

19. Review and Appeals

19.1 Review

- 19.1.1 An applicant may make a request for a review only where additional information comes to light to support the original application or where there are grounds that suggest that the original application or supporting evidence was not interpreted correctly.
- 19.1.2 A request for review must be received in writing within 21 working days of the original decision.
- 19.1.3 A decision following the review will be provided within 21 working days, subject to all supporting evidence being provided.

19.2 Appeal

- 19.2.2 The service user has the right to appeal against the outcome of their financial assessment in accordance with the Council's Finance Appeals Process:
- 19.2.3 Any appeals should be submitted in writing to:
Appeals
Adult Social Care Finance
Middlesbrough Council
PO Box 500
TS1 9FT
- 19.2.4 The appeal process consists of two stages:
- 19.2.5 **Stage 1 - Appeals** - should be submitted within 21 working days of the date the financial assessment is issued in writing, providing any additional information which may affect the decision.
- 19.2.6 Where an appeal is not upheld the service user will be informed of their right to progress the case to a stage 2 appeal by responding in writing within 10 working days of receipt of the outcome letter.
- 19.2.7 **Stage 2: Appeal Panel** - appeals should be submitted within 21 working days of the date the outcome letter is issued.
- 19.2.8 The appeal panel will be arranged within 10 working days of the request for a stage 2 appeal. The panel meeting will aim to be held within 21 working days of the Stage 2 appeal being received following which a decision will be provided within 7 working days.

- 19.2.9 **Stage 3: Complaint** - Where an appeal is not upheld, and the service user is dissatisfied they will be informed of their right to make a complaint through the Council's formal complaint process:
Email complaints@middlesbrough.gov.uk , Tel 01642 729814 or write to Complaints Team, PO Box 500, Middlesbrough, TS1 9FT.
- 19.2.6 The final decision rests with the Council. Any challenge relating to a decision would be by way of the Local Government and Social Care Ombudsman.

20. Fraud and Misrepresentation

- 20.1 Middlesbrough Council reserves the right to verify any application or associated evidence. Where fraud is alleged, or the authority suspects that such a fraud may have been committed, the matter will be investigated in accordance with the Fraud Act 2006.
- 20.2 If fraud is found to have occurred, action will be taken including the recovery of overpaid monies and, if appropriate, criminal proceedings.

21. Debt Recovery

- 21.1 The Council takes a firm and fair approach to managing debt. Large amounts of debt can build up very quickly in respect of social care contributions. Not only does this make the debt very difficult to recover, it can also have a detrimental effect on the individual's wellbeing. If debt starts to accrue, it is important that the Council acts as quickly as possible to ensure that the debt does not become unmanageable.
- 21.2 The Council will actively pursue the recovery of debt outstanding as a result of non-payment of accounts or invoices. Debt will be pursued in accordance with the Council's Debt Management Policy.

22. Information Sharing

- 22.1 The Welfare Reform Act 2012 and the Social Security Regulations 2012 (information sharing in relation to welfare services, etc.) enable the Council to access Department for Work and Pensions (DWP) data directly.
- 22.2 The purpose of this access is to support the financial assessment process and to assist in some claims to social security benefits to which the service user may be entitled.

23. Data Protection

- 23.1 The collation and use of personal data will be managed in accordance with the Council's Data Protection policy and the Adult Social Care Privacy Notice [Privacy notice - Adult Social Care | Middlesbrough Council](#)

24. Delivering the policy

- 24.1 This Policy will be incorporated into Middlesbrough Council working practices to ensure every client is treated fairly, with transparency and consistency throughout.

25. Monitoring and review arrangements

- 25.1 The implementation and effectiveness of this policy and its supporting procedures will be monitored and reported on by the Head of Service owner and associated management team.
- 25.2 For the first 12 months the policy will be subject to quarterly review, followed by a full review every 3 years, to ensure processes remain fair and in line with legislation and best practice.