

Care Act 2014 Sections 14 – 17, 69 - 70

Charging and Financial Assessment Policy and Procedure V2

Purpose: To set out the Policy and Procedure for setting charges, Financial Assessment and for the collection of the financial contribution from service users

Approved by

Adult Social Care Heads of Service Meeting 25th July 2017



Service Director Adult Services

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For use by:	Adult Social Care Financial Assessment Team Adult Social Care Finance Team Debt Recovery Team
Document Management and Distribution: This policy will be added to the Adult Social Care Policy database and be published onto the Councils Intranet site and Website. <i>N.B. Printed copies of this document may not be the current approved version - please refer to the intranet for current policy versions</i>	

Change History / Cancellations	Reason for obsolescence
Charging and Financial Assessment Policy and Procedure July 2015	Reviewed and updated to incorporate the agreed decisions following the consultation on Changes to Charging for Adult Social Care Services (January – April 2017) Changes from previous version are indicated by green text
Charging for Community Care (Non-Residential) Support. April 2011	These two policies have been merged and updated in response to the Care Act 2014
Charging for Residential and Nursing Care. August 2012	

N.B. The Care Act will take effect from 1st April 2015 EXCEPT Sections 15, 16, 28, 29 and 72 which are now planned to take effect from April 2020

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Guidance for reading this policy

- This policy document includes a 'refer to' section with links to relevant documents and/or practice guidance. Whilst the policy will not change it is expected that the practice guidance and links will be updated/added to as necessary. Links are indicated as follows:
 - Care Act = Care Act 2014
 - Guidance = Care Act 2014 Statutory Guidance
 - CA Policy = Care Act 2014 Policy (refers to a section of the Care Act 2014 policy)
 - C&FA Policy = Charging and Financial Assessment Policy (refers to a section of this policy)
 - Procedure = Care Act 2014 Procedure (refers to procedures which form part of this policy)
 - ASC Policy = Adult Social Care Policy (refers to a related but separate policy)
- Section 3. Relevant Legislation and Guidance: has a summary of the relevant sections of the Care Act, the impact of changes introduced by the Care Act 2014 are indicated as follows:
 - New = New in law and practice
 - Law = New in law but not in policy
 - Update = Consolidating or updating existing law

Staff should **always** refer to the 'online' version of this policy to ensure that they are also linked to current practice guidance.

Section 1. Introduction and Aim.

- 1.1 The Care Act 2014 provides the legal framework for charging for care and support. When it is arranging to meet a person's care and support needs or a carer's support needs the Council has discretion to choose whether or not to charge; but, if it decides to charge, it must follow the Care and Support (Charging and Assessment of Resources) Regulations and have regard to Statutory Guidance.
- 1.1.1 Milton Keynes Council previously had two policies related to charging; Charging for Community Care (Non-Residential) Support Policy and Charging for Residential and Nursing Care Policy. These two policies (with accompanying guidance, forms and leaflets) were withdrawn on 31st March 2015 and, in line with the single framework within the Act replaced by this one policy.
- 1.2.1 This is version two of the policy which has been updated to incorporate the agreed decisions following the consultation on Changes to Charging for Adult Social Care Services (January – April 2017) which are effective from 3rd July 2017. To allow for operational changes these will be implemented from the week beginning 31st July 2017.
- 1.2 Operationally charging and Financial Assessment are achieved through 4 linked processes:
1. Setting the local charges (for both assessable service and flat rate charges)
 2. Care and Support Assessment (and eligibility decisions)
 3. Financial Assessment to determine the individual's contribution amount.
 4. Invoicing and collection of contributions, flat rate charges and top up fees
- It is vital that staff involved are aware of ALL parts of the process and how they work together.
- 1.3 The implementation of some sections of the Care Act 2014 which relate to charging are not currently planned to come into effect until 2020, this policy will be updated as required

Section 2. Policy and Scope

- 2.1 The decision to charge, under the discretionary powers of the Care Act 2014, and the charge amounts will be set by Cabinet.
- 2.1.1 Officers of the Council will review the charge amounts as part of the annual budget setting cycle and may make adjustments. Adjustments should be made in line with national welfare benefit increases, flat rate charges increase by inflation, projected based on CPI for September each year but in addition, a review of charges in line with service and budget planning processes, cost of services and the consideration of any level of subsidy should also influence the decision on future levels of these charges or any other changes agreed by Council.
- Changes in flat rate charges will usually take effect from 1st April each year
 - Changes to individual contribution amounts will take effect in line with the date of benefit changes (i.e. the tax year).
- 2.1.2 Any issues or recommendations resulting from review will be presented to Cabinet for decisions. No changes to charges can be made without the agreement of Cabinet. Consultation with service users would need to take place where significant changes may impact on charges to service users.
- 2.2 The Council will follow the Law, Regulations and National Guidance when charging. This procedure sets out the local arrangements for implementation. It applies to:
- all individuals who are assessed under or receive support under the provisions of the Care Act 2014.
 - all Adult Social Care Staff and (as appropriate) staff in Joint Services and organisations who are involved in assessment or providing Council commissioned support.
- 2.3 The Milton Keynes Council approach to charging is guided by the following principles:
- Equitable and fair charging for all service users and carers.
 - A system based on the true costs of support to ensure that the individual will have sufficient budget to purchase support if they choose to go to the "open market".
 - Charging applied consistently across all service groups with differentiation between the support (and charges) for service users and support (and charges) for carers.
 - Where there is discretion in applying charges decisions will be clearly evidenced and

accountable. The authority will balance the use of any discretion with the need to ensure that individuals with assets are not supported at public expense.

- Liability for care and support charges is from when a service commences (except if the Council is prohibited from charging).
- Service users must have clear information about the contribution, if any, they will be asked to make.
- The amount that an individual will be required to contribute will be based on a Financial Assessment of that individual's income and capital assets.
- If an individual refuses to provide all information necessary to complete a Financial Assessment they will be charged the full cost for the support received.

2.4 In addition, individuals will also be charged flat rate fees if they have certain specified services as set by Cabinet.

Section 3. Relevant Legislation and Guidance

3.1	Law – The Care Act 2014 contains a number of sections which relate to charging	
Update	Charging - Local authorities have a discretionary power to charge for certain types of care and support. Regulations specify services that must be provided free.	Care Act § 14
New	Cap on Care Costs: Regulations establish a limit on the amount that adults can be required to pay towards the costs of meeting their eligible needs over their lifetime. <i>*Planned to take effect 2020</i>	Care Act § 15-16
Update	Financial Assessment - Local authorities are required to carry out a Financial Assessment if they have chosen to charge for a particular service.	Care Act § 17
New	Deferred payments: Regulations state when the Council must consider a deferred payment or loan agreement to allow people to defer paying their care fees or take out a loan to pay for care and support to avoid selling property or possessions	Care Act § 34 - 36
New	Independent Personal Budget: independent personal budgets (a statement recording how much of the adult's spending on care will count towards the cap) for adults who have eligible needs, and who choose not to have those needs met by their Local Authority. <i>*Planned to take effect 2020</i>	Care Act § 28
New	Care account: This is a new provision, which supports funding reform and the capped costs system. <i>*Planned to take effect 2020</i>	Care Act § 29
Update	Recovery of charges, Transfer of assets: Local authorities may recover as a debt any sums owed, such as unpaid charges and interest.	Care Act § 69 - 70
Law	Choice of accommodation: When an individual's needs would be best met through the provision of care and support in a care home or other type of accommodation, the adult can express a preference for particular accommodation. This may involve additional (Top Up) payments being made by a third party	Care Act § 30

Regulations

- *Care and Support (Charging and Assessment of Resources) Regulations 2014,*
- *Care and Support and Aftercare (Choice of Accommodation) Regulations 2014.*
- *Care and support (Deferred Payment Agreements) Regulations 2014*

Guidance

- Chapter 8 Charging and Financial Assessment
- Chapter 9 Deferred Payment Agreements
- Annex A: Choice of Accommodation and additional payments
- Annex B: Treatment of Capital
- Annex C: Treatment of Income
- Annex D: Recovery of Debts
- Annex E: Deprivation of Assets
- Annex F: Temporary Residents in Care Homes

Section 4. Definitions

4.1 The definitions used in this policy are listed in Appendix 1.

Section 5. Setting the charge amounts

Ref:

- 5.1 Charges will be made in line with policy on the following basis:
- 5.1.1 **No charge applied:** Legally, the council may not charge for:
- After care service provided under s117 of the Mental Health Act 1983
 - Any service which the NHS is under a duty to provide.
 - Care and support to service users with Creutzfeldt-Jacob Disease
 - Assessment of needs and care planning
 - Services which a Council is under a duty to provide under other legislation cannot be charged for under the Care Act 1011.
- 5.1.2 **Charges for Community Support: (e.g. Home Care):** will be based on a schedule of rates calculated by Finance and Commissioning Teams taking into account the local economy and benchmarked with other Local Authorities..
- 5.1.3 **Charges for Intermediate Care (including Reablement):** must legally be provided free of charge for up to 6 weeks. **The Council WILL charge for this when the free service has finished aligned to charges for non –residential care.**
- 5.1.4 **Charges for Community Equipment (aids and minor adaptations):** Where the cost (including fitting) is less than £1000, there is no charge. The Council has the discretion to charge for minor adaptations if the cost is over £1,000.
- 5.2 **Flat Rate Charges** - The Council will charge for specified services on a flat rate basis **IN ADDITION TO** any assessed contribution, as it is considered that these charges are a substitute for “every-day living” costs and daily expenditure. This includes:
- **Community Hot Meals (Meals on Wheels)**
 - **Community Alarm and Telecare equipment**
 - **Day centre meals**
 - **Transport to day centres**
 - **Laundry Services**
- 5.3 **Charges for Residential Care:** There are no set charge amounts; contributions will be based on the amount set in the personal budget, for the provision of accommodation and the financial assessment to determine an individual weekly contribution amount.
- 5.3.1 **Temporary or short-term resident in a care home** – When an adult is a temporary or short-term resident in a care home (including respite care), The Council will charge from the first day of their stay **based on the charging for care and support in a residential care home process.**
- 5.4 **Charges for Deferred Payment Agreements:** will be calculated by Finance taking into account the local economy and benchmarked with other Local Authorities.
- 5.5 **Charges for Arranging Care for self – funders:** will be calculated by Finance taking into account the local economy and benchmarked with other Local Authorities.
- 5.6 **Charges for managing service user’s money under Safe Custody:** will be calculated by Finance taking into account the local economy and benchmarked with other Local Authorities.
- 5.7 **Charges to Carers:** Milton Keynes Council will not charge for support provided directly to carers to assist them in their caring role.
- 5.8 In addition to situations where the council may not legally charge, service users who receive support in a community based setting will **not be charged:**
- 5.8.1 Where the service user gives at least 48 hours’ notice, to the provider, that a service is not required.
- 5.8.2 Where the service user is admitted to hospital or residential care as an emergency, he/she will not be charged during that emergency period for their community based services. MKC would expect to be informed of the emergency within 72 hours otherwise charges will not cease.
- 5.9 An individual’s **charge may be waived**, in exceptional circumstances, for a set period or permanently, at the discretion of the relevant Budget Manager if pursuing that charge is considered, by the professional staff involved, detrimental to the user’s care situation.

[Guidance](#)
§ 8.12

[Guidance](#)
§ 8.12

[Guidance](#)
§ 8.32

Section 6. Care and Support

6.1 Charging and Financial Assessment is part of the process of assessment and support planning for adults who approach the Council for assistance to meet their care and support needs. The process for assessment and support is set out in the Care Act 2014 Policy and associated procedures.

Ref:
ASC Policy
Care Act
2014

6.2 At an early stage in this process adults must be made aware they may have to pay a contribution towards the cost of their support. This includes support in their own home or another setting (including Prison) and in Care Homes and will depend on:

- their financial circumstances
- the type of support they require

6.3 The adult should be given assistance to understand the charging system and to take part in their financial assessment, this may involve an advocate.

6.3.1 Adults will be given information from the Council and will, as appropriate, be advised to seek independent financial and benefits advice.

Guidance
s 8.3

6.3.2 The adult may request an estimated financial contribution (pre-service Financial Assessment) amount in order to help them explore their support options and make decisions regarding the outcomes they wish to achieve.

6.4 Where a person lacks mental capacity they are still liable to contribute towards the cost of their care. During the care and support assessment the worker will establish if the adult has capacity to manage their finances, and, if they do not, the worker must establish if there is an:

Guidance
8.9

- Enduring Power of Attorney (EPA);
- Lasting Power of Attorney (LPA) for Property and Affairs or Health and Welfare;
- Deputy for Property and Affairs under the Court of Protection;
- Any other person dealing with that adult's affairs e.g. a Department for Work and Pensions (DWP) Appointee, for the purpose of benefits payments

6.5 In circumstances where the individual has been assessed as lacking mental capacity to manage their finances, where possible, the Council will work with the person who has the legal authority to act on behalf of the adult who lacks capacity for the management of the individual's finances.

ASC
Finance
Management
and
Safe
Custody
Policy

6.5.1 If there is no such person the council may act on their behalf as Corporate Appointee or (Deputy for Property and Affairs).

6.5.2 Where the Council does not act (the individual does not meet the criteria for this) a Court of Protection Panel Deputy may be applied for.

6.6 The Charging and Financial Assessment processes are carried out by Social Work Teams in conjunction with the Financial Assessment Team.

6.6.1 The worker/support planner who carries out the assessment of care and support needs is responsible for:

- providing the adult (or their representative) with information about the Council's charging and Financial Assessment processes
- giving the adult (or their representative) the statement of financial circumstances form(s) for completion and the relevant information leaflets
- notifying the Financial Assessment Team that a Financial Assessment is needed
- updating relevant recording and systems

6.6.2 The Financial Assessment Team is responsible for:

- carrying out and recording the financial assessment
- notifying the adult (or their representative) of the results of the financial assessment
- invoicing for client contributions (that Council is responsible for)
- notifying care homes, where payments are made net, of the weekly contributions due for their invoicing process.

Section 7. Light Touch Assessments

Ref:
Guidance
8.22

- 7.1 Light touch Financial Assessments will be carried out in the following circumstances:
 - 7.1.1 To evidence that the adult can afford and will continue to be able to afford any charges due.
 - 7.1.2 If a person, who has significant financial resources, does not wish to undergo a full Financial Assessment but wishes nonetheless to access local authority support in meeting their needs, the Council may accept other evidence in lieu of carrying out the Financial Assessment in order to confirm that they have financial resources above the upper limit.
 - 7.1.3 Where there are small or nominal charges for a particular service (e.g. for subsidised services) which a person is clearly able to meet and would clearly have the relevant minimum income left, and carrying out a Financial Assessment would be disproportionate.
 - 7.1.4 When an individual is in receipt of benefits which demonstrate that they would not be able to contribute towards their care and support costs.
- 7.2 The Light Touch Financial Assessment should be provided to the adult to complete and return to the Financial Assessment Team. N.B. there are two versions of this assessment one of which is for custodial and secure accommodation.
- 7.3 Individuals must be informed when a light-touch assessment has taken place and it made clear that they have the right to request a full Financial Assessment if they wish. They should be given sufficient information and advice including the option of independent information and advice to help them make a decision.

Section 8. The Financial Assessment Process

Ref:
Guidance
8.15

- 8.1 The Financial Assessment process will be the same for all adults. The Council will undertake a Financial Assessment of the person's assets and will make a charge based on what the person can afford to pay. The Council has no power to assess couples or civil partners according to their joint resources. Each person must therefore be treated individually.
- 8.2 The assessment will be based on the information provided via the **Statement of Financial Circumstances** completed by the individual or their representative and returned to the Financial Assessment Team. The statement and supporting documentation should be submitted within a reasonable period of it being requested by the council. This would normally be expected to be within 10 working days.
 - 8.2.1 Where an adult or representative needs help to complete the statement this will be provided by the Financial Assessment Team. The adult or a worker can request a home visit.
 - 8.2.2 Where a **Statement of Financial Circumstances** has not been appropriately completed the Council will request all additional relevant information.
 - 8.2.3 If, after 10 working days, information required to carry out an assessment has not been submitted, the Financial Assessment Team will consult the relevant social work team to decide what further action should be taken. The normal course of action will be to inform the adult that they are due to pay the full cost of their social care support.
 - 8.2.4 If a service user chooses not to provide financial information for the Financial Assessment, or fails to provide all relevant information within 10 working days, he/she will be charged the full cost of their Social Care support
 - 8.2.5 If there is a significant delay by the Council in calculating the contribution amount and/or notifying an adult of their contribution amount, appeals to review the start date for charging will be considered.
- 8.3 The Financial Assessment will be linked with income maximisation; financial assessors will give advice regarding benefits or signpost to the internal Welfare Benefits Adviser(s).

- 8.3.1 If a service user chooses not to apply for benefits their contribution will be assessed based on their known benefits entitlements, for example pension Guarantee Credit. Guidance Annex C
- 8.4 When it is reasonably evident that an adult has tried to deliberately avoid paying care and support costs by depriving themselves of assets (capital or income), the Council may either charge the person as if they still possessed the asset or, if the asset has been transferred to someone else, seek to recover the lost income from that person. Guidance Annex E
- 8.5 Financial Assessments will be carried out promptly as soon as all the required information is obtained and will normally be completed within 5 working days.
- 8.5.1 The adult, or their representative, will be notified, in writing, of the outcome of the assessment and their contribution amount. They will also be sent a copy of their Financial Assessment for reference if their circumstances change or they wish to appeal.
- 8.5.2 Charging and Financial Assessment information will be available for the individuals Social Care record and used for billing via the finance system.
- 8.7 If there is a dispute regarding the Financial Assessment outcome (calculation) these should be referred to the Senior Assessment Officer. If this officer cannot resolve the dispute it will be referred to the Finance Manager to be reviewed in conjunction with the relevant Social Care Budget holder.
- 8.7.1 If a dispute cannot be resolved in this way the adult should be referred to the Council's complaints system.
- 8.8 The individuals assessed contribution will automatically be revised annually in line with benefits increases; changes to allowances and increases in support costs.
- 8.8.1 An adult can request a review of their contribution amount at this, or any other time, within reason. They are obliged to inform the council of a change in circumstances which may affect their contribution amount. Failure to notify the Council in a timely way may result in backdated increase of charges.
- 8.8.2 If there is a change in care and support needs the Council may require a review of the Financial Assessment.
- 8.8.3 **The Financial Assessment Team will also carry out specific reviews based on changes and issues identified during the annual revision exercise or for business reasons, e.g. new policy or changes in services.**

Section 9. Establishing an Individual's Financial Assets

- 9.1 The calculation to determine the individual's contribution will be made in accordance with Section 17 of the Care Act 2014. Ref: [Guidance Annex B and Annex C](#)
- 9.2 In the Financial Assessment an individual's capital and income are taken into account (unless subject to a disregard) as set out in regulations or guidance.
- 9.3 **Disregards:** These depend on whether the adult is in a care home or receiving care and support in their own home. Guidance specifies standard disregards, which must be applied, and discretionary disregards which the Council may choose to apply.
- 9.3.1 **Standard disregards** will be automatically applied by the Financial Assessment team.
- 9.3.2 **Discretionary disregards** will be made by the Senior Assessment Officer in consultation with the relevant social work team. Any dispute will be referred to the relevant Budget Holder.
- 9.4 **Capital:** The Capital Limits set at what point a person is entitled to access Council funding support to meet their eligible needs. Below the upper capital limit a person can seek means-tested funding support from the Local Authority. Capital below the lower limit is disregarded in the assessment of what a person can pay. [Guidance](#) § 8.11
- 9.4.1 An adult with eligible needs and financial assets above the upper capital limit can ask a Council to arrange their care and support on their behalf. If the adult's needs are to be met by care in a care home, the Council may choose to meet those needs and arrange the care, but is not required to do so. In such cases, the Council may apply an administration fee to cover its costs. Guidance Annex B [Guidance](#) § 8.13, 8.56 – 64

9.4.2 For adults who receive care and support in the community, the assessment of their capital must exclude the value of the property which they occupy as their main or only home. Other capital disregards are the same for all types of care and support. The Council will charge against all disposable income.

[Guidance](#)
§ 8.43

9.5 **Disability Related Expenditure:** We are required to allow a person to keep enough of their disability benefits to pay for necessary disability related costs not met by the council.

9.5.1 The Council will make allowances for the **actual** cost a service user pays based on evidence of the expenditure.

9.5.2 The annually produced National Association of Financial Assessment Officers (NAFAO) Standard Guide To Disability Related Expenditure will be applied.

Section 10. Charging considerations specific to Residential and Nursing Home Care

Ref:

10.1 People in a care home will contribute most of their income, excluding their earnings, towards the cost of their care and support but they must keep a specified amount, the Personal Expenses Allowance (PEA), of their income to spend on personal items that are not part of their care. This is in addition to any income the person receives from earnings. The Council has discretion to apply a higher income allowance in individual cases, for example where the person needs to contribute towards the cost of maintaining their former home. The Council will give consideration to individual circumstances; decisions will be made by the Senior Assessment Officer in consultation with the relevant social work team. Any dispute will be referred to the relevant Budget Holder.

[Guidance](#)
Annex C

10.2 If an individual, who is not self-funding, chooses to live in a residential or nursing home where the fees are more than their Personal Budget (and the price which Milton Keynes Council would usually expect to pay to meet similar care needs) the individual will need to make arrangements, with the support of the worker, for a 'Top Up payment', to cover the difference in costs

[Guidance](#)
Annex A

Procedure
Top Ups

Section 11. Cap on Care Costs

Ref:

11.1 Care Act Regulations set a limit on the amount that adults can be required to pay towards the costs of meeting their eligible needs over their lifetime.

This is planned to take effect in 2020, this section will be revised accordingly.

Section 12. Care Account:

Ref:

12.1 This part of the Care Act supports funding reform and the capped costs system.

This is planned to take effect in 2020, this section will be revised accordingly.

Section 13. Contributions and Invoicing

Ref:

- 13.1 Once the Financial Assessment has been undertaken the individual's contribution will be offset against their Personal Budget (the total cost of their care). Where the contribution is greater than or equal to the cost of their care, the service user will be required to fund the full cost of their care
- 13.2 If an adult chooses to take their Personal Budget as a Direct Payment (cash option) their assessed financial contribution will be deducted from the agreed Personal Budget amount. If the adult chooses to take their personal budget as a third party support service option, the agreed personal budget amount will be paid to the third party and the adult will be invoiced for their assessed weekly contribution
 - 13.2.1 For adults receiving the Direct payment (cash option) the adult is required to pay their assessed contribution into the agreed Direct Payment bank account in order to fund the full cost of their support.
- 13.3 If an adult chooses to have their care arranged and managed by the Council, they will be invoiced for their assessed financial contribution
 - 13.3.1 Service users will normally be invoiced within 8 weeks of the beginning of their support. Thereafter invoices will be sent to service users on a 4 weekly in arrears basis.
 - 13.3.2 The charge will be based on their assessed contribution or the cost of support provided whichever is the lower. Flat rate charges are invoiced separately and are payable in addition to assessed contributions.
 - 13.3.3 If the invoice amount is £25 or less over a 12-week period no invoice will be issued.
 - 13.3.4 The Council's preferred method of payment is by direct debit although payments can be made by cheque. The Council may introduce other payment methods at a later date.
- 13.4 The Financial Assessment Team invoicing section will ensure that invoicing is up to date as per the invoicing schedule. The debt recovery team will monitor outstanding debts.

Section 14. Deferred Payment Agreements

Ref:

- 14.1 From 1st April 2015 adults who own their own home and where the value of this is being taken into consideration in the financial assessment towards the cost of their care, fees, have the option to apply for a **“Deferred Payment Agreement”**
- 14.2 Under a Deferred Payment Agreement the Council agrees to fund the costs of care fees until capital becomes available, on the sale of the house at a later date. This accrues as a debt against the property and is recovered by the Council at a later stage, either from the service user or from his or her estate

Procedure
Deferred
Payments

Section 15. Top Up Payments

Ref:

- 15.1 Where the Council is responsible for an adult's care and support needs in a particular type of accommodation, the adult has a right to choose between different providers of that type of accommodation. If the preferred accommodation is more expensive than the amount of the adult's allocated personal budget he/she can still be supported in that accommodation if an arrangement can be made to pay the difference. This additional cost is known as a "Top Up"
- 15.2 Under a Top Up agreement, made between the Council and the third party/resident, the third party will pay the care home directly for the additional cost of the accommodation and the Council will pay the care home net of this figure. The care home will invoice the third party directly. The Council will invoice the service user for their contribution towards their care costs
- 15.3 It is intended that the Council will change to a process whereby, under a Top Up agreement, made between the Council and the third party/resident, the Council will

Procedure
Top Ups

invoice the third party for the additional contribution. The Council will also invoice the adult for their contribution towards their care costs and the care home will be paid the total cost of the placement.

Section 16. Recovery of Arrears and Refusal to pay

Ref:

- 16.1 If an arrears in paying the assessed contribution accrues the council will investigate the circumstances which have caused this which may lead to recovery action.
- 16.2 An individual may be unable to pay contributions due to a change in circumstances and a review of their Care and support Plan or Financial Assessment may be needed.
- 16 .3 If an individual is unwilling to pay their assessed contribution so that a debt accrues the Council may use powers under the Care Act 2014 to recover that debt.
- 16 .3.1 The Council should consider the circumstances of the case before deciding a course of action, e.g. if this was a deliberate avoidance of payment or due to circumstances beyond the person's control.
- 16.3.2 **A dedicated Adult Social Care Debt Recovery Officer will work closely with the Financial Assessment Team and Social Work Teams to advise and support service users and improve the collection of debt.**
16. 3.2 Ultimately, the Council may institute County Court proceedings to recover the debt. However they should only use this power after other reasonable alternatives for recovering the debt have been exhausted.
- 16 .4 If an adult does not pay their assessed contribution, support should not be withdrawn because the user refuses to pay the charge. Adults must not be left without support while a dispute or complaint is resolved.

[Guidance](#)
Annex D

[Guidance](#)
§ 8.30

PART F: OPERATIONAL ISSUES

Section 17. Roles and Responsibilities

- 17.1 Specific roles within this policy and procedure are set out in the relevant sections, additionally:
- Adult Social Care – overall responsibility for the care and support process and related actions in accordance with the Care Act 2014.
 - Financial Assessment Team – overall responsibility for financial assessment (and notifying service user accordingly) and invoicing, unless the care home invoices directly.
 - Debt Recovery Team - responsible for monitoring payment of charges and pursuing arrears

Section 18. Recording requirements.

- 18.1 The specific recording linked with this policy are the Light Touch Financial Assessment and Statement of Financial Circumstances.
- 18.2 All information gathered and used to support the Financial Assessment and the decisions made should be clearly recorded on the individual's record. The individual must be given a written copy of their Financial Assessment and related decisions confirmed in writing. The Financial Assessment will be recorded on the relevant systems for invoicing and related processes.
- 18.3 Social work based decisions to suspend or waive charges this must be documented stating the period the waiver is for, reasons for the waiver and the review date. The Financial Assessment Team should be informed of such decisions to ensure no charges are raised.
- 18.4 The Financial Assessment Team, in conjunction with the Communications Team, will provide information about the Financial Assessment process for staff and service users.

Section 19. Resource Implications.

- 19.1 The resources, staff and equipment, needed to implement these procedures are currently within the Financial Assessment, Debt Recovery, Social Care, and Information teams.

Section 20. Training Implications.

- 20.1 Workers who carry out assessment and support planning will need to understand this policy.
- 20.2 Financial Assessors will need training in the assessment process and welfare rights. This will be included as part of the induction process for new workers and include updates, as necessary.

PART G: QUALITY STANDARDS, MONITORING AND REVIEW

Section 21. Quality Standards

- 21.1 The specific quality standard included in this policy are:
- Section 8.5 - Financial Assessments will be carried out promptly as soon as all the required information is obtained and will normally be completed within 5 working days.
- Section 13.3.1 - Service users will normally be invoiced within 8 weeks of the beginning of their support. Thereafter invoices will be sent to service users on a 4 weekly arrears basis.

Section 22. Equality Impact Assessment

- 22.1 The procedures within this policy will be applied to all service users and are not expected to have a differential impact. Fairness and equity will be ensured through a combination of assessment, support planning, appeals, and final approval of the Personal Budget.

Section 23. Monitoring and Review

- 23.1 The Assistant Director Adult Social Care, is responsible for the overall monitoring of this policy and its implementation. He/she will work with the Finance Manager and relevant staff to ensure that Milton Keynes Council carries out its Charging and Financial Assessment functions.

The definitions used in this policy are :

Adult / Individual– the individual who is being assessed for/receiving Social Care Support

Capital – Capital can be in various forms including savings, investments or property.

Capital limits – an amount set by the Department of Health, which sets an upper and lower rate for the basis of financial contribution calculations.

Care Fees - include Accommodation and Personal Care Fees

Contribution – is the assessed amount that an adult will pay towards his/her Care and Support.

Financial Assessment Officer/ Senior Assessment Officer – A member of the Financial Assessment Team.

Financial Assessment Team – The Team which is responsible for carrying out the financial assessment and invoicing for care contributions and flat rate charges.

Flat rate services. These services are considered to be a substitute for “every day living” costs and daily expenditure.

Personal Budget -is the agreed resource allocated to an individual who is eligible to receive specialist support services from the Council to meet their assessed social care needs.

Reablement Service. A service which aims to help people avoid unnecessary hospital or residential care admissions, support them to be discharged home, or support them whilst they recover from a temporary illness or disability.

Residential Care Home provides accommodation, meals and individual care for people who are unable to manage at home for whatever reason.

Self funding / self funders – individuals who pay the full cost of accommodation and personal care from their own resources.

Statement of Financial Circumstances – the document which individuals must complete to set out their financial circumstances. This information with the relevant evidence is used as a basis for the financial assessment.

Light Touch Financial Assessment - In some circumstances, the Council may choose to treat a person as if a financial assessment had been carried out. In order to do so, the council must be satisfied on the basis of evidence provided by the person that they can afford, and will continue to be able to afford, any charges due.

Top Up - costs due to the Council under Section 30 of the Care Act. The difference between the actual costs of the preferred provider and the amount the Council allocates in a personal budget

Worker / Social worker /support planner – the member of staff currently working directly with the individual. This may be a member of the Adult Social Care or, in joint services, Health staff working according to this policy.

Appendix 2 – Charging Flowchart

N.B. This is a simplified Flowchart it does not include process information for Top Up or Deferred Payment Arrangements

