

Oxfordshire County Council Policy for Contributions in Adult Social Care

Approved: 22/05/2018
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Purpose

1. This policy outlines how the council ensures a fair approach to contributions from individuals towards the social care services they receive. It covers residential and non-residential care services following an assessment, and direct access services such as day care.
2. This policy is based on appropriate legislation and Government guidance, including:
 - The Care Act 2014, associated regulations and statutory guidance
 - The Mental Capacity Act 2005
 - Mental Health Act 1983 section 117 – the duty on health and social care services to provide free aftercare to patients previously detained under certain sections of the act
3. It should be read in conjunction with the council's Adult Social Care policies on Assessment and Review, Support Planning, Safeguarding and Complaints, Appeals and Compliments, and associated operational procedures and guidance.

Context

4. Oxfordshire County Council aims to support and promote strong communities so that people live their lives as successfully, independently and safely as possible. The council aims to promote independence and choice, be fair and equitable and give people more power and control over their lives.
5. Social care is not a free service and national funding arrangements make it clear councils need to collect income locally to contribute towards the cost of services.
6. Income from charging for services where it is appropriate to do so is therefore an essential part of Oxfordshire County Council's financial strategy.
7. This policy is based on national legislation and in determining the contribution to be paid by an individual the council cannot be less generous than the provisions set out in the Care Act 2014.

Policy Principles

The policy will be comprehensive, to reduce variation in the way people are assessed and charged.

- We will adopt a simple, efficient, cost effective financial assessment and income collection process.
- Charging arrangements will reflect the actual cost of services
- The charging rules will be applied equally so that those with similar needs or services are treated equitably

- People should not be charged more than it is reasonably practicable for them to pay
- We will provide people with timely, clear and concise information about the costs of their care.
- The policy will contribute to the sustainability of Adult Social Care in Oxfordshire
- The financial assessment will ensure that people on low incomes are not put in financial hardship as a result of paying towards their care costs. Advice and support to claim welfare benefit entitlements will be made available to people and carers.

These principles will be applied when considering the charging arrangements for any new services that are commissioned.

Policy Inclusions

8. This policy covers contributions from individuals towards the cost of Adult Social Care services for which the council has powers to charge. It also applies equally to people in prison with social care needs.
9. A person's eligibility to receive services from Adult Social Care will be determined by a care needs assessment based on National Eligibility Criteria.
10. The amount a person is required to pay towards their care and support needs will be determined by a financial assessment in line with the principles outlined in this policy.
11. This policy only applies to all people who are considered to be Ordinarily Resident in Oxfordshire (as defined in the Care Act 2014) and meet the nationally set eligibility criteria.

Policy Exclusions

12. This policy does not cover:
 - Services for which the council may not charge under legislation and/or statutory guidance. This includes:
 - aftercare services under section 117 of the Mental Health Act 1983,
 - services provided to people suffering from any form of Creutzfeldt-Jakob Disease,
 - intermediate care services such as reablement, crisis and intermediate care beds,
 - community equipment and minor adaptations up to £1,000,
 - providing advice about the availability of services or for assessment, including assessment of community care needs,
 - services provided under specific health and housing legislation by other organisations, such as the NHS.
 - Housing-related support services which are subject to separate arrangements.

Mental Capacity

13. In line with the Care Act 2014 and the principles set out in the Mental Capacity Act 2005, the council will assume that people have mental capacity and can make decisions for themselves unless it is established otherwise.
14. If a person has substantial difficulty in engaging in the financial assessment process and has no other means of accessing appropriate support through relatives, friends or others involved, the council will ensure access to an independent advocate to facilitate their involvement. Where applicable, this will be an advocate who meets the requirements of the Mental Capacity Act.

Safeguarding

15. If at any stage the council suspects that a person is experiencing or is at risk of abuse or neglect, a safeguarding enquiry will be carried out. This will establish if any action needs to be taken to prevent or stop abuse or neglect and will involve the person in deciding next steps. This is covered in the Safeguarding policy and associated guidance.

Requesting support to meet eligible needs

Non-Residential Care

16. The council has a duty to meet the eligible needs of people who require non-residential care and request the assistance of the council.
17. A person with eligible needs and who has savings above the full cost threshold of £23,250 can ask the council to meet these needs. In these cases, the council will charge arrangement fees to cover the cost of arranging those services.

Residential/Nursing Care

18. The council has a duty to meet the eligible needs of people who require residential care/nursing care and who have savings under the full cost threshold of £23,250
19. The council can use its discretion to meet the needs of people who require residential/nursing care and who have savings over the full cost threshold. Where the council chooses to do this, it will not charge an arrangement fee.

Personal Budgets

20. Anyone eligible for care and support from the council will have a Personal Budget. A Personal Budget is the amount of money allocated to an individual to provide the support they require, based on an assessment of needs. For more information about Personal Budgets, please see the Support Planning Policy.
21. A person will make a single contribution towards the cost of their care based on an assessment of their financial circumstances. They will then pay whichever is the lesser amount of either the full cost of the care they require to meet their needs, or their maximum assessed contribution. If the assessed contribution is less than the full cost of the care they require to meet their needs, the council will fund the difference. People may choose to purchase additional care at their own expense.

Charges for Services

22. People will be charged based on the actual cost incurred by the council in providing those services. Certain services would not be charged at full cost, such as contingency care where a person remains with the Reablement Service awaiting long term care.
23. There is no maximum weekly contribution rate, although individuals will only pay the lesser amount of the full cost of their care or their assessed contribution. The minimum weekly contribution level will be £2.00 per week.
24. The Care Act 2014 allows councils to take into account the value of a person's property, and Oxfordshire County Council will also take other capital and income into account in the financial assessment of individuals, unless it is required to be disregarded under legislation or statutory guidance.
25. For people receiving non-residential services, the council will not include the value of their property that they reside in.
26. When a person owns a second or additional property that is not their main residence it will be considered as an asset in the financial assessment.
27. For respite care, including temporary stays of less than 8 weeks the council will undertake a financial assessment as if the individual is living in their own home.

Financial Assessment of Contributions

28. Each person will be assessed on their own finances to calculate their assessed contribution towards the cost of the care they receive. It is the individual's responsibility to provide all of the information required to complete the financial assessment
29. If a person refuses to disclose their financial details they will be required to pay the full cost of the service. In such cases it will pursue any debt accrued
30. It is the person's responsibility to inform us of any change in their financial circumstances in a timely way

When Contributions Will Start

31. A person may be asked to contribute from the date when they begin receiving a chargeable service
32. The council will aim to complete financial assessments as soon as possible and expects the person to cooperate in that process
33. After they have been financially assessed, people will be obliged to make their assessed contribution towards chargeable services

Admission to hospital

34. When people are admitted to hospital for a short period of time and their care arrangement remains in place, for example a care home placement or Direct Payment we will continue to charge their assessed contribution. This will be subject to regular review.

Treatment of Income, Capital and Investments

35. In carrying out a financial assessment, the council will take into account all relevant income and capital that is not required to be disregarded.

The value and treatment of capital will be based on the guidelines set by the Department of Health who will set an amount:

- a. Below which capital will not be taken into account when assessing the person's contribution.
- b. Above which the person will be expected to pay the full cost of their care and support.

Until further notice the following thresholds apply to assessments made under the Care Act 2014 for both residential and non-residential care:

- Up to £14,250 – we will not take account of an individual's savings.
- Between £14,250 and £23,250 – we will assume that for every £250 in excess of £14,250 an individual is able to contribute £1.00 per week from capital
- Above £23,250 – we will ask the individual to pay the full charge.

Deprivation of capital

36. If someone has deprived themselves of capital or an asset in order to reduce their contribution, this may be treated as deprivation of funds to pay for care and the contribution will be calculated as if the individual still owned the capital or asset.

Living Expenses - Non-Residential

37. People receiving non-residential care services are entitled to retain a certain amount of their income to pay for general living costs. This amount is set by the Department of Health and is known as the Minimum Income Guarantee (MIG).

Joint/shared costs

38. When calculating the financial assessment, joint costs related to housing (e.g. utility bills) may be shared between the individual and anyone else living in the same home who shares responsibility for those costs with the individual.

Disability Related Expenses

39. Disability Related Expenditure is considered to be a reasonable additional expense that an individual receiving non-residential care incurs due to their age or disability, and may vary from individual to individual. The aim is to allow for reasonable expenditure needed for independent living by the person. The council will not include items that could be considered as normal living costs, which are covered by the allowance made in the Minimum Income Guarantee.

40. An indicative allowance of 25% of a person's Disability Benefit is allowed for Disability Related Expenditure.

41. If a person requests, the council will complete an individual disability related expenditure assessment.

42. Where an individual assessment is undertaken, receipts would be required for all items taken into account. The outcome of this assessment will be the figure used in calculating the person's contribution. The council will not make allowance for costs that should be covered elsewhere e.g. incontinence pads provided by NHS.

Living Expenses – Residential

43. People receiving residential care services are entitled to retain a certain amount of their income to pay for personal costs not met by the care home. This amount

is set by the Department of Health and is known as the Personal Expenses Allowance (PEA).

44. In certain circumstances the council may consider increasing the Personal Expenses Allowance to cover other exceptional living costs as set out in the Care Act.

Personal Injury Awards

45. In existing proceedings where claims are made against defendants in legal proceedings alleging wrongdoing or negligence (such as insurance companies or the NHS), the council will give consideration to intervening in those proceedings where appropriate.
46. The council will also take into account any personal injury awards that are not held in Trust once a 52-week disregard period from the time they are awarded has expired.

Trust Funds

47. The council will consider whether to recover the cost of care from a trust fund, where reasonable to do so, having regard for the terms of the trust.

Treatment of Property

12 Week Property Disregard

48. If the person is moving permanently into a registered care home, the council may disregard the value of the property they are vacating for the first 12 weeks of their residency.
49. The disregard will end if the property is sold within 12-weeks and the resulting capital will be included in the person's assessment

Discretionary Property Disregards

50. The council may use its discretion in appropriate cases to disregard the value of a person's property from the financial assessment, if a qualifying third-party lives there. For example, this may be where it is the sole residence of someone who has given up their own home to care for the resident, or someone who is an elderly companion of the resident (particularly if they have given up their own home).
51. If a person is moving elsewhere (for example into Extra Care Housing or to move in with relatives) and the property has not been sold within 12 weeks, the council will exercise its discretion and may offer to provide deferred payments secured by a legal charge over the property.

Deferred Payment Agreements

52. If the person's main or only home is not already disregarded, the council will offer Deferred Payment Agreements to allow a person to defer the costs of their care and support until a later date. This will normally be until the person sells their home, or until they pass away.
53. Deferred payments will normally be secured by a legal charge against the person's property, and in most cases the council will expect this to be the first charge against the property.
54. The council will charge a single, flat rate for arranging and administering a deferred payment agreement. This will be non-refundable and the amount will be

set annually by the County Council Cabinet. Individuals can choose to pay this fee up front or add it to the loan, in which case it will be subject to the same interest charges as the rest of the loan.

55. In some cases, a full valuation may be needed in setting up a deferred payment agreement. Where this is required, the cost will be the responsibility of the individual whether they arrange the valuation themselves or ask the council to do it for them. This cost will be non-refundable and the amount will be set annually by the County Council Cabinet. Individuals can choose to pay this fee up front or add it to the loan, in which case it will be subject to the same interest charges as the rest of the loan.
56. The council will apply interest to any amount deferred, which will be calculated on a compound basis. This will be charged at the maximum level of interest set nationally, which is reviewed on a six-monthly basis.

Changes in an individual's financial circumstances

57. Individuals must notify the council of any changes to their financial circumstances as these can affect their financial assessment. A change in a contribution may be triggered either by a change in type or level of service or the financial circumstances of the individual. Changes to contributions may be backdated to the actual date of any change.
58. The council reserves the right to review all financial assessments at any point. This may require individuals to provide new or additional information and evidence where necessary. Where individuals fail to provide information following written requests, contributions will be recalculated to the maximum level from the date of the first written request.
59. Where appropriate the council may automatically reassess based on changes that we become aware of through policy changes, Department of Works and Pensions or regulation changes. These may include annual increases to standard benefit payments such as the State Retirement Pension, occupational or other private pensions (except fixed rate annuities) or service cost increases.

Deferred Interest Loans

60. In some circumstances, the council may offer deferred interest loans to support people making adaptations costing in excess of £30k to allow them to continue to live at home. Eligibility for these loans will be assessed to establish that the person is unable to fund the work themselves and the council will be the lender of last resort.
61. People in receipt of a Deferred Interest Loan will be subject to review to ensure that the adaptation is still appropriate and in use.
62. Where the person no longer lives permanently at the property the interest on the loan becomes payable.
63. The capital of the loan becomes repayable when the person leaves the property permanently or the property is sold or transferred to another person. This may be deferred only in exceptional circumstances e.g. where there is a spouse still living in the property until they also are deceased or the house is sold.

‘Top Up’ Payments and Purchasing Additional Services

64. If a person chooses to receive care that is more expensive than the council has assessed they require to meet their eligible needs, they or their families can ‘top-up’ the costs to purchase the care of their choice.
65. If a person is receiving funding from the council and they are in a care home they cannot ‘top-up’ their own care funding unless they have a 12-week property disregard or receive funding via Section 117 of the Mental Health Act. They would instead require top-up from a third party, e.g. family or charity.
66. The council will at all times ensure that Personal Budgets are sufficient to meet the person's eligible care needs. Any ‘top ups’ will be the individual’s choice, and can only be made once they are aware of their right to have all their eligible care needs met without the requirement for a ‘top up’.
67. The person paying the 'top up' will be expected to sign an agreement, which sets out the conditions of making a 'top up'.
68. In the event the 'top up' ceases, the council is under no obligation to increase its contribution to cover the difference in cost. This may result, for example, in the person having to move to other accommodation and being given a number of alternative options to choose from, unless, after an assessment of need, it is shown that their assessed eligible needs can only be met in the current accommodation.

Debt Recovery

69. Where an individual fails to make payment of invoices for care services provided by the council, action will be taken in accordance with the council’s policy. This may result in legal action being taken and extra cost to the individual.
70. Non-payment of a deferred charge, or otherwise not following the terms of a deferred payment agreement, will result in debt recovery processes being instigated.

Waivers and appeals

71. If a person disagrees with their financial assessment they can request a reassessment of their finances.
72. Waivers apply only to non-residential care services and related financial assessments. They will only be issued in exceptional circumstances, for example when incurring the full assessed contribution would have a detrimental impact on the individual. Whilst each case will be considered on its merits, the contribution may be waived or reduced where it can be shown that paying the full assessed contribution would cause severe financial hardship or the individual’s health would be put at serious risk.
73. Waivers will be considered and approved by the relevant Adult Social Care Service Manager. All waivers will be documented and reviewed at an agreed frequency.

Disagreements or complaints

74. Where disagreements or complaints occur, we will attempt to work with individuals or their representatives to resolve them and this may involve either:
- a. a review of the financial assessment and/or service;
 - b. a complaint or representation against policy; and
 - c. an application for a waiver of the contribution.

If an individual remains dissatisfied with the outcome of the assessment process they can ask for the decision to be reconsidered under the council's complaints procedures.

Review

75. The policy will be reviewed regularly. This will take into account learning from complaints, compliments and concerns, including from people who use the council's services.