



# London Borough of Hounslow

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## Financial Assessment Policy, ASC

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<b>Author</b>	Danny Graham / Anna Hesed / Griff Jones
<b>Owner</b>	Steven Forbes / Mun-Thong Phung

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## **1. Scope of this policy**

This policy sets out the Council's position in relation to financial assessments under Section 17 of the Care Act 2014.

It applies to residents with eligible care and support needs. It does not apply to carers with support needs, because the Council does not charge carers for services provided to them. Carers who have their own eligible needs, not arising from their caring role, will be assessed separately.

It sets out:

- the policy of the Council.
- what the Council expects from staff in Adult Social Care; and
- what residents can expect of the Council.

## **2. Related policies, procedures and guidance**

### **Policies**

Charging Policy  
Deferred Payment Agreement Policy  
Supporting Self-Funders Policy  
Assessment and Eligibility Policy  
Information Sharing Policy

### **Procedures**

[Financial Assessment](#)

### **Guidance**

Financial Assessment Process Guidance  
[Assessment of Financial Resources](#)  
[Deprivation of Assets and Enforcement of Debts](#)

## **3. The legal context**

The Care Act 2014 provides a single legal framework for the assessment of financial resources.

[The Care Act 2014](#)  
[Care and Support Statutory Guidance](#)  
[The Care and Support \(Charging and Assessment of Resources\) Regulations 2014](#)

The information in this section of the policy is intended as a summary of those requirements only.

## **4. Our policy**

It is the policy of the Council that all legal requirements of the Care Act 2014 relating to financial assessment will be met.

The statements below set out:

- The additional commitments of the Council; and
- How the Council will apply its powers where there is an element of discretion permitted by law.

### **4.1 Declining or refusing to engage in a financial assessment**

If a resident or their legal representative declines a financial assessment the Council will exercise its power to assume that they can afford to meet the full cost of their care and support from the start date of the service.

If a resident does not provide the information required to carry out the financial assessment process within a reasonable period or does not provide a satisfactory explanation within a reasonable time (usually 2 weeks although there may be cases where a person needs more time) the Council will exercise its power to assume they can meet the full cost of their care and support from the start date of the service. The Council will inform the resident of this in writing.

If the resident does not pay the full cost of their care and support then the Council may review the service provided and will pursue the debt, if necessary through the civil courts.

### **4.2 Light touch financial assessment**

The Council will consider carrying out a light-touch financial assessment in the following circumstances:

- A resident declares they have significant financial resources.
- They do not want to complete a financial assessment.
- The Council is satisfied that the financial resources of the resident would mean they have sufficient income to pay the full cost.
- The Council is satisfied that the resident is willing and able to pay for the care and support service for as long as it is needed.

The Council will also consider carrying out a light-touch financial assessment when there is a fixed or nominal charge for a service which the resident can clearly afford, or the service to be provided is a respite service only.

The Council will communicate to a resident when a light-touch assessment has been completed and will advise them of their right to request a full financial assessment at any time.

### **4.3 Mental capacity**

If the process of financial assessment identifies that a resident lacks capacity to participate in the financial assessment process, information should be gathered from an individual with the legal authority to act on their behalf. This is normally a Lasting Power of Attorney, or a Deputy appointed by the Court of Protection. If no such person exists, conversations should take place within the resident's network to identify if anyone is willing and able to make the necessary application to act.

Where arrangements cannot be made for a person from the resident's network to act, the Customer Financial Affairs Team will make a Corporate Deputyship application to ensure the residents financial resources are safeguarded.

#### **4.4 Financial reassessment**

The Council will undertake a reassessment of financial resources annually, whenever requested to do so by a resident and whenever there has been a change in circumstance that could influence the assessed contribution. The Council will advise the resident in writing of the outcome of the reassessment.

It is the responsibility of the resident or their representative to inform the Financial Assessment Team as soon as their financial circumstances change so that a reassessment can be undertaken in a timely way.

Where a financial reassessment results in a change in financial contribution, this will be back dated to the point in time where the change in circumstances occurred, so long as the change does not impact on the resident's affordability.

#### **4.5 Welfare benefits**

As part of the financial assessment process, the Council will offer welfare benefits advice and assistance as required, including the completion of claim forms as well as any follow up action. Advice will not be limited to benefits directly affecting charges. Equal emphasis to benefit entitlements will be given, irrespective of the impact on income to the Council.

#### **4.6 Disability Related Expenditure**

The Department of Health defines Disability Related Expenditure (DRE) as any reasonable additional expenditure that a resident incurs for independent living, due to a disability or illness.

Examples include the following:

- additional heating.
- additional laundry due to incontinence.
- purchase and maintenance of disability equipment.

To qualify for DRE the resident must be in receipt of or meet the criteria to receive Attendance Allowance or Personal Independence Payment (PIP) (Care Component).

The Council will apply a standard fixed rate DRE to all residents, calculated at 30% of Attendance Allowance (AA) lower rate, or Disability Living Allowance (DLA) (Care Component) at the middle rate.

If a resident incurs DRE in excess of the standard amount, they can request an assessment of the actual costs they incur, for which they must provide evidence in support of the amounts claimed. The Council will not take into account DRE expenditure that exceeds the amount of Attendance Allowance or Disability Living Allowance taken into account in the financial assessment.

#### **4.7 Deprivation of assets**

Deprivation of assets is the term used to describe the practice of a resident intentionally depriving or decreasing their overall assets and/or income in order to reduce the amount they are charged towards their care (or avoid charges completely). This practice is unlawful under section 70 of the Care Act.

The following must be considered before deciding whether deprivation for the purpose of avoiding care and support charges has occurred:

- Was avoidance of the care and support charge a significant motivation; and
- At the point the capital was disposed of could the person have had a reasonable expectation of the need for care and support; and
- Did the person have a reasonable expectation of needing to contribute to the cost of their eligible care needs.

#### **4.8 Prevention of fraud**

The Council has a duty to protect the public funds it administers and may use the information provided on the financial assessment form and elsewhere for the prevention and detection of fraud.

#### **4.9 Complaints**

The Council will advise the resident in writing about their right to complain about the outcome of the financial assessment process, and how to do so.

If a complaint is received, the Council will review how the financial assessment was carried out and revise the contribution if necessary.

During the process of investigating the complaint, the assessed charge will remain payable. If the subsequent outcome reduces the assessed charge, the Council will refund any overpayment to the resident.

### **5. Equalities and Diversity**

The Council must give due regard to its Equalities Duties, in particular with respect to general duties arising from section 149 of the Equality Act 2010. Having due regard to the need to advance equality involves, in particular, the need to remove or minimise disadvantages suffered by equalities groups.

The Council has considered the relevance of the proposal to the provisions of the Equality Act 2010, in particular, for those with the following protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation and the Human Rights Act 1998. The assessment concluded that Equalities Duties are not engaged by this policy. The policy is also compatible with Human Rights Articles and as the report does not have any significant bearing on the substantive equality duty it is not considered necessary to undertake an Equality Analysis.

## **6. Review**

This policy will be reviewed on a two-year cycle. This may be brought forward due to departmental, operational or legislative changes.