APPENDIX B

ADULT CARE SERVICES

ACS 736

Charging for community based services policy

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This document is a mock-up version of what HCC's charging policy would look like should all of the five charging consultation proposals be adopted in the same format as consulted on. The formation of this document does not represent the views of the Council, as the final decision on the outcome of the charging consultation has not been made.

Summary

On 1 April 2011, a revised charging policy for community based services was introduced for Adult Care Services (Health and Community Services at the time). Further changes were introduced to bring Hertfordshire County Council policy in line with the Care Act 2014.

Following a charging consultation between October and December 2017, this document was revised, and came into effect on 15 April 2018.

This document sets out the policy, guidance for staff, and procedures for the financial assessment and charging process for service users receiving community based care services in Hertfordshire. This policy and procedure applies to HPfT and ACS and Serco. It replaces any previous revisions.

Introduction

The legal basis for Local Authorities to be able charge for social care is laid out in the Care Act 2015 with further details in Care and Support (Charging and Assessment of Resources) Regulations 2014 and further clarification in the Care and Support Statutory Guidance (October 2014).

This charging policy takes account of corporate guidelines on charging and follows the framework set out in legislation and national guidance. As part of its preparation an Equality Impact Assessment has been undertaken.

The charging arrangements for care home placements are not covered in this policy. For information on these, see ACS 673 Arranging and Reviewing Care Home Provision.

2. Principles of charging

2.1 Chargeable services

This charging policy applies to community based services provided by the Adult Care Services (ACS) department and to those commissioned by ACS but provided or delivered by other organisations. ACS will charge for all community based services, including (but not listed exclusively as):

- Support at Home / Homecare including that provided in supported living settings (but not intermediate care or homecare provided during an enablement period);
- Day opportunities (day centres or day care);
- Transport services;
- Short breaks (also known as respite care);
- Flexicare;

- Supported Living;
- Telecare;
- Direct Payments.

Services that remain excluded from charging are (also see section 2.2 for client groups exempt from charging):

- Intermediate care;
- Enablement home care (for up to 6 weeks);
- Carer's services;
- Provision of equipment;
- Grant aided voluntary sector services;
- Housing related support (formerly known as Supporting People Services).

Information on how rates are applied and on bandings for different levels of care can be found at Section 4.6. Individual fees for each service are revised annually, and published separately in our Charging for Community Services booklet and on the website at:

https://www.hertfordshire.gov.uk/services/adult-social-services/care-and-carers/arranging-and-paying-for-care/paying-for-your-care-costs.aspx

There is a presumption that any new services not referred to in the policy currently, or those that may develop in the future will be chargeable unless HCC has chosen to exercise its discretion not to charge or not charge the full amount for that service or where that service is exempt under statute.

2.2 Circumstances where a charge will not be made

2.2.1 Exemption from charges

The charging policy for ACS community based services does not apply to service users aged under 18. Certain other service users are exempt from charges. These are:

- Service users who receive after-care services provided under section 117 of the Mental Health Act 1983 (legal requirement);
- Service users who suffer from Creutzfeldt-Jacob Disease (legal requirement);
- Service users who are in the end stages of terminal illness, defined as being in a progressive state of decline, for example, with a life expectancy of less than three months (local discretion not to charge for care provided - excludes CHC funding which is already exempt from charging).

3. Services provided for by compensation package

Where a service user has received a compensation payment which included a sum to cover care needs, this should be covered in the needs assessment. Where a current unmet need has been identified in an assessment and a compensation payment has been made in respect of that need then the expectation is that those sums should be used to meet that need. In these cases Hertfordshire County Council (HCC) should act as an assisting agency, providing advice and guidance on the availability of services. Payment for the services arranged should be the responsibility of the Trustees of the compensation fund. It is for the Trustees/family to bring to the attention of HCC any reasons why this cannot occur and these will be given due consideration and in appropriate circumstances the County Council will fund those services.

Where these sums can be considered they are assessed in accordance with the Care and Support (Charging and Assessment of Resources) Regulations 2014 and the Care and Support Statutory Guidance (October 2014) as follows:-

- Where capital consists of any payment made as a result of personal injury, and a Court has specifically identified that this payment is to cover the cost of providing care it will be taken into account.
- Where the Court has **NOT** specifically identified that this payment is to cover the cost of providing care, then the value of that capital is disregarded for a period of up to 52 weeks from the date of receipt of the first payment. Subsequent payments after the 52 weeks are taken fully into account unless they themselves cannot be considered.
- Where capital consists of any payment made as a result of personal injury and is placed in the Court of Protection then both the capital value of the payment and the income which arises from it **cannot** be considered in a charging assessment.
- Where capital consists of any payment made as a result of a personal injury and it is placed in a Trust Fund then the capital value of the payment cannot be considered but the income which arises from it is included in the assessment of income.

4. Determination of charge

4.1 Capital limits

Capital is assessed in accordance with the Care and Support (Charging and Assessment of resources) Regulations 2014, Care and Support Statutory Guidance (October 2014).

Capital limits are set in line with the above regulations and published by Department of Health in documents called Local Authority Circulars. Broadly, capital is treated as follows:

- Service users with capital above the *upper* capital limit are expected to pay the standard cost of the service. The standard cost in this instance means the full cost.
- Service users with capital above the *lower* limit, but below the *upper* capital limit will be assumed to have some income from capital - this is called Tariff Income and is calculated according to charging guidance and regulations (see 4.2.3 below).

- Service users with capital *below* the lower capital limit will be assessed based on their income only (the capital will be disregarded).

If the service user owns property that they do not live in, it is usually included as capital. It is not included as capital if the place the service user is currently residing is deemed to be temporary and the service user intends to return to the owned property in the near future.

4.2 Financial assessment calculation and benefit check

4.2.1 Financial assessment calculation

The financial assessment establishes whether the service user must pay a charge, and if so, the amount of the weekly charge. When a financial assessment is calculated, it must be calculated as follows:

1. Available income (income that can be counted in a financial assessment) is added up;
2. Tariff income (see 4.1 above and 4.2.2 below) is added to the available income;
3. The Minimum Income Guarantee (see 4.2.3 below) is deducted;
4. Certain housing expenses, such as Council Tax, are deducted;
5. Disability Related Expenses (see 4.2.4 below) are deducted;
6. Whatever remains is called the Maximum Assessed Contribution. Every charging week (which runs from a Sunday to the following Saturday), HCC will compare the Maximum Assessed Contribution with the actual cost of services (see 4.6) provided in that week, and pass on the lower amount.

If a service user is not exempt from charges, and does not have capital over the upper limit, a financial assessment should be carried out. Information for the assessment is collected by way of a postal financial assessment and input onto ContrOCC. Where an individual is in prison and will be receiving care in prison they will be asked to complete a shortened form. Service Users or their financial agents who are unable to complete the postal financial assessment, and provide evidence, can request a financial assessment visit.

Service users who approach Adult Care Services to inform us that their capital has dropped below, or are about to drop below, the upper capital limit and wish to request Adult Care Services funding will be asked to complete an ACS8sf form (self-funder) by post and provide evidence.

Service users who choose not to provide information for a financial assessment are liable to pay the standard cost (i.e. full cost) of the service.

Service users are notified in writing of the assessed charge, how it has been calculated, and what to do if they disagree with the charge.

4.2.2 Available Income and welfare benefits check

Annex C of the Care and Support Statutory guidance tells local authorities how to treat various types of income and state benefits, which to disregard, and which to partially disregard.

A welfare benefits check is provided by the Community Finance Team (CFT) as part of the financial assessment process. Service users are advised if the financial assessment reveals any unclaimed benefits to which they may be entitled and may be referred to the Money Advice Unit or Department of Work and Pensions for assistance with claiming benefits.

Community Finance will review all referrals for benefit claims on a periodic basis and update financial assessments where applicable.

Disregards on Income and Capital are treated in line with the Care and Support (Charging and Assessment of resources) Regulations 2014, as described in Care and Support Statutory Guidance.

For the purpose of clarity, the high rates of Attendance Allowance and Disability Living Allowance (Care Component) are taken into account as available income in cases where the Council is providing night time care. For the avoidance of doubt, night time care is considered to be care delivered between the hours of 11pm and 7am.

4.2.3 Tariff Income

Tariff Income applies where a service user has capital of more than the lower capital limit but less than the upper capital limit. The amount of tariff income gets added to the service users overall allowable income for financial assessment, having the effect of increasing their charge, or making it more likely that the service user will pay a charge.

It is calculated by taking the actual amount of capital the service user has, then deducting the value of the lower capital limit and dividing the result by 250. The final result is then rounded up to the nearest £1. As an example, assuming the service user has £16,455 and the lower capital limit is £14,250, their tariff income would be £9 as per the working below:

- £16,455 - £14,250 = £2,205
- £2,205 ÷ 250 = £8.82
- £8.82 rounded up to nearest £1 = **£9**

4.2.4 Minimum Income Guarantee

The Minimum Income Guarantee (MIG) is an amount of money the government says is a safeguard against charging service users too much for care. The MIG levels are reviewed annually by the Department of Health, and published in Local Authority Circulars. The amount of MIG applicable is dependent on a number of factors:

- Whether or not the service user is single or part of a couple;
- Whether or not the service user lives alone;
- The age of the service user;
- The level of the service users' disability benefits;
- Whether or not the service user is in receipt of (or could be in receipt of) Carers Premium;
- Whether or not the service user has responsibility for a dependent child living in the same household.

Practitioners should refer to CFT training guidance on how to determine the applicable level of Minimum Income Guarantee to apply.

4.2.5 Housing expenses

Housing costs are deducted from the service user's available income for charges. Housing costs do not include gas, electric, water charges (unless higher than average due to disability), or buildings and contents insurance. Housing costs include rent (net of Housing Benefit or Universal Credit Housing allowance), council tax (net of council tax reduction), mortgage interest payments (net of any help from state benefits) and leasehold costs such as service charges and ground rent.

4.2.6 Disability Related Expenditure

A disability related expense (DRE) is an expense that the service user incurs as a result of having a disability. Practitioners should refer to CFT training guidance on how to treat claims for DRE.

The County Council allow an individual a deduction in their income that is assessed to take into account disability related expenses (DRE) up to £20 a week, but this must be supported by receipts. If a service user feels that their DRE is higher than £20 a week they will need to appeal by sending in a letter with receipts asking for further expenses to be taken into account. Their appeal will be reviewed by a senior operational manager who will determine whether their additional expenses can be allowed. See section 10 for more information on Appeals.

4.2.7 Deprivation

If a service user has intentionally deprived himself or herself of capital or income in order to reduce or avoid a charge then the service user may be treated as still possessing the asset. The Care and Support (Charging and Assessment of Resources) Regulations 2014 and Annex E of the Care and Support Statutory Guidance is followed when making decisions on whether the person has deprived himself or herself of capital or income and whether or not to pursue the recipient/s of those funds.

4.3 Couples

The definition of a couple for the purposes of this policy is a married couple or two people who live together as married. It includes couples, civil partners and co-habiting couples. It does not include separated or divorced couples unless they live together as if married. Where only one member of a couple receives services, charges are based on the service user's income and capital, not the income or capital of her/his partner or any other members of the household. However, the couple can elect for a joint assessment, (i.e. to be assessed on joint income, capital and expenditure), in which case the charge will be the lower of the single or joint assessment.

If a single financial assessment is carried out, only the capital owned by the service user will be taken into account. Any capital held in joint accounts will be assumed to be held in equal shares, as per Care Act guidance. The capital limits will apply to the service user's share of the capital. It will be assumed that the service user is entitled to a share of any benefits or income paid for the joint benefit of the couple. Half of the total housing expenses will be attributed to the service user. Disability related expenditure directly attributable to the service user will be allowed up to £20 per week (see 4.2). The capital limits applied will be as laid out in guidance (Local Authority Circulars) published by the Department of Health.

If a joint financial assessment is carried out, the couple's joint resources will be taken into account. The capital limit will apply to the total capital held by the couple. The income of both members of the couple will be included, as will any income paid for the joint benefit of the couple. Full housing costs will be deducted from the couple's income. The threshold applied will be as laid out in guidance.

4.4 Minimum / maximum charges and standard costs

There is no maximum weekly charges for Adult Care Services. However, the charge cannot be more than the standard cost of the services received. These standard costs and charges are revised annually in line with inflation.

The minimum weekly charge for Adult Care Services is £2 per week.

Clients pay one charge for services provided by Adult Care Services, even if they receive more than one service.

Charges do not include lunches or drinks served at day opportunities, which must be paid for separately.

4.5 Backdating charges

The County Council aims to notify service users of assessed charges promptly, before the first invoice for charges is issued. Charges will normally apply from the date of commencement of services, but will not be backdated earlier than 4 weeks prior to notification unless the delay is due to the service user not providing information needed to complete the assessment, or delaying a visit to assess charges.

4.6 Determining the Cost of Service

The cost of providing services is calculated as follows:

4.6.1 Support at Home / Homecare

Charges for support at home and for homecare are based on actual service received, charged in 15 minute blocks. The number of minutes' service received at each visit determines which block to charge against. The table below illustrates this:

Each visit (duration)			Charged as
From	To		
0	20	minutes	15 minutes
21	35	minutes	30 minutes
36	50	minutes	45 minutes
51	60	minutes	60 minutes

The hourly rate is published on the HCC website annually, and is included in charging booklets.

4.6.2 Day Opportunities

Charges for day opportunities are based on sessions. Each session is half a day. If a service user has a full day at a day centre or day care setting, then this is counted as two sessions.

Session rates are published on the HCC website annually, and are included in charging booklets.

4.6.3 Transport

Transport is charged on a per trip basis, at the same rate, irrespective of the method of transport. Transport to and from day care is charged as two trips.

The per trip rate is published on the HCC website annually, and is included in charging booklets.

4.6.4 Flexicare

Flexicare is charged based on the banding the service user has been assessed as needing. There are three bands, detailed in the table below:

Band	Hours of care (per week)	Charged as
Low	0 to 3 hours	3 hours
Medium	3.1 to 10 hours	8.5 hours
High	over 10 hours	15 hours

Rates charged for each banding are published on the HCC website annually, and are included in charging booklets.

4.6.5 Supported Living

Supported Living is charged based on the banding the service user has been assessed as needing. There are three bands, detailed in the table below:

Band	Hours of care (per week)	Charged as
Low	0 to 3 hours	1.5 hours
Medium	3.1 to 10 hours	6 hours
High	over 10 hours	14 hours

Rates charged for each banding are published on the HCC website annually, and are included in charging booklets.

4.6.6 Telecare

Telecare is charged at a flat rate per week.
The rates are published on the HCC website annually, and are included in charging booklets.

4.6.7 Two carers

Where two carers are required to attend at any one time then both carers will be charged for.

5. Deferred Payments

The County Council has the discretion to enter into Deferred Payment agreement with people whose care and support is provided in Supported Living Accommodation. The County Council can only do this if the person intends to retain their former home and intends to pay the associated care and rental costs from the deferred payment. Deferred Payment agreements cannot be entered into for the purposes of financing mortgage payments on Supported Living accommodation.

The final decision on eligibility for a Deferred Payment Agreement in the above circumstances is at the discretion of the County Council. This decision will be made by a Senior Finance Manager together with a Senior Operational Manager and the individual will be informed of this decision in writing.

Deferred Payments will not be considered for other forms of non-residential care.
For the purposes of clarification Supported Living Accommodation will include Flexicare Housing and Shared Lives. This is defined in The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014.

The Deferred Payment will incur a variable interest rate at the maximum set by the Department of Health. This rate will be revised on the 1st of January and the 1st of July each year. The interest will be calculated on a daily basis and compounded calendar monthly

6. Waivers (reductions or cancellation of charges)

Service users can apply for a waiver (reduction or cancellation) of an assessed charge if they are unable to pay the full charge, which will need to be supported by the social worker. The final decision as to whether to apply the reduction or waiver will be made by the relevant Area Manager or Deputy Area Manager and countersigned by the Income Manager.

There are some scenarios where compulsory waivers apply, and some scenarios where discretion can be applied. These are discussed in 6.1 and 6.2 below.

6.1 Compulsory waivers (based on statute and HCC policy)

Social workers must apply for a waiver or reduction in client charge in the following circumstances:

1. If the service user is subject to Section 117 of the Mental Health Act;
2. If the service user suffers from Creutzfeldt-Jacob Disease;
3. If the service user is terminally ill;
4. If the service user becomes CHC funded.

These waivers are not time-limited, and will therefore have no end date. If the reason for the waiver no longer applies, the social worker must inform the Income Team and request for a new financial assessment by completing a new HCS8b form.

6.2 Discretionary waivers (based on client circumstances)

Social workers can apply for a waiver or reduction in client charge in the following circumstances:

1. If the service user is already suffering financial hardship and to apply the charge would be detrimental to the service user;
2. If there is an ongoing complaint about the service and to apply the charge exacerbates the situation;
3. If the service user currently refuses to pay and there is a risk to the service user if the service is not provided;
4. If there is an unforeseen circumstance where it appears to the social worker that stopping charges for a limited period of time would be beneficial for the service user.

These waivers are time-limited. Waivers for periods of more than 6 months will be rejected unless there is a compelling reason to implement a waiver for a longer period.

7. Invoicing and payments

7.1 Commissioned services (with no Direct Payments)

Invoices are raised four weekly, usually four weeks in arrears. Social Care staff are responsible for entering changes to commissioned services onto ACSIS. Once authorised, ACSIS sends this service information to the Financial Assessment system (Controcc), which determines SAP billing. For example, a bill sent out in May will be for services provided in mid-April.

Payment collection is carried out on the department's behalf by SERCO. Payments can be made by standing order, cheque, online, direct debit or over the telephone.

7.2 Commissioned services (with Direct Payments)

If the service user's maximum assessed contribution is higher than the weekly Direct Payment amount, then the following will happen:

1. The direct payment will not get paid (this is because direct payments are set up to pay out net of the maximum assessed contribution; and
2. The difference between the maximum assessed contribution and the direct payment will be invoiced as per 7.1 above.

7.3 Direct Payments only

Direct payment service users are paid net of their maximum assessed contribution. Direct Payments are paid four-weekly, in advance. The service user is expected to pay their maximum assessed contribution direct into their direct payment bank account, or direct onto their pre-payment card, whichever is applicable.

Where the amount of maximum assessed contribution is higher than the direct payment, HCC will not make direct payment payments and the service user will effectively have to fund the full amount of their direct payments.

8. Non-payment of charges

Local authorities are empowered to recover outstanding charges summarily as a civil debt (Section 69 Care Act 2014).

The County Council will exercise its right to take steps to recover the costs for the services it has provided and for which it can charge. However, the County Council will seek to engage with the person responsible for meeting the charge before taking any enforcement action.

9. Reviews and complaints

Charges are reviewed annually in line with benefits uprating. Service users can request a re-assessment of the charge if their financial circumstances change at any point during the year, if there has been significant change. A new financial assessment may also take place at the point of the care review. A review is separate to an Appeal (see section 10), as a review relates to the correction or update of a financial assessment, whereas an appeal is used where the service user wishes the council to exercise its discretion or where the service user has DRE above £20 per week.

A service user who is dissatisfied with the service they have received from the Income Team or the Community Finance Team, they have the right to make a complaint. Adult Care Services' complaint procedure will apply for all complaints. Details on how to complain can be found at: **https://www.hertfordshire.gov.uk/about-the-council/complain-or-comment/make-a-complaint.aspx**

10. Appeals

If a service user or their representative is unhappy with the maximum assessed charge they have the right of appeal on the grounds of financial hardship and on the grounds that HCC has capped their DRE at £20 per week.

Appeals must usually be made in writing (including by email), and must be supported with evidence. In order for a decision to be made, the decision maker, which will be a Senior Operational Manager, must be able to determine the actual costs incurred, the frequency that those costs are incurred and have access to the service users' care plan.

Following the appeal, we will write and inform service users of our decision on each claim and the reason for each decision.

If the service user remains dissatisfied with the charge, or any other aspect of the service, s/he can make a complaint under the County Councils Complaints Procedure which can be

found at: **https://www.hertfordshire.gov.uk/services/adult-social-services/adult-social-services-factsheets**

11. Information for service users

A public leaflet 'Charging for community based care services', which is the guide to charging for Adult Care Services is available from:

Income Team
Adult Care Services
SFAR 225
Farnham House
Six Hills Way
Stevenage
SG1 2FQ

An electronic version is also available on our website at:
https://www.hertfordshire.gov.uk/services/adult-social-services/care-and-carers/arranging-and-paying-for-care/paying-for-your-care-costs.aspx