



London Borough of Enfield

**Charging and Financial
Assessment Policy for Care
Home and Non-Residential
Support Charges 2022-23**

Consultation Version

DRAFT

Charging and Financial Assessment Policy for Care Home and Non-Residential Support Services

Scope	<p>This Policy sets out Enfield’s approach to charging residents for Care Home fees and Non-Residential Support Services. It also sets out the criteria for assessing the contribution towards both services.</p> <p>It documents the detail involved in the Financial Assessment process in providing Support Services for people living in their own homes and for those requiring both short and long-term Residential Care.</p>
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1 BACKGROUND

The Department for Health & Social Care (DHSC) requires Local Authorities to agree a charging policy in relation to Adult Social Care fees for chargeable services. This relates to Residential/Nursing Care Home fees and non-residential charges for those living independently in the community.

This Policy reflects the requirements of the Care and Support Statutory guidance issued under the Care Act 2014 and the Care and Support Charging and Assessment Regulations 2014.

2. PURPOSE OF THE DOCUMENT

The Policy Statement also acts as a point of reference, setting out the interpretation of guidance and updates provided by **The Department of Health & Social Care**. The primary function of the Policy is to assist Council Officers in delivering a consistent, transparent and fair service and to advise service users about the policy in place that is used to determine their financially assessed charges for either Care Home or non-residential care services.

This Policy is intended to be a 'live' document and should be reviewed and updated in order to reflect any changes in charging regulations determined by the Department for Health and Social Care or to take into account any changes in local Policy.

3. Objectives of the Policy

Enfield has a fair and consistent policy for charging residents for both residential and non-residential Services for adults.

The financial assessment and any calculated contribution from the assessment is based on the person's financial circumstances.

To make sure that the service user has the correct information and support so that they understand how any charges they are assessed to pay have been calculated.

To ensure that the person is aware of and supported to claim any individual Benefit to which they may be entitled.

The charges applied will not exceed the cost of the service provided and will not include any cost for administrative charges, unless they are levied in respect of a Brokerage Charge or a Deferred Payment Arrangement.

Access to Adult Social Care support is not restricted by a person's immigration status or if they have no recourse to public funds. The same duties under the Care Act apply, for example;

- The duty to provide individual well being
- The duty to provide correct information and advice
- The duty to prevent, reduce and delay the need for care and support,
- The duty to assess on the appearance of need; and
- The duty to make enquiries following a safeguarding concern.

However, EEA Nationals and their dependants are not entitled to an assessment unless this causes a breach of their human rights or their EU treaty rights.

If, following an assessment of need, a person is found to have eligible needs for ongoing direct Care and Support, the Local Authority has a duty to meet those needs (including the duty to develop a Care and Support Plan and a duty to review). In this instance when eligible, the Local Authority may assist with funding the care provided. The User will receive a financial assessment to assess their affordability to contribute towards their care.

4. Exceptions to the Charging Policy

The following services will not be charged for –

- Services provided directly to unpaid Carers (such as therapies, counselling but excluding direct payments)
- After Care Services provided under Section 117 of the Mental Health Act 1983 (if you have been detained in hospital under section 3, 37, 45A, 47 or 48 of the Mental Health Act 1983).
- Services provided to a person suffering from any form of Creutzfeldt-Jakob Disease (CJD).
- Equipment to help with daily living.
- Minor adaptations to property where the cost does not exceed £1,000.
- Intermediate Care Services including enablement lasting **up to** six weeks. It is important to note that the duration of the service will be appropriate to the needs of each individual service user and usually lasts for between two to three weeks so six weeks is not an automatic entitlement. Any longer-term services arranged following a period of enablement may be chargeable subject to financial assessment).
- Providing information and advice, assessment of needs and support planning.
- Any service or part of a service that the National Health Service (NHS) has a duty to provide. This includes Continuing Healthcare and the NHS contribution to Registered Nursing Care (called funded nursing care or FNC).

5. Financial Assessments for Non-Residential Services

The Financial Assessment

The contribution is calculated in line with the Care Act 2014 and the Care and Support (Charging and Assessment of Resources) Regulations 2014. This takes into account a person's–

- Assessable Income,
- Capital,

- Housing costs and
- Disability Related expenditure.
- A Minimum Income Guarantee is applied according to your circumstances. Where the assessed charge is higher than the cost of services supplied, the charge applied will not exceed the cost of the services.

5.1. Assessable Income will include the following –

- State Pension
- Pension Credit
- Attendance Allowance (AA)
- Universal Credit (UC)
- Employment and Support allowance (ESA), Incapacity Benefit or Severe Disablement Allowance
- Income Support/JSA
- Daily Living component of Personal Independence Payments (PIP)
- The Care component of Disability Living Allowance (DLA)
- Carers Allowance
- Bereavement Allowance
- Private/Occupational Pension
- Any Other income
- Where someone receives a State Benefit as a top -up to other income, this will be apportioned as appropriate.

A full list of income is listed in Appendix 1.

5.2. Income not included in the Financial Assessment –

- Mobility Component of DLA, PIP and Mobility Supplement of War Pensions.
- Disabled Facilities Grant payments
- £30.55 (2022/23) if in receipt of the higher rate of AA, DLA Care component or Enhanced rate of PIP Daily living component. The higher rate benefits have gone up by more than the lower rate for next year so this amount has changed to £30.55 I think – please check.
- Earnings from employment/Statutory sick pay
- Pensions Savings Credit
- Child Benefit/Child Tax Credits
- £10 of a War Widows/Widowers/Civilian war Injury Pension.

A full list of disregarded income is listed in Appendix 2.

5.3 Capital

This includes –

- savings and investments,

- stocks and shares,
- unit trusts,
- premium bonds,
- ISA's
- Any property other than the property the person lives in.

If Capital exceeds **£23,250.00** the full cost of the service will need to be met. If the total assets are between **£14,250 to £23,250** a tariff income is calculated which is treated as income. This assumes £1 for every £250 or part of £250. If the capital is below £14,250 no tariff income will be applied.

Further information is listed in -

Appendix 3 - Capital taken into Account and Capital Disregarded.

If the Council feels that a person may have spent or transferred their capital or other assets in order to pay a reduced contribution, the Council may apply a notional amount equivalent to the value of the asset or capital.

5.4 Housing Related Expenditure

Once the assessable income is calculated **Housing Related Expenditure** is deducted. This includes charges for -

- Rent where the person is legally liable to pay rent (We may require evidence for this e.g. a tenancy agreement)
- Council Tax where the person is legally liable to pay Council Tax
- Mortgage payments where the person is one of the mortgagees
- Ground rent where the person is legally liable to pay ground rent.

Evidence may need to be provided if the information cannot be obtained from other sources. This includes Housing Benefit and Council Tax Support records and access to State Benefit information via the Department for Work and Pensions (DWP) system.

Housing Related expenditure does not include charges for heating or water rates as these are accounted for in the Minimum Income Guarantee (MIG)

5.5 Disability Related Expenditure (DRE)

Disability Related Expenditure is deducted. DRE) This is extra expenditure incurred as a result of the person's disability or illness.

Examples of DRE include but is not limited to -

- Community Alarms,
- Chemist items and toiletries,
- Additional clothing and bedding required as a result of the persons condition.
- Specific Dietary needs
- Extra Heating

- Extra laundry
- The cost of any privately arranged care services.

Further information is available at <https://mylife.enfield.gov.uk/media/24433/dre-factsheet.docx>

If the DRE is considered reasonable and is in line with the Council's DRE policy, evidence of expenditure will **not** be required.

5.6 The Minimum Income Guarantee

Every person must be left with a minimum amount to live on as advised by the Department of Health. This is known as the -

Minimum Income Guarantee (MIG).

The MIG ensures that a person maintains a certain level of disposable income. This is to meet essential daily living expenses such as purchasing food, clothing, utility costs and insurance.

The Minimum MIG amounts laid by the **Department of Health & Social Care** are listed at <https://mylife.enfield.gov.uk/media/25120/minimum-income-guarantee.pdf>

Couples

If one member of a couple applies for assistance they will be assessed as an individual but the MIG applied will reflect the amount for a member of a couple. If capital is jointly owned, this will be divided equally.

The MIG is deducted to leave the amount that is required as a contribution towards the costs. NB, if the amount of income remaining following deduction of the MIG is higher than the cost of the service, the lower amount (the cost of the service) will be charged.

The Process

Once all information has been collated, a Financial Assessment Officer will contact the service user to complete the application process. Evidence of income and capital will be verified if required and the service user or their financial representative will be informed of the amount of their financial contribution. This will be confirmed in writing, along with a breakdown of the financial assessment.

A service user may choose **not** to receive a financial assessment but, in this case, they will be asked to pay the full contribution for their care charges. This may also occur where someone does not return a completed financial assessment form or provide evidence requested.

5.7 Personal Budgets

If there is a shortfall between the assessed contribution and the full cost of meeting a person's assessed eligible needs, the Council will contribute to their personal budget to make up the difference.

Where the Council arranges care services and the person is assessed to contribute the full cost of the service, an additional brokerage fee of £275 will be applied.

Applicants can also ask the Council to manage all or part of their personal budget. This means they will arrange some or all of the service and pay using either the person's personal budget or via a direct payment.

If a person's capital exceeds £23,250 the Council will not contribute to the cost of any services.

6. Residential Care

Everyone is expected to contribute towards their Care Home fees (unless exceptions apply). Most Care Homes are operated by the independent or voluntary sector and must be registered with the Care Quality Commission.

Care can be arranged directly with a Care Home or the Council can assist. Where the Council arranges a placement for a full cost client, a one-off charge of £275 will be added to the cost. Care home charges vary according to the type of Home, the level of care provided and whether the stay is permanent or temporary.

Care Homes may provide –

Full time nursing care or specialist care for people with disabilities or medical needs. Where a person is assessed as needing nursing care the nursing element is funded by the NHS. This is called funded nursing care (FNC). This cost is not chargeable under the financial assessment.

Accommodation is included within the total cost of any placements.

The Financial Assessment

This takes into account a person's–

- Assessable Income,
- Capital and Savings.

6.1 Short or Temporary Stays.

A short-term resident is someone provided with accommodation and support in a care home for a period not exceeding 8 weeks, for example where a person is placed in a

care home to provide respite care. Where a person is a short-term resident non-residential charging rules will apply.

A temporary resident is someone whose stay in a care home is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely to substantially exceed 52 weeks. Because a temporary resident is expected to return home their main or only home will be disregarded in the assessment of whether and what they can afford to pay. In addition, certain housing-related costs are also disregarded in the financial assessment. Residential charging rules will apply. In addition, further allowances may be made in respect of ongoing costs the person is liable to pay in order to maintain their property in their absence, such as household insurance, standing charges for utilities, council tax and mortgage/rent payments.

If the Council contributes to the cost of the Care Home, some Benefits may stop after 28 days, whether the care is short-term or a permanent stay.

6.2 Permanent Residential Care

For permanent residential care, the value of the person's interest in property and land owned by the person may be included in the financial assessment.

Mandatory Disregard

In the following circumstances the value of the person's main or only home will be disregarded:

- (a) where the person is receiving care in a setting that is not a care home
- (b) if the person's stay in a care home is temporary and they either:
 - (i) intend to return to that property and that property is still available to them
 - (ii) are taking reasonable steps to dispose of the property in order to acquire another more suitable property to return to
- (c) where the person no longer occupies the property but it is occupied (occupation must have been continuous before the person went into a care home) in part or whole as their main or only home by:
 - (i) the person's partner, former partner or civil partner, except where they are estranged
 - (ii) a lone parent who is the person's estranged or divorced partner
 - (iii) a relative (relative is fully defined in the Care Act 2014) of the person or member of the person's family who is either:
 - 1) aged 60 or over
 - 2) is a child of the resident aged under 18
 - 3) is incapacitated

Discretionary disregard

We may also use our discretion to disregard the value of a person's main or only home.

Examples where it may be appropriate to apply a disregard are:

- (a) it is the sole residence of a person who gave up their own home to live with the person who is now in care such as:
 - (i) full time carer;
 - (ii) someone of pensionable age
 - (iii) an adult with a disability who has been assessed as having eligible care and support needs

For further detail visit <https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#annexe B, section 34>

If Capital exceeds £23,250.00 the full cost of the Care Home fees will need to be met by the resident. If the total assets are between £14,250 to £23,250 a tariff income is calculated which is treated as income. This assumes £1 for every £250 or part of £250. If the capital is below £14,250 no tariff income will be applied.

If the Council feels that a person may have disposed of or transferred their home, capital or other asset in order to pay a reduced contribution, the Council may apply a notional amount equivalent to the value of the asset or capital to be included in the financial assessment.

If a person pays the full cost of their care, they will continue to receive the Benefits they are entitled to.

If the Council contributes to the cost of the Care Home, some Benefits may stop after 28 days, whether the care is short-term or a permanent stay.

The 12-week disregard is intended to give you or your financial representative time to seek financial advice and decide what to do with your property, you may wish to sell your property or to take out a deferred payment arrangement out against the property. A contribution may still be payable from your income during the 12 week disregard.

If you were previously living in a care home on a private basis for more than 12 weeks and have approached us for funding for a permanent placement because your savings have reduced to under £23,250, you will not be eligible for a 12-week property disregard.

If you were living in your property prior to being placed in a care home on a permanent basis, then subject to our funding criteria you may be eligible for a 12-week property disregard period where the value of your property is not taken into account.

If a person has a property that is being sold the value of the property less any mortgage is disregarded for up to 12 weeks. This disregard will stop if the property is sold before this time. The Council contributes towards the full cost for the first 12 weeks. Within this period the service user will be financially assessed for their weekly contribution.

The Council will **only** pay what is considered reasonable for a placement once the person's needs have been assessed.

Care may also be funded via a Deferred Payment Agreement (DPA).

7. Deferred Payments

Care can be funded via a Deferred Payment Agreement (DPA). This means the Care is treated as being funded independently.

This is a loan from the Council against the value of the person's property. The Council may enter into a Deferred Payment Agreement where the fees will be paid but recovered once the property is sold. The Council will do this by placing a legal charge on the property through the land registry. While the loan is in place a financial assessment will still be carried out based on the person's current income and capital.

The assessment will look at the value of the property, less any mortgage or debt secured on it and any expense incurred in setting up the Agreement. The Council will charge interest on the loan. Where this arrangement is in place the Council will allow a person to keep up to £144 per week (2022/23) instead of the standard Personal allowance of £24.90. The service user will continue to pay their assessed contribution. *(We say 22/23 but these are 21/22 figures and may be subject to change when next year's figures are released)*

<https://mylife.enfield.gov.uk/media/24780/hhasc439-deferred-payments-scheme.pdf>
for further information.

8. Letting Out a Home

A service user may rent out their former home to help pay their Care Home fees although there may still be a shortfall. The Council will pay the shortfall through a Deferred Payment Agreement, subject to eligibility. If a property is rented out the Council will allow up to £144 per week to be retained plus 10% of the net rental income. The remainder is used towards the fees.

9. Top Up Fees.

If a service user wishes to be placed in a Care Home which is more expensive than a Care Home selected by the Council which can meet the eligible assessed needs, an additional top-up fee can be paid to the Care Home. This is in addition to the assessed contribution and also applies where a user is paying the full cost of the Home. This may be paid by the service user themselves but is normally done by a friend or relative who will be asked to sign a Third-Party Agreement with the Council.

The fees may also be added to a Deferred Payment Agreement (where applicable). Additional fees are normally paid directly to the Home under a separate contract with the Care Home. Evidence will have to be supplied to the Council that this top up arrangement is sustainable for the duration of the placement and where it is not, the Council reserves the right to find an alternative placement capable of meeting eligible identified needs.

10. Enablement Service

A person may be offered enablement support following an illness, injury or a stay in hospital. This is to help them recuperate and regain independence. Enablement will be provided where there is potential for a short period of rehabilitative support to help a person regain independent living skills which may have reduced or been lost due to a period in hospital or illness. Potential for rehabilitative support will be determined by a Social Worker or an Occupational Therapist. The average time spent in the enablement service is around three weeks but can be up to six weeks if needed. The period of enablement is free of charge for **up to six weeks**. If it is determined during the time spent in the enablement service that a person will need an ongoing service (beyond the enablement period) then they will be referred on for on-going support, which may be chargeable (subject to financial assessment). A financial assessment will be completed as soon as possible after this decision is made. **It is important to note that the six-week period of enablement free of charge is not an automatic entitlement. If, for example, the enablement period lasts for three weeks and after that period long term support from Adult Social Care services is required, services from week four will be subject to financial assessment and a charge may be payable.**

11. Respite Care

Respite Care is replacement care to enable an unpaid carer to have a break. This can be taken in a variety of ways, including in a Care Home, a person's own home or through the Adult Placement Scheme.

The Council can help to support service users or carers to identify a suitable respite option that meets the person's needs. Non-residential charging rules apply to respite care.

More information can be found in the Respite Care Policy available at <https://mylife.enfield.gov.uk/media/24471/respite-care-policy.pdf>

12 NHS Funded Care

Nursing care provided within a registered nursing home is funded by the NHS through a funded nursing care (FNC) payment. This element of care is not chargeable and will be disregarded as part of a person's financial assessment.

If someone needs short-term rehabilitation care within a registered nursing home following a stay in hospital, the NHS will arrange and fund the placement for the duration of the rehabilitative period.

If someone qualifies for NHS Continuing Healthcare, whether in the community or in a residential/nursing care placement, the NHS is responsible for paying all of these fees and no financial assessment will be needed.

13. Reporting changes

Service users who receive financial assistance towards their care or support costs must inform the Council if there is a change which may affect their assessment. This includes changes to assessable income, savings and capital, household members, housing related and disability related expenditure.

Failure to notify these changes may result in a backdated assessment that could increase or decrease their contribution.

14. Annual Reviews

A review of assessments for those receiving any local authority funded care will be undertaken annually and updated in line with Government figures.

The figures for **2022/23** can be found in the following publications –

The Department of Health & Social Care Circular – LA Circular LAC(DHSC) (2022) at Appendix 5.

<https://mylife.enfield.gov.uk/media/25120/minimum-income-guarantee.pdf>

The information is also available in the following Council Booklets –
'Charges for Community Care Services for people living at home' 2022-23
'Charges for living or staying in a Care Home' 2022-23.

15. Appeals

Following a Financial Assessment, the service user or their representative will be provided with a breakdown of how their contribution to the service required has been calculated. If they disagree with the assessment, they can ask for a review. They will be asked to explain which aspects of the assessment they disagree with and provide supporting evidence. If following a Review, they are still not satisfied they can request that their case is referred to an Appeals Panel to which they or their representative will be invited. This will be made up of Senior Council Officers including at least one who is independent of the Financial Assessment Service.

Appendix 1

Income taken into account in Non- Residential Services

- Attendance Allowance, including Constant Attendance Allowance and Severe Disablement Allowance
- Bereavement Allowance
- Carers Allowance
- Disability Living Allowance (Care component)
- Employment and Support Allowance
- Income Support
- Industrial Injuries Disablement Benefit or equivalent benefits
- Jobseeker's Allowance
- Maternity Allowance
- Pension Credit
- Personal Independence Payment (Daily Living component)
- State Pension
- Universal Credit
- War Pension (where not paid to the veteran)
- Working Tax Credit.

Private or Occupational Pensions.
Any Other Income

- 'Tariff Income'* on savings between the lower capital threshold and the upper capital threshold. *£1 for every £250 or part of £250

Appendix 2

Income disregarded in the Financial Assessment

- Mobility component of Disability Living Allowance/ Personal Independence Payment
- Earned income from employment
- Child Support Maintenance Payments and Child Benefit
- Child Tax Credit

- Guardians Allowance
- War Pension Scheme payments to veterans
- War Pensioners Mobility Supplement
- War Widows Supplementary Pension
- Guaranteed Income Payments (but not Survivor Guaranteed Income Payments)
- Armed Force Independent Payments and Mobility Supplement

Appendix 3

Capital taken into account and capital disregarded.

Capital taken into account

- Buildings
- Land
- National Savings Certificates and Premium Bonds
- Stocks, shares and Unit Trusts
- Capital held by the Court of Protection or a Deputy appointed by that Court
- Any savings held in: Building society accounts, Bank accounts, Post Office accounts, deposit accounts or special investment accounts.

Capital Disregarded

- The house in which the person lives in
- Personal possessions (e.g. art work or antiques)
- Payments in kind from a charity

Surrender value of:

- Life insurance policy

Payments made or derived from:

- The MacFarlane Trust and The MacFarlane (Special Payments) Trust
- The Fund (payments to non- haemophiliacs infected with HIV)
- The Caxton Foundation

- The capital value of Trust Funds held or administered by a court which are from a payment for personal injury (e.g. vaccine damage, criminal injuries compensation)
- The Eileen Trust
- The MFET Limited
- The Independent Living Fund
- The Skipton Fund
- The London Bombings Relief Charitable Fund
- Payments from a Trust where the funds are damages for personal injury.

Appendix 4

Disability Related Expenditure. This may include the following –

- Payment for a community alarm system.
- Chemist items and prescriptions
- Costs of any privately arranged care services required, including respite care.
- Costs of any specialist items needed to meet the person's disability needs, for example:
 - Day or night care which is not being arranged by the local authority;
 - Specialist washing powders, laundry costs or cleaning products.;
 - Additional costs of special dietary needs or food due to illness or disability, including the cost of home deliveries.
 - Special clothing or footwear, for example, where this needs to be specially made; or additional wear and tear to clothing and footwear caused by disability.
 - Additional costs of bedding, for example, because of incontinence;
 - Heating costs, or cost of water, above the average levels for the area and housing type;
 - Reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by the individual's disability and not met by social services;

- Painting, decorating, DIY costs and repairs every 5 years
- Purchase, maintenance, and repair of disability-related equipment, including equipment or transport needed to enter or remain in work;
- Personal assistance costs, including any household or other necessary costs arising for the person;
- Internet access for example for blind or partially sighted people;
- Social activities, hobbies and getting out and about
- Other transport costs necessitated by illness or disability, including costs of transport to day centres, over and above the mobility component of DLA or PIP.
- The extra expense incurred as a result of your disability when going on holiday.
- Payment towards Therapy and Animals that support Sensory assistance, companionship, security and communication.

A full list and level of reasonable charges can be found at the following link - <https://mylife.enfield.gov.uk/media/24433/dre-factsheet.docx>

Below are some examples of where DRE is **unlikely** to be agreed as part of an Assessment.

Items facilitated by the NHS or any other organisation will not usually be considered as a DRE

- Incontinence pads –where these are already provided by the NHS.
- Herbal Medicine – as not usually prescribed by a Medical Practitioner
- Privately funded respite – any essential respite should be included in the current package of care
- Alternative therapies such as Aromatherapy
- Chiropody – this would only be considered where someone is unable to access the free service provided by the NHS.

Appendix 5.

The link below sets out Enfield's Minimum Income Guarantee.

<https://mylife.enfield.gov.uk/media/25120/minimum-income-guarantee.pdf>

The Department of Health & Social Care Charges, LAC (DHSC (2021)1- sets out the figures for financial year 2022/23:

- The capital limits remain at their current level (i.e. lower capital limit £14,250 and the upper capital limit £23,250).
 - The Personal Expenses Allowance (PEA) for local authority-supported care home residents remains at its current level (i.e. £24.90 per week). *(This figure may be subject to change when next year's figures are released)*
 - The Minimum Income Guarantee (MIG) for people receiving local authority-arranged care and support other than in a care home remains at its current levels.
 - The savings credit disregards remain at their current level (i.e. up to £5.75 per week for individual supported residents and up to £8.60 per week for couples).
- 1.2 The Annex to this circular contains fuller details.

Capital Limits

The capital limits, specified in regulations issued under the Care Act 2014, set the levels of capital (excluding any capital that has been disregarded) that a person can have whilst qualifying for financial support from their local authority. For people receiving care other than as a permanent resident in a care home, local authorities have discretion to set higher capital limits if they wish.

A person with assets above the upper capital limit is responsible for the full cost of their care in a care home. A person with assets between the capital limits will pay what they can afford from their income, plus a means-tested contribution from their assets (calculated as £1 per week for every £250 of capital between the capital limits). A person with assets below the lower capital limit will pay only what they can afford from their income.

For the financial year (2022/23) the capital limits will remain at their current level, £23,250 for the upper capital limit and £14,250 for the lower capital limit.

Personal Expense Allowance

The PEA is the weekly amount that people receiving local authority-arranged care and support in a care home (residents) are assumed to need as a minimum for their personal expenses and local authorities must apply this.

The PEA is specified in regulations made under section 14(7) of the Care Act 2014 and applies to all people whose care and support in a care home is arranged by a local authority under section 18 or 19 of the Act.

It is intended to allow residents to have money for personal use. Based on a financial assessment of their resources, individuals must be left with the full value of their PEA. It is then up to them to determine how they spend it.

Local authorities, providers of accommodation, and residents are reminded that the PEA should not be spent on aspects of care and support that have been contracted for by the local authority and/or assessed as necessary to meet the person's eligible care and support needs by the local authority or the NHS. Neither local authorities nor providers have the authority to require residents to spend their PEA in particular ways and, as such, should not do so. Pressure of any kind to the contrary is extremely poor practice.

For the financial year (2021/22), the PEA remained at £24.90 per week.

(The PEA is subject to change when next year's figures are released we aren't yet aware of 22/23 rates).

Minimum Income Guarantee. The rates for 2022-22 are available at the following link <https://mylife.enfield.gov.uk/media/25120/minimum-income-guarantee.pdf>

Savings Credit Disregard

As part of the Pension Credit system, Savings Credit is extra money paid each week for people who have an income above a certain threshold. People above the minimum eligibility criteria for Savings Credit who also qualify for means-tested support to pay for care are allowed to keep an amount of money in addition to the PEA or the MIG. This is the Savings Credit disregard.

For the financial year (2022/23), the rates of the Savings Credit disregard will remain at their current levels as follows: up to £5.75 per week for individual supported residents and up to £8.60 per week for couples.

Appendix 6

Addendum to ASC Charging Policy 2022/2023 following the Norfolk Judgement on 190321.

A summary of the Norfolk Judgement details are detailed via this link: <https://www.cascaidr.org.uk/2021/01/02/r-on-the-app-of-sh-through-her-litigation-friend-mh-v-norfolk-county-council-sec-state-for-health-and-social-care-2020/>

In summary it was concluded that:

In SH, R (On the Application Of) v Norfolk County Council & Anor [2020] EWHC 3436 Mr Justice Griffiths noted that Norfolk had “exercised its discretion to charge SH the maximum permissible (disregarding only those elements it is required to disregard by law), and, at the same time, has lowered the overall cap on her charges by reducing the council's minimum income guarantee”.

The Judge said: “The difference in treatment relied upon by SH is that the Charging Policy has a disparate impact on severely disabled people like SH compared with its impact on others. The proportion of earnings that she and other severely disabled people with high care needs and significant barriers to work are required to pay under the Charging Policy is greater than the proportion of earnings that people who are disabled but not severely disabled are required to pay....

“However, the level of disability relied upon by SH to make her “severely disabled” for the purposes of this claim can be associated with her entitlement to Employment Support Allowance at the support group rate with the enhanced disability related premium, and to her entitlement to the PIP daily living component at the enhanced rate, by virtue of her “severely limited ability to carry out daily living activities”. Both of these are capable of assessment, and both of them have been assessed, because the enhanced benefits required her to be so assessed.”

“The way the Charging Policy is constructed means that, because her needs as a severely disabled person are higher than the needs of a less severely disabled person, the assessable proportion of her income is higher than theirs. Her needs-based benefits are awarded at higher rates (daily living PIP and ESA) and are fully assessed, and their earnings from employment or self-employment are not available to her and other severely disabled people but are not assessed.”

Mr Justice Griffiths said: “The situation of the severely disabled (with high needs-based assessable benefits and no earning capacity) and everyone else being charged under the Charging Policy is analogous because they are all receiving council services covered by the Charging Policy. Their treatment is different because the Charging Policy means that a higher proportion of SH's earnings (and of other severely disabled people in the same position) is assessed than theirs, and the result is that she is charged proportionately more than they are.

“I conclude, therefore, that there has been a difference of treatment between two persons in an analogous situation.”

The specific aspects of the policy which were successfully challenged here were:

- (1) Reducing the Minimum Income guaranteed under the council's charging policy to the minimum statutory level
- (2) Taking the full amount of PIP enhanced daily living into account as income for assessing adult social care charges.

As a result of this challenge, Enfield set up an internal review group to look at what this judgement means to Enfield and will it be necessary to review the decision-making process that led to our current policy. In doing so we need to consider:

- (a) The impact of the current policy on (i) severely disabled people unable to move into employment and with higher level of benefit entitlements; and (ii) others affected by the charging policy – was explicitly considered in that process, and whether any justification advanced for pursuing their current policy was specifically both linked to, and proportionate to that different treatment;
- (b) The specific alternative approach of applying a maximum percentage of disposable income to be taken into account in charges was fully considered.

Enfield has completed its internal review and has made 2 changes to its Charging policy, affecting non-residential service users only. These are:

- (1) Increase the Minimum Income Guarantee (MIG) by 5% for all those who are unable to work / the most severely disabled, identified by receiving Employment Support Allowance (Support Group) or the equivalent in Universal Credit as assessed by the DWP.

The reasoning behind this is - Benefits have increased up to 5% for the different ESA support groups since 2015/16 but because the thresholds have remained static, service users have not benefited to the increase of their ESA. By raising the threshold for the support groups this would align the increase to the benefit rates since 2015/16.

Increasing the MIG for the most severely disabled by 5% will ensure the most severely disabled keep more of their higher income as they pay more proportionately than those who are able to work.

And

- (2) Disregarding £30.55 per week where the highest rate Personal Independence Payments (care component) is paid regardless of whether night time care is provided or not

The reasoning behind this is - Disregarding the enhanced rate of PIP (£30.55) in all circumstances will address the disadvantage that severely disabled have, if they have all of their PIP included, whereas those who are less disabled and working would have their income disregarded. The purpose of PIP is to help with the extra costs incurred as a result of having a long-term health condition or disability. Care is not the only extra cost incurred and severely disabled people are objectively likely to incur higher costs in terms of daily living than those who are less severely disabled, because mitigating dependencies incurs expenditure.

The following changes have therefore been made to the 2021/22 policy and continued in the 2022/23 Policy:

Appropriate MIG changes as proposed.

- 5.2. Income not included in the Financial Assessment' amended to- £30.55 (2022/23) if in receipt of the higher rate of AA, DLA Care component or Enhanced rate of PIP Daily living component.

Appendix 7

Addendum – Change to the UC 18-24 MIG from 4th October 2021

LB Enfield have made a decision following the removal of the £20 per week top up amount the government were paying UC clients to increase the MIG for all of our single 18-24 UC LCW client groups. From Monday 4th October we are increasing the 18-24 MIGs by £20 this will also bring the MIG in line with the 25+ groups.

All clients affected were written to with details of their new client contribution.

Details can be found here: <https://mylife.enfield.gov.uk/media/25120/minimum-income-guarantee.pdf>

This change, which amended the 2021/22 policy will be carried forward into the 2022/23 policy.

DRAFT