

Adult Social Care  
**Charging and Assessment of  
Resources Framework**  
**2024-25**



## Policy Versions

<b>Version</b>	<b>Policy</b>	<b>Date</b>	<b>Notes</b>
V1.	Fairer Contributions Policy	2013	Original version
V2.	Charging and Assessment of Resources Policy	2015	Updated in line with The Care Act 2014
V3.	Charging and Assessment of Resources Policy	2019 /20	Modified to amalgamate Residential & Nursing care with Non-Residential care & support, including Deferred Payment Agreements & Third-Party Top Ups. To reflect updated policies because of consultation.

# Contents

1. Summary
2. Statutory Framework
3. The Principles of Our Charging and Assessment of Resources Policy
4. Care and Support Services Provided Free of Charge
5. Administration Fees and Interest Charges for Care and Support
6. Mental Capacity to Manage Finances
7. Charging for Care and Support in a Care home
8. Deferred Payments Agreement
9. Interim Funding
10. Choice of Accommodation and Additional Payments
11. Charging for Care and Support in Other Settings including citizen's Own Home
12. Process for Assessing Care and Support Needs and Financial Contributions
  - a) **Step 1** - Care and Support Needs Assessment
  - b) **Step 2** - Indicative Personal Budget
  - c) **Step 3** - Financial Assessment
  - d) **Step 4** - Care and Support Plan
  - e) **Step 5** - Collection of Contributions
  - f) **Step 6** - Review of Contributions & Appeals
13. Implementation
14. Confidentiality & Privacy

## **Appendices**

Useful Contacts

Appendix 1

Appendix 2

Appendix 3

## 1. Summary

This policy applies to all care and support services provided or organised by the London Borough of Harrow (LBH).

Care and support is not a free service like the National Health Service (NHS). While some types of care and support are free, many services are subject to a charge – based on what a citizen can afford. Local Authorities are required to carry out a financial assessment to work out what a citizen can afford to contribute, and these are reinvested in care and support services.

This document sets out LBH's policies for charging for care and support and follows the Care and Support Regulations and Statutory Guidance issued by the Department of Health under The Care Act 2014



## 2. Statutory Framework

The Care Act 2014, together with the Care and Support Statutory Guidance and the Care and Support (Charging and Assessment of Resources) Regulations 2014, provide the legal framework for charging for care and support:

- Section 14 provides local authorities with the power to charge the citizen for care and support, where care and support are provided to meet needs under Sections 18, 19, or 20 of the Act (referred to as “identified” needs or “eligible” needs).
- Section 17 states that where a local authority has decided to charge the citizen for meeting their needs, it must (a) assess the level of the citizen’s resources and (b) the amount they would likely be able to pay towards the cost of meeting their needs.

The more detailed provisions setting out how local authorities should assess a citizen’s financial resources are set out in The Care and Support (Charging and Assessment of Resources) Regulations 2014; and further guidance on assessment and charging is contained in the Care and Support Statutory Guidance.

There are several other regulations which are relevant for the purposes of this policy, in particular the following:

- The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014, which sets out the rules on the provision of preferred accommodation.
- The Care and Support (Deferred Payments) Regulations 2014, which set out the rules on when a Local Authority can enter into a Deferred Payment Agreement to defer part of the citizen’s ongoing care and support cost and the Local Authority’s power to charge interest and the administration costs of operating the Deferred Payment Scheme.
- The Care and Support (Personal Budget Exclusion of Costs) Regulations 2014,
- The Care and Support (Direct Payments) Regulations 2014
- Care and Support Statutory Guidance, issued by the Department of Health & Social Care, provides detailed guidance to Local Authorities in all aspects of the Care Act 2014, including the following:
  - Chapter 8: Charging and Financial Assessment
  - Chapter 9: Deferred Payment Agreements
  - Annexure A: Choice of Accommodation and Additional Payments
  - Annexure B: Treatment of Capital
  - Annexure C: Treatment of Income

- Annexure D: Recovery of Debts
- Annexure E: Deprivation of Assets
- Annexure F: Temporary and Short-Term Residents in Care Homes
- Annexure H: Ordinary Residence

Any decision in relation to financial assessment and charging will be made in accordance with this legislation and guidance.

### 3. The Principles of the Charging and Assessment of Resources Policy

Where a local authority arranges care and support to meet a citizen's needs, it may charge the citizen, except where the local authority is required to arrange care and support free of charge. This new framework is intended to make charging fairer and more clearly understood by everyone. The overarching principle is that the citizen should only be required to pay what they can afford. Further to that, Charging will only commence once the Care Act Assessment has been completed.

The guiding principles of this Policy have been developed nationally and are as follows:

- ensure that citizens are not charged more than it is reasonably practicable for them to pay
- be comprehensive, to reduce variation in the way citizens are assessed and charged
- be clear and transparent, so citizens know what they will be charged
- promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control
- support carers to look after their own health and wellbeing and to care effectively and safely
- be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs
- apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings
- encourage and enable those who wish to stay in or take up employment, education or training, or plan for the future costs of meeting their needs be sustainable for LBH in the long-term
- ensure there is sufficient information & advice available in suitable formats for a citizen's needs so that the citizen or citizen's representative is able to understand any contributions the citizen is asked to make.

### 4. Care and Support Services Provided Free of Charge

Assessments of need and care planning are always provided free of charge and Local Authorities are not allowed to charge for any service or part thereof which the National Health Service (NHS) has a duty to provide, including Continuing Healthcare and their contribution towards Registered Nursing Care (RNC). Local Authorities must provide the following care and support services free of charge:

- **Intermediate Care, including Reablement**, which help promote or regain independence, must be provided free of charge for up to 6 weeks.
- **Community Equipment (aids and minor adaptations)**, which must be provided free of charge when provided to meet or prevent/delay needs. A minor adaptation is one costing £1,000 or less.
- care and support provided to citizens with **Creutzfeldt-Jacob Disease**
- After-care services/support provided under **Section 117 of the Mental Health Act 1983**



- any service or part of service which the **NHS** is under a duty to provide. This includes **Continuing Healthcare and the NHS contribution to Registered Nursing Care**
  - any services which a local authority is under a duty to provide through other legislation may not be charged for under the Care Act 2014
  - **Assessment of Needs and Care Planning**, since these processes do not constitute 'meeting needs'
  - **Carers' Services** provided directly to carers to meet their identified needs as carers. (although they will be required to complete a financial assessment if they require care and support in their own right)
  - **Preventative Services**, provided by the Local Authority to prevent or delay care needs becoming more serious (e.g.: training to self-manage a health condition, or stress management for carers).
  - It also cannot recover any administration fee relating to the arranging of care and support services. The only exception is in the case of a citizen with eligible needs and assets above the upper capital limit who has asked the local authority to arrange their care and support on their behalf. In such cases, the local authority may apply an administration fee to cover its costs – See Chapter 5: "**Administration Fees and Interest Charges for Care and Support**" below for further information.

## 5. Administration Fees and Interest Charges for Care and Support

### Arrangement fees for Self-Funders

If the citizen has capital above £23,250, or the citizen has refused a full financial assessment, or their cost of care is less than the assessed contribution, they will be liable for the full cost of care and support services. If the citizen refused a full financial assessment or asked us to arrange, set up and manage their care and support services, the citizen will be liable to cover the full cost of care and support services, plus the following arrangement fees:

- **A Set Up Fee of £515.00 payable at the start of services**, this cost will cover:
  - Identifying providers of care and support
  - Negotiating rates and times with individual providers for care to be delivered
  - Putting the appropriate contracts in place
  - Setting up methods of payment for citizen to pay for their services (e.g.: direct debit)
  - Paying citizen's care and support providers
  - Dealing with any queries relating to citizen's services
  - Monitoring citizen's services to ensure citizen is receiving the agreed support from citizen's providers
  - Invoicing citizen for the cost of citizen's care and our administration fees, and collecting this money from citizen
- **An Annual Arrangement Fee of £279.00, payable each year thereafter**, this cost will cover:
  - Paying citizen's care and support providers
  - Dealing with any queries relating to citizen's services
  - Monitoring citizen's services to ensure citizen is receiving the agreed support from citizen's providers
  - Invoicing citizen for the cost of citizen's care and our administration fees, and collecting this money from citizen

- **Following rules will be applicable in relation to these charges:**
  - An initial administrative fee of £515.00 must be paid in full as a single lump sum. This fee is NON-REFUNDABLE and cannot be paid in installments. If the citizen chooses to cancel the care after it has been set up, no refund will be given.
  - These charges are non-refundable. Once care has been arranged, the citizen is responsible for paying the charges. If they choose to cancel the arrangements after setup, no refund will be issued.
  - Charges may only be waived through an appeal process, which must be requested within one month of receiving the financial assessment letter. The decision to waive these charges is at management's discretion.

**We review our fees and charges annually, ensuring they never exceed the actual costs we incur.**

## 6. Mental Capacity to Manage Finances

The Mental Capacity Act 2005 sets out how mental capacity is assessed and how others can lawfully act on behalf of those assessed to be lacking capacity.

In respect of financial decisions, a citizen may have a Lasting Power of Attorney registered with the Office of the Public Guardian, or a Deputy appointed by the Court of Protection to act on their behalf.

### **Citizen who lack the capacity to manage their finances**

#### **If a citizen's representative already acts on behalf of the citizen as an Attorney or Deputy:**

If a citizen is legally appointed to act on behalf of another citizen who lacks the mental capacity to manage their finances and for whom we are arranging care and support, they must provide the Local Authority with:

- evidence of their legal authority to act as the financial representative for that citizen, such as:
  - a registered Enduring Power of Attorney
  - a registered Lasting Power of Attorney
  - an Order sealed by the Court of Protection appointing them as Deputy (Property and Affairs)
- the financial information required to complete a financial assessment for the citizen needing care and support.

Thereafter, the Local Authority will need them to do the following on behalf of the citizen they represent:

- accept all correspondence usually addressed to that citizen
- sign any financial documents or contracts
- settle any invoices for care charges

**If citizen's representative intends to act on behalf of a citizen who lacks capacity and has care and support needs:**

Where the income received by citizen who is lacking capacity, consists of state benefits, an application can be made to the Department for Work and Pensions (DWP) to become an Appointee for those benefits.

If the citizen lacking capacity has other assets and/or income (such as; private income, savings, investments, or fixed property), the citizen's representative will need to make an application to the Court of Protection to become a Deputy (Property & Affairs) to be able to manage their finances and property. If the representative is unable or unwilling to do so, another suitable representative must be found - this could be a relative, friend or solicitor. If no suitable representative can be found, the Local Authority may apply to the Court of Protection to act as Deputy, or for a professional Deputy to be appointed. A professional Deputy can be reimbursed professional costs in acting as Deputy from the monies held.

If citizen's representative has applied or intend to apply to the Court of Protection to become a Deputy, they will also need to apply to the DWP to manage the citizen's state benefits.

If the Local Authority arranges care and support for a citizen who lacks the capacity to manage their finances, we will ask their representative to tell us what steps they are taking and to confirm in writing their intent to become the citizen's legally appointed representative.

While the application is in progress, Local Authority will assist where possible:

- Local Authority will provide citizen's representative with information about any potential charges for the care and support services, the date these charges may start and how Local Authority will carry out financial assessments.
- if Local Authority has, or the representative is unable to provide enough financial information on behalf of the citizen, Local Authority will complete a provisional financial assessment.
- if Local Authority is able to complete a financial assessment, Local Authority or the care provider will send citizen's representative the invoices for any assessed care and support charges, however, Local Authority will allow payments to be delayed until they receive legal authority to access funds.
- if Local Authority cannot complete a financial assessment for care and support, we will defer it until representative is appointed as the citizen's legal financial representative. Local Authority will backdate any assessed charges to the date Local Authority initially attempted to carry out the assessment.

## Where can information or advice on becoming a financial representative be found?

Please see the links below:

- **The Mental capacity Act 2005**  
([www.gov.uk/government/publications/making-decisions-who-decides-when-you-cant](http://www.gov.uk/government/publications/making-decisions-who-decides-when-you-cant))
- **Department for Work and Pensions (DWP) Appointee**  
([www.gov.uk/become-appointee-for-someone-claiming-benefits](http://www.gov.uk/become-appointee-for-someone-claiming-benefits))
- Applying to **the Court of Protection** to become a **Deputy**  
([www.gov.uk/become-deputy](http://www.gov.uk/become-deputy))
- Set up and register **Lasting Power of Attorney**  
([www.gov.uk/power-of-attorney](http://www.gov.uk/power-of-attorney))
- Registering an **existing Enduring Power of Attorney**  
([www.gov.uk/enduring-power-attorney-duties](http://www.gov.uk/enduring-power-attorney-duties))

Further information can also be found here:

<https://www.nhs.uk/conditions/social-care-and-support-guide/making-decisions-for-someone-else/>

The Local Authority's Client Finance Team can also be contacted at [LTclientfinance-cop@harrow.gov.uk](mailto:LTclientfinance-cop@harrow.gov.uk) to ask for sources of information and advice on becoming a financial representative. Please also refer to our website for further details:

[www.harrow.gov.uk/adult-social-care](http://www.harrow.gov.uk/adult-social-care)

## 7. Charging for care and support in a care home

The Local Authority will charge for residential and nursing accommodation under the Care Act 2014, unless it is prohibited from doing so. The Local Authority will use the legislation and guidance mentioned in Chapter 2 – Statutory Framework, to assess the level of the citizen's resources and the amount of any contribution they are required to make

Citizens in a care home will contribute most of their income, excluding earnings, towards the cost of their care and support. The Local Authority will leave them with a specified amount of their own income so that they have money to spend on personal items such as clothes, toiletries and other items that are not part of their care. This is known as the Personal Expenses Allowance (PEA) and the current rate of the allowance is £30.15 per week. The amount of PEA is set by the Department of Health and can be found in the *Social care – charging for care and support* Local authority circular published on the Gov.uk website. In addition to the PEA the citizen may also be entitled to an extra allowance if their income is above the minimum eligibility criteria for Savings Credit. This is the Savings Credit disregard and will be up to £6.95 per week for individuals, and up to £10.40 per week for couples.

The financially assessed contribution the citizen will have to pay towards their care will be netted off the payments LBH makes to the care home. LBH will then send out monthly invoices to the citizen or their representative for the client contribution.

## 8. Deferred Payment Agreements (DPA)

Deferred Payment Agreements are a way of ensuring that citizens do not have to sell their home during their lifetime in order to pay for care, as well as provide more flexibility with care funding options. Deferring payment for care home charges can help citizens delay the need to sell their home, providing peace of mind during a time that can be challenging, or even at crisis point, for them and their loved ones as they make the transition into care.

The “Care and Support (Deferred Payment) Regulations 2014” lay out the circumstances in which Local Authorities must offer a Deferred Payment Agreement and where they may offer a Deferred Payment Agreement at their own discretion. These regulations are set in accordance with sections 34 and 35 of The Care Act 2014.

There are different ways in which citizens can use their income and assets, such as property, to fund long term care and citizens should always seek independent financial advice before entering into a DPA or when considering other funding options.

### **What is a Deferred Payment Agreement (DPA)?**

It is an agreement between a citizen and the Local Authority, where the full repayments for the citizen’s care home fees are put off to a later date and paid in the meantime by the Local Authority – provided the citizen can offer the council a form of financial security, such as a legal charge against their property. The charges owed by the citizen for their care home fees are then repaid to the Local Authority when their home is sold, or from their estate, or by a third party at the end of the agreement.

Citizens will still be financially assessed in line with our Financial Assessment Policy and they will still be required to contribute towards the cost of their care and support from their income and other capital assets for the duration of the DPA. This will reduce the amount of deferred fees to be repaid at the end of the agreement.

If a citizen accepts an offer of a DPA, they will be charged administration fees to cover the cost to the Local Authority of setting up and monitoring the agreement. They will also have to pay interest on the fees that are deferred from the start of the agreement. See “**Interest and Administration Charges**” for further information.

### **Who is Eligible?**

If an application meets all the criteria for a “Mandatory” Deferred Payment Agreement, a citizen’s application will be accepted, and they will be offered a DPA by the Local Authority. The criteria for a “Mandatory” DPA are as follows:

- the care needs assessment reflects identified needs are best met in a care home on a permanent basis, AND

- all the citizen's assets (eg: savings, investments), excluding the value of their property, are less than or equal to the higher capital limit (£23,250), AND
- the property is not disregarded, other than a 12-week property disregard (e.g.: it is not occupied by a spouse of dependent relative, as defined in the Regulations), AND
- the citizen owns and has a legal and beneficial interest in the property, AND
- there should be no outstanding mortgage on the property, i.e.: the Local Authority can secure the DPA via a First Legal Charge against the property, AND
- the citizen has capacity to enter into a DPA, or they have a legally appointed representative (e.g.: Lasting Power of Attorney or Deputy for Property and Affairs) to do so on their behalf


If an application does not meet the criteria for a "Mandatory" Deferred Payment Agreement, the Local Authority may still be able to offer a "Discretionary" DPA, provided the citizen meets all the following criteria:

- the care needs assessment reflects identified needs are best met in a care home on a permanent basis, or in exceptional circumstances, in rented supported accommodation, AND
- all the citizen's assets (eg: savings, investments), excluding the value of their property, are less than or only slightly over the Upper Capital Limit (£23,250), AND
- the property is not disregarded, other than a 12-week property disregard (eg: it is not occupied by a spouse of dependent relative, as defined in the Regulations), AND
- the citizen owns and has a legal and beneficial interest in the property, AND
- the value of the capital available in the property is sufficient, together with the citizen's other income and assets to be required to pay the full cost of a care home placement (in other words, if there is a mortgage outstanding on the property, there is sufficient value together with all other income and assets to have to pay the full cost of care home fees), AND
- the Local Authority considers that the citizen has sufficient equity in the property to enter into a DPA, AND
- the citizen can offer the Local Authority adequate financial security, which can be legally secured for the deferred payment, AND



- the Local Authority considers the citizen to have sufficient property insurance in place, AND
- the citizen has capacity to enter into a DPA, or citizen has a legally appointed representative (eg: Lasting Power of Attorney, or Deputy for Property and Affairs) to do so on citizen's behalf

The Local Authority has discretion over whether a DPA can include any additional care fees (s) arising through a citizen's choice of accommodation. Please see "**First Party Top Ups**" for more information.

Although not generally available, this policy can in exceptional circumstances be made available to citizens in other forms of accommodation 

### **Permission to Refuse a Deferred Payment Agreement**

There are circumstances in which a citizen's request for a Deferred Payment Agreement can be refused, even if they meet the criteria:

- where Local Authority cannot secure a first legal charge against the citizen's property,
- where a citizen lacks the capacity to enter a DPA and there is no legally appointed representative to act on citizen's behalf – see "**Interim Funding**".
- where a citizen is seeking a top up and/or the citizen does not agree to the terms and conditions of the DPA, for example: refusing to adequately insure and maintain their property.

### **Other Options:**

1. Citizens may choose to rent out their property while on a Deferred Payment Scheme in which case Local Authority recommends citizen or their representative to seek independent legal and financial advice. There are financial advantages to be gained by renting their property, as such an arrangement could reduce or even eliminate their debt for care home accommodation to the Local Authority. The tenant would also be paying all the utilities and council tax, which would reduce the citizen's expenditure.

Should a citizen choose to rent out their property, they would need to provide with a copy of the proposed letting arrangement to the Local Authority so it can be reviewed and agreed. The net rental income (rental amount less agent's fees, reasonable maintenance expenses, insurances and liability for taxation) will be included as part of their assessed weekly contribution towards their care and support.

2. Citizens may choose to pay the full cost of their care from available income, savings and other assets.
3. A family member may choose to pay some or all of the care and support costs on the citizen's behalf.
4. There may be equity release products suitable for the citizen's personal circumstances.

### **Assessed Contribution and Disposable Income Allowance:**

A citizen may meet the costs of their care and support from a combination of any of the following sources:

1. Income, including pension income,
2. Savings, or other assets they may have access to, including contributions from a third party,
3. A financial product designed to pay for long term care,
4. A Deferred Payment Agreement, which enables them to pay for their care at a later date from the proceeds of their property.

The portion of care costs that a citizen defers depends on the amount they will be paying from the sources mentioned above.

The Local Authority requires that all citizens contribute towards the cost of their care from their income, however when a DPA is in operation, they will be allowed to keep a £144 per week of their income (Disposable Income Allowance). This is in place of the Personal Expense Allowance. It is allowed for additional expenses associated with the upkeep of their property, for example: insurance and reasonable maintenance costs.

Citizens may choose to keep less of their income than the full Disposable Income Allowance, as it might be advantageous to them as they would be contributing more towards the cost of their care and reducing the amount they are deferring – in other words they will accrue less debt to the Local Authority and reduce interest costs.

### **Equity Limit:**

The Equity Limit is the term used to describe the maximum amount which citizens can borrow under a Deferred Payment Agreement.

The equity Limit is calculated by using the market value of the property and deducting the following:

- 10% of the valuation
- An amount equal to the Lower Capital Limit (currently £14,250)

#### **Example:**

Property valued at:	£350,000
Less 10% of valuation:	£ 35,000
Less Lower capital Limit:	<u>£ 14,250</u>
Equity Limit:	£300,750

If subsequent valuations provide a different valuation to the original, then the new amount will be used to calculate the Equity Limit:

Example:

Property valued at:	£400,000
Less 10% of valuation:	£ 40,000
Less Lower capital Limit:	<u>£ 14,250</u>

Equity Limit: £345,750

## 9. Interim Funding

### Introduction:

An Interim Funding arrangement takes place when Local Authority agrees to pay the cost of a citizen's care home accommodation on their behalf for a short (interim) period until a longer-term funding arrangement is put in place, and where a citizen is in receipt of sufficient funds or capital to be responsible for meeting the entirety of the cost of provision.

LBH's Deferred Payments Agreement (DPA) is detailed in the previous chapter, however the Local Authority can only agree to a DPA if a citizen has the capacity to enter the DPA, or if they lack capacity, someone has the legal authority to enter into the DPA on their behalf.

There will be circumstances when a citizen entering a care home, who would be liable to contribute the full cost of the care home fees, is unable to pay those costs immediately. This could be due to them not having the capacity to enter into a legal agreement and they do not yet have a legally appointed representative to do so on their behalf. This process can take some months and this policy is designed to assist those making an application to the Court of Protection to become a Deputy and to apply for an Interim Funding Arrangement on behalf of the citizen.

### Eligibility Criteria:

Local Authority may consider Interim Funding for a citizen in the following circumstances:

- Citizen's identified needs can only be met in a care home on a permanent basis, AND
- Citizen's financial circumstances indicate that they are responsible for paying the full cost of their care home accommodation – see "**Financial Assessment and Charging Policy**", AND
- Citizen lack capacity to manage their finances, AND
- Citizen's representative is not yet legally appointed to manage citizen's financial affairs, AND
- Citizen's representative has not been able to arrange with the care home to defer citizen's fees until represented are appointed, AND
- Citizen's representative has no other funding options available while representative is waiting for formal appointment, AND
- Citizen's representative is willing to provide a written undertaking that representative is applying to the Court of Protection to become citizen's Deputy and that upon representative's appointment, representative will either repay the outstanding balance in full, including all fees and interest, or, where eligible, enter into a Deferred Payment Agreement (DPA) with the Local Authority.

Local Authority may consider other circumstances to offer Interim Funding if a DPA is temporarily unavailable due to factors citizen or citizen's representative is actively seeking to

resolve, for example: if a citizen's property is unregistered with HM Land Registry. These will be considered on a case-by-case basis.

### **Financial Information and Advice for Representatives:**

Local Authority will assist a citizen's representative to access independent financial information and advice on citizen's behalf. This may include:

- Putting the representative in touch with an independent organisation or charity that may provide relevant information and advice; and/ or
- Helping the representative in finding a specialist organisation or Independent Financial Advisor (IFA) to provide independent regulated financial advice on citizen's care funding options.

Some of this information and advice will be free to access and the Local Authority or the independent organisation(s) will inform citizen's representative of any charges for accessing certain types of independent financial advice.

***Local Authority recommends that a representative acting on a citizen's behalf always obtain independent financial and legal advice before making any decisions regarding whether a Deferred Payment Agreement is the best option for citizen.***

### **Conditions Placed on Interim Funding:**

Local Authority provides Interim Funding subject to the following conditions:

- The representative acting on citizen's behalf will take all reasonable steps to acquire legal authority to act, including applying to the Department for Work and Pensions (DWP) to become appointee to manage citizen's state benefits,
- The contribution required to be paid towards the citizen's care and accommodation costs is paid promptly by citizen's representative, as soon as representative is appointed,
- Immediately upon being granted legal authority to act on behalf of the citizen, the representative will convert the Interim funding Agreement into a Deferred payment Agreement (DPA), or the balance of the accrued charges, including interest and all applicable fees, is paid in full.

### **Interest and Administration Charges:**

The Interest charges and the Annual Administration Fee for both setting up and monitoring the Interim Funding Arrangement will be the same as those for Deferred Payment Agreements (DPA). See "**Administration Fees and Interest for Deferred Payment Agreements**" below.

### **Making an Application for a Deferred Payment Agreement (DPA):**

Immediately after a citizen's representative has received the authority to act on their behalf usually by being appointed Deputy (Property and Affairs), they will need to inform the local authority and provide appropriate evidence in the form of the sealed Order from the Court of Protection.

At that time, the citizen's representative will then be able to access citizen's funds and should then settle the outstanding debt without delay.

Where the citizen's funds are not sufficient to settle the debt and the funds are contained within citizen's property, the citizen's representative should immediately make an application for a Deferred Payment Agreement. The balance of citizen's Interim Funding Arrangement will then be transferred into the DPA, which will continue until it is terminated. See "**Deferred Payment Agreement (DPA)**".

### **Default Provisions:**

Local Authority may terminate any Interim Funding Arrangement in the following circumstances:

- If a citizen's representative has been legally appointed as Deputy by the Court of Protection and the Deputy has not informed the local authority of representative's appointment,
- If the financial representative does not settle the agreed amounts which they can access, for example: when in the role of DWP Appointee, paying state benefits towards the cost of citizen's accommodation,
- It is felt that the representative is not acting in the best interests of the citizen.

This is not an exhaustive list. In all cases, interest and administration fees will continue to be applied to the debt.

### **Appealing a Decision about an Interim Funding Application:**

If a citizen or citizen's representative disagree with the council's decision about the citizen's Interim Funding application, the citizen / representative has the right to request a review of the decision. The review will be conducted in the same way as a Financial Assessment Review.

If the citizen or representative wish to appeal the decision, please contact the Financial Assessment and Monitoring Team with the details of the citizen's appeal. The citizen / representative will need to submit any additional evidence in support of the citizen's appeal. The appeal will be conducted in the same manner as the Financial Assessment Appeals. See "**Financial Assessment Appeals**".

## Administration Fees and Interest for Deferred Payment Agreements

### Fees and Charges:

The table below details the charges that the Local Authority will charge to recover its costs for the following matters. The fee levels are set by Cabinet each year which are subject to change. The applied fees and charges are only to cover the cost and not for any profit to be made

In 2023/24, the fees and charges are as follows:

• Legal fees – unmortgaged property	£500.00
• Legal fees – mortgaged property	£750.00
• Disbursements	£100.00
• Valuation Fees	£379.00
• Annual Management Fee	£650.00
• Termination Fee	£200.00

The abovementioned fees can be paid upfront or can be included in the loan which can be repaid when the loan comes to an end. Please be aware that if these fees and charges are included within the DPA, there will be a larger balance to repay when the agreement comes to an end.

### Interest:

Harrow will charge interest on all DPAs and Interim Funding arrangements. The rate used will be the market Gilts rate issued by the Office of Budget Responsibility (OBR) each January and July plus 0.15%. Interest will be charged on the daily compounding basis of the outstanding balance.

As of 1 January 2024, the Guilt interest rate was: **4.50%**.

## 10. Choice of Accommodation and Additional Payments

### **Introduction:**

This policy has been drafted in accordance with the “Care and Support and Aftercare (Choice of Accommodation) Regulations 2014” and statutory guidance which sets out the requirement for Local Authorities to enable citizens to choose a particular provider or location of the type of accommodation which is identified as most appropriate for meeting their care and support needs.

It is for the citizen for whom the local authority is responsible for meeting care and support needs, and a needs assessment has demonstrated that citizen needs a particular type of accommodation to meet their needs.

While the local authority always aims to support citizens to recover as much as possible, as a general rule a citizen will not be discharged directly from hospital to a permanent placement accommodation such as a care home. However, sometimes the impact and severity of an illness and the citizen’s personal circumstances may mean there is no alternative but to move the citizen directly from hospital into accommodation to ensure their care and support needs are met.

This policy should be read in conjunction with the other policies in the framework.

### **Choice of Accommodation:**

The Local Authority is committed to providing the citizen with available options as well as allowing the citizen / representative to choose between different providers of that type of accommodation so long as certain conditions specified below are met. Citizens are able to express a preference about the setting in which the citizen’s needs are met through the care and support planning process and the local authority recognize this as part of its person-centered approach. The type of accommodation (care home, Shared Lives Scheme, Supported Living, or Extra Care Housing) that is most suitable for a citizen is identified through the citizen / representative’s involvement in the care and support planning process.

If the citizen / representative wish for the citizen to remain in their own home the local authority will support the citizen with this wherever possible and appropriate.

A citizen’s right to choose their preferred accommodation is subject to meeting the following criteria:

- **Type** – the accommodation is the same type as detailed in their care and support plan to meet their assessed needs,
- **Suitability** – the accommodation appears to be suitable to meet their assessed needs, including Local Authority’s expected quality standards,



- **Availability** – their preferred accommodation is available, or if not, the Local Authority will decide to make an interim arrangement until a place becomes available,
- **Conditions** – the provider of the accommodation agrees to a contract on the Local Authority’s usual terms and conditions. If the Local Authority doesn’t have an existing contract with the provider, the Local Authority will negotiate putting an arrangement in place with broadly the same conditions as the Local Authority’s other providers,
- **Cost** – if the accommodation costs more than a citizen’s Personal Budget (the amount the Local Authority would expect to pay to meet the citizen’s needs), there must be an arrangement in place to meet the additional cost (see “**The Cost of preferred Accommodation**” below).

### **Refusing to Arrange a Preferred Accommodation Choice:**

Citizens have the right to refuse to move to accommodation such as a care home or supported accommodation, including permanent & interim arrangements, until the most suitable or preferred accommodation becomes available. If this happens, the Local Authority will work with the citizen, representative, advocate, carer and partners in health services to explore alternative arrangements. However, if a citizen or representative continues to unreasonably refuse accommodation, the Local Authority may consider that it has fulfilled its duty to meet the citizen’s needs and inform the citizen and representative that they will need to make their own arrangements for their ongoing care and support. Such a decision would be one of last resort and would only occur once all risks had been considered and a safeguarding assessment completed.

The Local Authority will do everything it can to meet citizens’ preferred choice of accommodation. However, there may be circumstances where the citizen’s / representative’s choice cannot be met, or it does not meet the criteria listed above. If the Local Authority decides not to arrange the citizen’s / representative’s preferred accommodation it will provide a clear reasoned explanation for its decision, which will detail how it relates to this policy and to the statutory guidance laid down by the Care Act. It will offer at least two options of accommodation that will meet assessed needs.

### **The Cost of Accommodation:**

The Local Authority uses the citizen’s needs assessment and support planning to identify a citizen’s Personal Budget – the amount the Local Authority would expect to pay for care and support to meet the citizen’s needs.

- **Care Home Accommodation:** The Local Authority identifies the expected cost of a citizen’s accommodation based on the amount it would normally pay to meet their assessed needs in a residential or nursing home, reflecting the local market conditions. If the cost of a citizen’s preferred accommodation

exceeds the citizen's Personal Budget (PB), the citizen / representative will be informed of the higher cost and given the opportunity to make an alternative choice that fits within the citizen's PB, or to make an arrangement to meet the extra cost.

- Supported Accommodation: the housing costs are usually separate to a care and support package. Citizens would own or rent their accommodation and pay for this independently, for example: by claiming housing benefit and using this to pay the landlord. The Local Authority will work with the citizen / representative to ensure the citizen has suitable accommodation for their care and support needs to be met. If the cost of the citizen's preferred accommodation exceeds their Personal Budget, the citizen / representative will be informed of the higher cost and given the opportunity to make an alternative choice that fits within their Personal Budget, or to make an arrangement to meet the extra cost.
- Extra Care Housing: the Local Authority identifies the anticipated cost of a citizen's accommodation as part of the citizen's care and support package. This is based on the amount the Local Authority would usually pay to meet the citizen's assessed needs, reflecting the local market conditions.

When deciding how much the Local Authority anticipates paying for a citizen's care and support, it reviews the citizen's personal circumstances, such as medical, cultural, or dietary needs to ensure their needs can be properly met.

### **Third Party Top Ups:**

Where a citizen chooses an accommodation that is more expensive than their Personal Budget, additional funding must be sourced to meet the additional cost of their care. This will need to be provided by a third party, such as the citizen's partner or relative, or in some circumstances, the citizen themselves, if they have the funds available to meet the additional cost. This is known as an additional payment or "Top Up".

### **Payment for Accommodation:**

The Local Authority will pay the cost of the placement in full to the care home. The Local Authority will then invoice the citizen or their financial representative directly for the client contribution and the Top Up.

The Local Authority will review its accommodation rates from time to time and as a result the amount it pays may change, for example: an annual uplift to reflect inflation or restructuring of fees. This may impact the amount that the Third Party is required to pay. The Local Authority will have no liability for any increase in fees above the amount it would expect to pay to meet its citizen's needs and the Third party would therefore be expected to pay the additional costs above this amount.

When a third party takes on a Top Up, they assume contractual responsibility for the payment of the Top Up for the duration of the citizen's residence. The Local Authority will inform the Third Party in writing of the following:

- fees are not fixed and contribution may rise faster than anticipated time.
- the Local Authority has no liability for debts accrued due to non-payment or a shortfall in payments.
- the consequences, should individual(s) fail to maintain payments, which may include legal action to recover the amount due, as well as moving the citizen to other accommodation within the Local Authority's usual cost – unless after a needs assessment it is found that citizen's needs can be met only in the current accommodation.
- the Local Authority has the right to terminate the agreement should the top up payments become inadequate.

**First Party Top Ups (Resident Top Ups):**

Only in the following circumstances can a citizen whose needs are being met by the accommodation choose to make a top up themselves:

- where they are subject to a 12-week property disregard
- where they have a Deferred Payment Agreement in place
- where they are receiving accommodation provided under Section 117 of the Mental Health Act 1983 (Aftercare) - the accommodation under s117 is usually provided free of charge, but top ups are the responsibility of the citizen

The citizen would still be responsible for always paying their assessed contribution and the top up would be in addition to this. The citizen would also need to sign a Top Up Agreement.

There will be cases where a citizen lacks the capacity to express their own choice. The Local Authority will therefore act on the choices expressed by the citizen's Court-appointed Deputy, Lasting Power of Attorney (LPA), Independent Mental Capacity Advocate (IMCA), or legal guardian in the same way the Local Authority would on the citizen's own wishes, unless in its opinion it would be against the best interests of the citizen.

## 11. Charging for Care and Support in other settings including a citizen's own home

These charging arrangements cover all settings for meeting care and support needs outside of a care home, e.g. supported living, shared lives arrangements, extra care sheltered accommodation, etc.

The Care Act 2014 places 'Personal Budgets' into law for the first time, making them the norm for citizens with care and support needs. It also puts personalisation at the heart of social care.

A personal budget is a statement of the amount of money needed to meet eligible social care needs and is a key part of the Government's aspirations for a person-centered care and support system. The personal budget is a mechanism that, in conjunction with the care and support plan, enables the citizen and/or their advocate (if they have one) to exercise greater choice and control over how the citizen's care and support needs are met.

The allocated personal budget will be recorded in the citizen's care and support plan. The indicative amount should be shared with the citizen, and anyone else involved, at the start of care and support planning, with the final amount of the personal budget confirmed through this process. There are three ways in which a citizen's personal budget' can be deployed:

1. As a direct payment
2. Traditional (Council) commissioned service
3. Mixture of above

Citizens can choose the personal budget allocation to remain with the Local Authority to arrange care and support on the citizen's behalf, while other citizens may prefer their personal budget to be comprised of a mixed package of care and support, for example: a direct payment for some of the citizen's needs, with the remainder of the personal budget used to meet needs via local authority or third-party provision. The arrangements can be subsequently adjusted if the citizen wishes this.

The Local Authority will carry out a financial assessment, which is a means-tested process to determine a citizen's ability to afford a contribution towards the cost of their care. The financial assessment will be carried out in accordance with the Care Act 2014, associated Regulations, Care and Support Statutory Guidance and this Policy.

The charge will apply from the start date of service, this being the permanent care package put into place following the end of re-ablement. This would also include an interim care package which may be put in place.

If a citizen declines a financial assessment, it will be assumed that the citizen can meet the full cost of their care and support needs which would be effective from the start date of their service.

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<sup>1</sup> These figures are updated on an annual basis in line with national changes.

In addition to the above, the financial assessment of capital will exclude the value of the property which the citizen occupies as their main or only home. Beyond this, the rules on what capital must be disregarded are the same for all types of care and support, i.e.: *if a citizen owns a second home, they will be required to meet the full cost of their care, should the value of this exceed the capital threshold.*

The Local Authority will complete a provisional assessment as early as possible. The Local Authority will use all the information available from the Department for Work and Pensions (DWP) and the Local Authority's internal systems to complete a provisional financial assessment and notify the citizen of the outcome. Please note that the provisional assessment will not include any Disability Related Expenditure (DRE) or any other expenditure which might otherwise reduce the assessed contribution.

The Financial Assessment form will be sent to the citizen along with a provisional assessment letter. The citizen will be required to complete & return the financial assessment forms with appropriate evidence no later than 2 weeks from the date of the letter. The citizen may, during this time, request assistance in the form of a home visit from a Financial Assessment and Monitoring Officer, or an extension on the completion deadline. The assessed contribution would still be effective from the start date of the service. If a citizen failed to submit the completed form with supporting documents or failed to contact the financial assessment and monitoring team or are unable to provide a valid reason for delay, within 28 days of the letter, the citizen may be assessed as full cost and will be liable to pay the full cost of the care. The citizen will also be liable to pay the associated fixed costs (i.e. Annual Admin and setup charges). The full cost will remain in place until a completed form along with supported documents are provided.

Should a citizen fail to provide their financial information within 2 weeks after a provisional assessment has been completed, the Financial Assessment & Monitoring Officer will make three attempts to make contact and get the financial assessment form. After three attempts if the officer is unable to make contact or the citizen failed to provide the form within 2 weeks following the initial 2-week deadline, the citizen will be assessed to contribute the full cost of their care package. If the citizen continues to refuse to pay the assessed contribution and to provide financial information, the Local Authority will proceed according to its Debt Recovery Policy, which may result in formal legal action being taken against the citizen to recover any outstanding debt.

As citizens need to pay for the daily living costs such as rent, food and utilities, the Local Authority must ensure that the citizen has enough money to meet these costs. After charging, citizens must be left with the Minimum Income Guarantee<sup>2</sup>(MIG). Details are set out in the table below:

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<sup>2</sup>Updated annually and communicated by Local Authority Circular.

<b>Age &amp; Circumstance</b>	<b>Weekly MIG Amount</b>
Responsible for a Child in same household - each child	<b>£101.25</b>
Lone parent 18+	<b>£110.60</b>
Single 18 – 24	<b>£87.65</b>
Single aged 25 or older but less than pension credit age	<b>£110.60</b>
Single pension credit age	<b>£228.70</b>
Single, in receipt of, or would be, if in receipt of Income Support entitled to the Disability Premium	<b>£48.80</b>
Single, in receipt of, or would be, if in receipt of Income Support entitled to the Enhanced Disability Premium	<b>£23.85</b>
Couple & one or both 18 or over	<b>£86.85</b>
Couple & one or both have attained pension credit age	<b>£174.60</b>
Couple, one or both in receipt of, or would be, if in receipt of Income Support entitled to the Disability Premium	<b>£34.80</b>
Couple, one or both in receipt of, or would be, if in receipt of Income Support entitled to the Enhanced Disability Premium	<b>£17.15</b>
In receipt of, or would be, if in receipt of Income Support entitled to Carer Premium	<b>£52.35</b>

**See Appendix for examples of how we calculate citizen contribution.**

When calculating the contribution that the citizen will be needed to make towards the cost of their care and support, the Local Authority will consider the citizen's essential living expenses and disability related expenditure: -

- Housing Rent or mortgage (not covered by housing benefit)
- Council Tax (not covered by Council Tax benefit)

There are some services that will not fall under our Charging and Assessment of Resources Framework, and these include:

- Meals on Wheels: these will continue to be provided at a flat rate charge that will be invoiced separately and charges uplifted annually as part of the budget process.
- Re-ablement Services: this will be non-chargeable for the first six weeks. If a citizen requires ongoing support after six weeks, citizen may need to contribute towards the cost. Citizens will be required to undergo a financial assessment that will determine if and how much citizen will pay for citizen's on-going support following the end of re-ablement.

**Capital Thresholds**

The capital limits are currently:

- Upper capital limit: £23,250
- Lower capital limit: £14,250

If a citizen has capital and savings worth more than £23,250, they will need to pay the full cost of the care and support services they receive.

Where a citizen's capital and savings fall between £14,250 and £23,250, the Local Authority will add £1.00 per week to citizen's assessable income for every £250 the citizen has between the two amounts. This is called "Tariff Income".

Capital and savings below £14,250 are disregarded.

### **Light Touch Financial Assessment**

In some circumstances, the Local Authority may not need to carry out a full financial assessment and will take a "light touch" approach. Some examples where Local Authority may consider carrying out a light-touch financial assessment are:

- if a citizen has significant financial resources and does not wish to undergo a full financial assessment for personal reasons and the citizen wishes to access the council's support in meeting their needs.
- circumstances where carrying out a financial assessment would be disproportionate, eg: Citizen without recourse to public funds.

Ways in which the Local Authority may be satisfied that a citizen is able to afford any charges due might include evidence that citizen has:

- property clearly worth well in excess of the upper capital limit, where citizen is the sole owner, or it is clear what citizen share is;
- savings clearly worth well in excess of the upper capital limit;
- sufficient disposable income left following the charge due.

If the citizen does not agree to the charges that they have been assessed as being able to afford to pay under this route, a full financial assessment may be needed.

When deciding whether to undertake a light-touch financial assessment, the Local Authority should consider the level of the charge it proposes to make, as well as the evidence or other certification the citizen is able to provide. The Local Authority must also inform citizen when a light-touch financial assessment has taken place and make it clear that citizen has the right to request a full financial assessment should the citizen wish, as well as making sure the citizen has access to sufficient information and advice.

## **The type of income included in the financial assessment**

Local Authority will need evidence of all income from all sources, such as:

- Attendance Allowance, including Constant Attendance Allowance and Exceptionally Severe Disablement Allowance
- Bereavement Allowance
- Disability Living Allowance (Care Component)
- Carers Allowance
- Employment and Support Allowance or the benefits this replaces such as Severe Disablement Allowance or Incapacity Benefit
- Income Support
- Industrial Injuries Disablement Benefit or equivalent benefits
- Jobseekers Allowance
- Maternity Allowance
- Pension Credit
- Personal Independence Payment (Daily Living component)
- State Pension
- Universal Credit
- Annuity or Private Pension
- Rental Income
- Any other Income

This list is intended as a guide and is not exhaustive:

## **The type of income disregarded in the financial assessment**

There are certain types of income that will be disregarded for the purposes of the financial assessment, which include:

- Armed Forces Independent Payments and Mobility Supplement
- Child Support Maintenance Payments and Child Benefit
- Child Tax Credit
- Council Tax Reduction Schemes where this involves a payment to the person
- DLA (Mobility Component) and Mobility Supplement
- Christmas Bonus
- Dependency increases paid with certain benefits
- Discretionary Trust
- Gallantry Awards
- Guardian's Allowance
- Guaranteed Income Payments made to Veterans under the Armed Forces
- Income frozen abroad
- Income in kind
- Pensioners Christmas payments
- Personal Independence Payment (Mobility Component) and Mobility Supplement
- Personal injury trust, including those administered by a Court
- Resettlement benefit
- Savings credit disregard
- Social Fund payments (including winter fuel payments)
- War widows and widowers' special payments
- Any payments received as a holder of the Victoria Cross, George Cross or equivalent
- Any grants or loans paid for the purposes of education; and



- Payments made in relation to training for employment
- Any payment from the:
  - I. Macfarlane Trust

- II. Macfarlane (Special payments) Trust
- III. Macfarlane (Special payment) (No 2) Trust
- IV. Caxton Foundation
- V. The Fund (payments to non-haemophiliacs infected with HIV)
- VI. Eileen Trust
- VII. MFET Limited
- VIII. Independence Living Fund (2006)
- IX. Skipton Fund
- X. London Bombings Relief Charitable Fund
- XI. Investment bonds attached to life insurance

### **Savings counted as capital in the financial assessment**

Capital can mean many different things; in general, it refers to financial resources available for use and tends to be from sources that are considered more durable than money in the sense that they can generate a return.

The following list gives examples of capital. This list is intended as a guide and is not exhaustive:

- Buildings
- Land
- National Savings Certificates and Ulster Savings Certificates
- Premium Bonds
- Stocks and shares
- Capital held by the Court of Protection, or a Deputy appointed by that Court
- Any savings held in:
  - I. Building society accounts
  - II. Bank current accounts, deposit accounts or special investment accounts. This includes savings held in the National Savings Bank, Girobank and Trustee Savings Bank
  - III. SAYE schemes
  - IV. Unit Trusts
  - V. Co-operatives share accounts
  - VI. Cash
- Trust funds
- Capital held on citizen behalf

The value of a citizen's home where the citizen normally resides is **not** used when calculating the contribution towards the cost of citizen's non-residential care and support.

### **Disability related expenses**

Where disability-related benefits are considered, the Local Authority will make an assessment and allow citizens to keep enough income to pay for necessary disability-related expenditure to meet any needs, which are not being met by the Local Authority or NHS.

A list of possible disability related costs and examples of reasonable evidence requirements are found in Appendix 5 approved by NAFAO (National Association of Financial Assessment Officers). The list is neither exclusive nor exhaustive and will be reviewed as part of the monitoring of the implementation of this policy. Discretion will need to be given on the level

of costs claimed, considering an individual's particular circumstances. Examples may include:

- Payment for any community alarm system required for the safety of the citizen
- Costs of any specialist items needed to meet a citizen's disability needs, for example: day or night care not arranged by the Local Authority, additional costs for bedding, any heating costs above average levels for the area and personal assistance costs, including any household or other necessary costs etc.

Citizens will be required to provide bills and receipts to prove how much is spent on additional disability related expenditure. The expenditure will then be included as weekly costs within the financial assessment.

### **Treatment of couples**

Local Authority assesses each citizen according to each citizen's personal circumstances. If a citizen is one of a couple, only the citizen who needs the service must provide details of their personal income and capital in order for the local authority to complete a financial assessment. The Local Authority will work out the citizen's personal contribution towards the cost of their care and support and will allow half of any joint household expenses.

The Local Authority may request information on capital and income held by a partner or family member if it believes the citizen could have legal claim over assets, or income not in citizen's own name.

### **Calculation of contributions**

Harrow will calculate a citizen's contribution towards the cost of citizen's care and support by:

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- determining the total weekly income, including weekly 'tariff income' from capital
- deducting any disregarded income
- deducting citizen's MIG
- deducting any disability-related spending
- deducting any appropriate housing related expenses

The resulting figure will be the maximum amount that the citizen will be required to contribute towards the cost of their care and support from the date the services started.

## **Collection of Contributions**

A citizen's assessed financial contribution is the most the Local Authority will collect from the citizen towards the cost of citizen's care and support services. The following sets out how Local Authority approaches each type of service:

### **Cash Personal Budgets (Direct Payments)**

Where a citizen is in receipt of a Personal Budget (PB), the Local Authority will deduct the amount of the citizen's assessed financial contribution and pay the remaining balance into a bank account, set up by the citizen for the purpose of receiving the PB. This is also known as a Direct Payment. The citizen will then be required to top up their Personal Budget bank account with the assessed financial contribution in order to meet the cost of their care.

Cash PB's or direct payments are monitored to ensure that funds are being spent on meeting the citizen's social care needs as set out within the citizen's care and support plan. The Local Authority will request any unspent (or uncommitted) funds to be repaid or deduct the amount from any future payments.

### **Managed Service**

Where a citizen is in receipt of Local Authority's commissioned services (managed service) the Local Authority will arrange to recover the citizen's assessed financial contribution from the citizen. This may be less than the cost of the citizen's care package. The Local Authority will fund the difference between the assessed care cost and the citizen's contribution.

An invoice for the contribution towards the cost of citizen's care will be sent a month in arrears. The invoice will set out the period covered, the amount the citizen needs to pay and confirm payment must be made within 28 days of the date of the invoice.

### **Mixed Services**

If a citizen decides to have a mixture of both a cash personal budget and a managed service from the Local Authority, the Local Authority will first offset the cash PB with the assessed contribution and then invoice the citizen for the balance amount (if assessed contribution is more than the agreed Cash Personal Budget)

### **Methods of Payment**

Where services are paid upon receipt of an invoice, the Local Authority's preferred method of payment is by direct debit. A direct debit form will be sent out if a citizen is required to pay towards the cost of care and support services. Payment can also be made via the following means:

- By post (cheque made payable to "London Borough of Harrow")
- At a bank or post office

- Cash - using our automated payment service in the Civic Centre
- Through our website payment service
- By debit or credit card over the telephone through “Access Harrow”
- Bank transfer
- Online banking

Any individual failing to pay or refusing to pay assessed contribution will be subject to the Local Authority’s Debt Recovery Policy, which may include formal legal action being taken against the citizen or representative. Each case will be reviewed on its own merit.

## **Annual Review**

Local Authority will review citizens’ contributions each year in line with increases in state benefits and advise them in writing of any changes to be made each year.

**Citizens must advise the Local Authority of any change of circumstances within one month of the change occurring, any changes reported outside this time frame will only be made effective from the date the Financial Assessment & Monitoring Team are notified. Failure to report a change will result in any increase charge being backdated to the date the circumstances changed.**

## **Review and Appeal of Charges**

If a citizen disagrees with the outcome of the financial assessment or that citizen’s personal circumstances are not properly reflected in the financial assessment, the citizen may ask the Local Authority to review the financial assessment. All review and appeals must be submitted within 6 months of the date of assessment completed.

### **First Stage - Review**

In the first instance the citizen will need to either write or telephone the Financial Assessment and Monitoring Team to explain what citizen believes is incorrect with supporting documents. The Local Authority will review the circumstances and contribution again. The Local Authority may ask citizens to provide additional information and evidence including receipts to support the review.

A member of the financial assessment and monitoring team will check the citizen’s financial assessment to make sure that there were no mistakes in the calculation and that all relevant income has been included and relevant spending ignored. The Local Authority will then write to the citizen with its findings and decision.

## **Second Stage - Appeal**

If a citizen is not satisfied with the financial assessment and monitoring team's decision, the citizen can appeal for a second stage review by an independent panel. The independent panel will consist of two Senior Managers who will look at a citizen's individual circumstances. The citizen may again be asked to provide further information to support the appeal, if necessary.

The panel may decide to:

- uphold the original assessed contribution
- reduce the amount of contribution
- waive part or the whole of the contribution for a set period of time

The panel will make a final decision on the amount of contribution the citizen will be required to make towards the cost of their care and the citizen will be notified of this in writing. The citizen's assessed financial contribution will remain in place and they will be liable for the charges until a decision on the outcome of an appeal is made.

## 12. The process for assessing care and support needs and financial contributions

The process for determining a citizen's care and support needs and how much they should contribute towards the cost of their care and support will follow six main steps:-

**Step 1: Care and support needs assessment**

Citizens are supported through a self-assessment process to determine their individual care and support needs or signposted to alternative forms of support if citizens are not eligible.

**Step 2: Indicative Personal Budget**

Local Authority uses its Resource Allocation System (RAS) to calculate the Indicative cost required to support the citizen's care and support needs.

**Step 3: Financial Assessment**

Every citizen is required to disclose their financial circumstances to see if they will be able to afford to contribute towards the cost of the care and support the citizen is assessed for.

**Step 4: Care and Support Plan**

Citizen will need to choose between a direct payment, which allows citizen to choose the provider(s) of their social care needs, or for a managed service whereby the Local Authority will arrange citizen's care and support needs on citizen's behalf, or a combination of both.

**Step 5: Collection of Contributions**

If a citizen is required to contribute towards the cost of the care and support, the citizen will need to decide the best way to pay the contribution. Local Authority's preferred method of payment is via Direct Debit.

**Step 6: Appeals Process**

Should a citizen disagree with the financial assessment, the Local Authority offers a process for appealing against the level of contribution towards citizen's care and support. The citizen is required to submit the appeal or make contact with the financial assessment and monitoring team within six months of the date of the financial assessment. If the

citizen failed to make an appeal within the time specified, the Local Authority may reject the appeal.

### **Deprivation of Capital**

When undertaking or reviewing a financial assessment, the Local Authority may identify circumstances that suggest a citizen has deliberately deprived themselves of assets in order to avoid or reduce their care costs. In cases like this, the Local Authority may either charge the citizen as if they still possess the asset or, if the asset has been transferred to someone else, the Local Authority may seek to recover the loss of charges from that person. As a first step, the Local Authority should seek to charge the citizen as if the deprivation has not occurred.

Deprivation will not be automatically assumed, as there may be valid reasons as to why a citizen no longer has an asset and the Local Authority will ensure it is fully explored before taking any action.

*It is up to the Citizen to prove to the Local Authority that they no longer have the asset. If the citizen is not able to, the Local Authority must assess the citizen as if they still have the asset. For capital assets, acceptable evidence of their disposal would be:*

- (a) a trust deed*
- (b) deed of gift*
- (c) receipts for expenditure*
- (d) proof that debts have been repaid*

*Questions of deprivation therefore should only be considered where the citizen ceases to possess assets that would have otherwise been considered for the purposes of the financial assessment or has turned the asset into one that is now disregarded.*

### **Recovering charges from a third party**

Where the citizen has transferred the asset to a third party to avoid the charge, the third party is liable to pay the Local Authority the difference between what it would have charged and did charge the citizen receiving care. However, the third party is not liable to pay anything which exceeds the benefit citizen / third party has received from the transfer.

If the citizen has transferred funds to more than one third party, each of those citizen / parties are liable to pay the Local Authority the difference between what it would have charged or did charge the citizen receiving care in proportion to the amount third parties / citizen received.

As with any other debt, the Local Authority can use the county court process to recover debts, but this will only be used after other avenues have been exhausted.



### **13. Implementation**

The Charging and Assessment of Resources Framework updates in line with statutory changes.

From the 1<sup>st</sup> October 2020, LBH will start to apply the Charging and Assessment of Resources Policy for Adult Social Care in Residential and Non-Residential Services.

If a citizen is new to Adult Social Care and through the citizen's financial assessment, it is determined that citizen can make a contribution towards their care, the contribution will need to be paid from the date that citizen's care and support plan is agreed and implemented.

## 14. Confidentiality & Privacy

The Data Protection Act 2018 and the General Data Protection Regulation (GDPR) provide the legal basis under which Local Authority collects and uses citizens' data. The Local Authority is committed to always protecting our citizens' privacy and in accordance with the legislation.

The Local Authority requires citizens' personal information for the purposes of assessing a citizen's care needs, conducting financial assessments and delivering social care services.

Personal information is anything that can identify and relate to a living person. This includes information that, when used together with other information, can identify a person, for example: a citizen's name and address.

All the information collected by Harrow is stored securely within our IT systems. We have strict procedures in place for the manner in which this is done, and all information is treated as confidential and with respect.

There are clear rules and guidance regarding the storage, recording and sharing of information. Harrow's staff are trained according to these rules and take information very seriously. All appropriate council and health staff are thoroughly checked via the Disclosure and Barring Service (DBS) and anyone found breaking the rules is dealt with via appropriate disciplinary procedures.

Records are kept only for as long as strictly necessary, either by law or best practice.

The Local Authority requires its citizens' consent to collect and process their information, which they provide when completing its financial circumstances form. Although citizens' information is confidential, Harrow may have to share it without their permission. Where this is necessary, Harrow is required to comply with all relevant aspects of data protection legislation. For example: the council is required to make sure that it uses public money properly, so it may use the information they provide for the detection and prevention of fraud. It may also share the information citizens give us with other public bodies that look after public money for the same purpose.

Citizens may withdraw their consent at any time by contacting the Financial Assessment and Monitoring Team on: [JAT@harrow.gov.uk](mailto:JAT@harrow.gov.uk)

Citizens may request a copy of the information Harrow Adult Social Care Financial Assessment and Monitoring team holds on them. This is called a Subject Access Request (SAR) under the Data Protection Act 2018 and GDPR, which contain the rights of individuals and their personal data.

For more information on how Local Authority uses citizens' information, please visit the Local Authorities' website: <https://www.harrow.gov.uk/privacy>

LBH's Data Protection Officer can be contacted as follows:

Darren Davies  
User Support Manager - Data Protection Officer  
Resources and Commercial  
Technology and Transformation  
020 8736 6344  
DPO@harrow.gov.uk

### **Supporting Documentation**

This Policy must also be read in conjunction with the following documents and policies:

- Direct Payments Policy
- Contracts and Brokerage Team protocols and procedures
- Client Finance protocol and procedures
- Travel Assistance policy for Children and young people (0-25) living in Harrow
- Adult Social Care Debt Recovery Policy
- Corporate Debt Recovery Policy

## Appendix

### Useful Contacts

For further information about the Charging and Assessment of Resources Policy, citizen can contact the Financial Assessment and Monitoring Team helpline on: 0208 736 6802

<b>Disability Living Allowance</b>	Telephone: 0800 917 2222 Textphone: 0800 917 7777 NGT text relay (if you cannot hear or speak on the phone): 18001 then 0800 917 2222
<b>Attendance Allowance</b>	Telephone: 0800 731 0122 Textphone: 0800 731 0317 NGT text relay (if you cannot hear or speak on the phone): 18001 then 0800 731 0122
<b>Personal Independence Payments</b>	Telephone: 0800 917 2222 Textphone: 0800 917 7777 NGT text relay (if you cannot hear or speak on the phone): 18001 then 0800 917 2222
<b>Pension Credit</b>	Telephone: 0800 99 1234 Textphone: 0800 169 0133 NGT text relay (if you cannot hear or speak on the phone): 18001 then 0800 99 1234
<b>Carers Allowance Unit</b>	Telephone: 0800 731 0297 Textphone: 0800 731 0317 NGT text relay (if you cannot hear or speak on the phone): 18001 then 0800 731 0297
<b>Citizen Advice Bureau</b>	Telephone: 0800 144 8848 NGT text relay (if you cannot hear or speak on the phone): 18001 then 0800 144 8884

<p><b>Universal Credit</b></p>	<p>must be claimed online:  <a href="https://www.gov.uk/universal-credit/how-to-claim">https://www.gov.uk/universal-credit/how-to-claim</a></p> <p>If you are unable to access online services phone:</p> <p>Telephone: 0800 328 5644</p> <p>Textphone: 0800 328 1344</p> <p>NGT text relay – if you cannot hear or speak on the phone: 18001 then 0800 328 5644</p>
<p><b>Advocacy Services (IMCA)</b></p>	<p>Telephone: 0345 310 1812</p> <p>Email:  <a href="mailto:info@advocacyforall.org.uk">info@advocacyforall.org.uk</a>  <a href="http://www.advocacyforall.org.uk">www.advocacyforall.org.uk</a></p>
<p><b>Court of Protection</b></p>	<p>Telephone: 0300 456 4600</p> <p>Email:  <a href="mailto:courtofprotectionenquiries@justice.gov.uk">courtofprotectionenquiries@justice.gov.uk</a></p>

## Appendix 1 - Case example of how we may assess contributions (over 66) – Community Based Care

Sarah is an 85-year-old woman living on her own who receives a basic state pension, private pension and pension credit. Through the Resource allocation System, the Council has assessed Sarah's care needs to cost £ 75 per week.

Income each week	£
<b>State Retirement Pension</b>	<b>£102.15</b>
<b>Private Pension</b>	<b>£9.60</b>
<b>Pension Credit (Guaranteed Credit)</b>	<b>£39.45</b>
<b>Total Assessed Income (A)</b>	<b>£151.20</b>

Allowance and Living Expenses each week	£
<b>Basic Living Allowance</b>	<b>£194.70</b>
<b>Total Assessed Allowances (B)</b>	<b>£194.70</b>

<b>Total Assessed Contribution (A-B)</b>	<b>-£43.50 (£0.00)</b>
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In this example Sarah's financial contribution towards her care needs is NIL as her weekly allowance and living expenses are more than her weekly income. Sarah will not pay anything towards her assessed care needs. The Council will pay the full cost of Sarah's care needs.

**\*\*Please be aware that the above-mentioned example reflects rates from 2022/23.**

## Appendix 2 - Case example of how we may assess contributions (25-59) – Community Based Care

John is a 36-year-old man living at home with his family. He receives ESA and Disability Living Allowance (care component). Through the Resource Allocation System, the Council has assessed John's care needs to cost £ 92.50 per week.

Income each week	£
<b>Employment and Support Allowance (Personal Allowance + Support Group + Disability Premium)</b>	<b>£135.70</b>
<b>Disability Living Allowance (Care Component-Higher Rate)</b>	<b>£92.40</b>
<b>Disability Living Allowance (Care component)</b>	<b>-£30.55 (Night time component is disregarded)</b>
<b>Total Assessed Income (A)</b>	<b>£197.55</b>

Allowances and Living Expenses each week	£
<b>Basic Living Allowance</b>	<b>£94.15</b>
<b>Disability related expenditure</b>	<b>£2.60</b>
<b>Disability Premiums</b>	<b>£61.85</b>
<b>Total Assessed Allowance (B)</b>	<b>£158.60</b>

<b>Total Assessed Contribution (A-B)</b>	<b>£38.95</b>
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In this example John has been financially assessed to have the ability to pay £38.95 per week towards the cost of his care needs of £92.50 per week. The Council will make up the difference of £53.55 per week towards the total cost of his care (£92.50 - £38.95). This amount will be deducted from any cash PB. If John receives commissioned care, he will be invoiced the £38.95 contribution.

***\*\*Please be aware that the abovementioned example reflects rates from 2022/23.***

### Appendix 3 - Case example of how we may assess contributions (18-24) – Community Based Care

Kanta is a 22-year-old woman living at home with her family. Kanta receives Incapacity Benefit and Disability Living Allowance (both care and mobility components). Through the Resource Allocation System, the Council has assessed Kanta's care needs to cost £122.25 per week.

<b>Income each week</b>	<b>£</b>
<b>Employment &amp; Support Allowance</b>	<b>77.00</b>
<b>Disability Living Allowance (Care Component-Higher Rate)</b>	<b>£92.40</b>
<b>Disability Living Allowance (Care component)</b>	<b>-£30.55 (Night time component is disregarded)</b>
<b>Disability Living Allowance (Mobility Component)</b>	<b>£0.00 (Mobility component is disregarded)</b>
<b>Total Assessed Income(A)</b>	<b>£138.85</b>

<b>Allowances and Living Expenses each week</b>	<b>£</b>
<b>Basic Living Allowance</b>	<b>£74.60</b>
<b>Disability related expenses</b>	<b>£18.50</b>
<b>Disability Premiums</b>	<b>£61.85</b>
<b>Total Assessed Income (B)</b>	<b>£154.95</b>

<b>Total Assessed Contribution (A-B)</b>	<b>-£16.10=0.00</b>
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In this example Kanta will not be required to make any contribution towards the cost of her care needs of £122.25 per week. The Council will make full payment to cover the cost of care.

**\*\*Please be aware that the above-mentioned example reflects rates from 2022/23**