



# COSLA

NATIONAL STRATEGY & GUIDANCE

Charges Applying to Social Care Support for people at  
home

2024/2025

**Perth & Kinross Council Interpretation**

Effective 08 April 2024

## Contents

Section 1:	Purpose and High Level Principles	Page 1
Section 2:	Financial, Legislative and Policy Context	Page 3
Section 3:	Developing Local Policies	Page 9
Section 4:	Consistency	Page 12
Section 5:	Paying Towards Care and Support	Page 13
Section 6:	Financial Assessment Guidance	Page 15
Annex A:	Local Charges Information Template	Page 28
Annex B:	DWP Allignment	Page 29
Annex C:	Potential Disrgards	Page 31
Annex D:	Minimum Standard Financial Assessment	Page 33

# Section 1 – Purpose and High Level Principles

- 1.1 The Convention of Scottish Local Authorities (COSLA) is a membership organisation for Local Government in Scotland. Since the introduction of the Community Care & Health (Scotland) Act 2002, COSLA has produced annual guidance which defines a set of principles to underpin the development of local charging policies for social care support for people at home. The Guidance is subject to ongoing revision as appropriate, on an annual basis or as policy develops. It is managed by the COSLA Charging Guidance Working Group. Any change to the guidance requires approval by the political leadership of COSLA.
- 1.2 The National Guidance is intended to assist Local Authorities and Integration Authorities to determine whether to charge a person for social care support at home, and in calculating how much - which is usually done through a financial assessment process. The Guidance describes a number of best practice steps which should be taken when developing local charging policy, taking into consideration the full range of legal, financial and policy drivers. Charging policies at both a national and local level should be accessible, transparent, fair and equitable, and developed from a human rights perspective.
- 1.3 The Scottish Government has committed to developing options to end charging for non-residential social care support within the lifetime of the current Parliament. COSLA and Scottish Government have committed to this through the joint statement of intent<sup>1</sup> and will continue to work together, alongside relevant stakeholders, including the COSLA Charging Working Group, to develop options for implementation. Local Authorities and Health and Social Care Partnerships will be involved with this process through the relevant working groups and COSLA Charging Working Group. This will be subject to the relevant political agreement from COSLA Leaders and the Parliamentary and Budget process.
- 1.4 There is no legal 'duty' placed on Local Authorities and Integration Authorities to charge for social care support at home. If local areas choose to develop and administer a charging policy this guidance has seven over-arching objectives to support local areas to:
  - Determine whether to charge a person for social care support at home, taking into consideration the full range of legal, financial and policy drivers;
  - Develop a policy that is fair, equitable, accessible and transparent for people who use support, their families and carers, and staff applying it;
  - Support local areas to work together to generate greater consistency across Scotland;
  - Ensure the personal, social and economic circumstances of individuals are given due regard in determining whether charges should apply, and the level of charges to prevent financial hardship;
  - Ensure that people who use services understand the reasons for charging and its contribution to supporting their social care;
  - Ensure that charging policies at a national and local level are developed together with people who use services; and
  - Ensure that the human rights of supported people and the financial implications of charging on the supported person's quality of life, in terms of both their standard of living and their social and economic participation within the

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<sup>1</sup> <https://www.gov.scot/publications/adult-social-care---independent-review-joint-statement-of-intent/>

community, are considered in the development of charging policy and its application in practice.

- 1.5 At the heart of this guidance lies a recognition that social care support is essential for many people to fulfil their human rights. The role of the Local Authority and Integration Authority is to create an enabling environment so that people who use social care support and their carers can fulfil their right to participate in society and are supported to live independently, with control, freedom, choice, and dignity. Self-directed Support (SDS), people's right to direct their own social care support, is the mechanism to deliver social care support in Scotland.
- 1.6 In developing this guidance, we promote a human rights-based approach, drawing on the PANEL<sup>2</sup> principles:
- **Participation** in the development of charging policies by the people who will be affected by them, using co-production methods in order to develop an honest dialogue about the rationale for charging and how it is implemented.
  - **Accountability** for the charging policy – including decisions around whether or not to charge, public reporting, transparency, the contribution of income from charging to the range and quality of social care and support available to the local population, and the financial impact to existing users. Accountability also includes access to a process to appeal the charges.
  - **Non-discrimination and equality** in the way that charges are determined and applied. This includes ensuring that charging policies have been subject to an Equality Impact Assessment. Charging policies should demonstrate that they have taken account of the circumstances of the people who are subject to it, including where a person may experience financial hardship or disability related expenditure.
  - **Empowerment** of individuals to ensure that they are able to engage in the development of local charging policies and fulfil their human rights. To ensure individuals are fully aware of, and understand the rationale, for charges being applied and how they are calculated.
  - **Legality** to ensure the full range of legally protected human rights are respected, protected and fulfilled in all decisions made. Where the person disagrees with the decision, they have the right to seek remedy through an effective complaint and appeal procedure.

Perth and Kinross Council calculate client contributions towards all non-residential care services using our Contributions Policy which can be found at [www.pkc.gov.uk/carecharges](http://www.pkc.gov.uk/carecharges)

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<sup>2</sup> UN endorsed approach to human rights

## Section 2 – Financial, Legislative and Policy Context

### Financial Context

- 2.1 Local Government's revenue funding has decreased by 20% in real terms between the years 2013-14 and 2021-22<sup>3</sup>. Local Authorities and Health and Social Care Partnerships decide whether to use their legal powers to charge for social care support at home within an overall context of financial and demographic pressures. Income from charging is used to invest in social care support so people with an assessed need have access to the high quality services they require.

### Legislative Context for Charging

#### Social Work (Scotland) Act 1968 Section 87

- 2.2 The current legislative framework for charging includes services provided under the **Social Work (Scotland) Act 1968 Section 87**.
- 2.3 In terms of the guidance on charging set out in the Scottish Office Circular SWSG1/1997 and with regard to subsequent development of this COSLA guidance, councils have the power to charge for a range of social care support at home.
- 2.4 The Circular, together with the further Scottish Government Circular CCD3/2018<sup>4</sup> amended for the extension of free personal and nursing care to those under 65 also sets out what cannot be charged for – this includes:
- Support for people who are subject to Compulsion Orders under the Criminal Procedure (Scotland) Act 2003
  - Nursing Care and Personal Care. Annex B of the updated statutory guidance<sup>5</sup> sets out the definition of personal care or support as defined by the Community Care and Health (Scotland) Act 2002 and amendment number 2 in 2018.
  - Support for unpaid carers (e.g. a short break for the carer or for the supported person which benefits the carer)
- 2.5 Previous versions of the guidance have indicated that people who were subject to Community Care Orders should not be charged for the care they receive. Community Care Orders are no longer in use but a similar mechanism called Compulsory Treatment Orders introduced under the Mental Health (Care and Treatment) (Scotland) Act 2003 are in use.

#### The Social Care (Self-directed Support) (Scotland) Act 2013

- 2.6 Self-directed support is Scotland's approach<sup>6</sup> to social care, including free personal care. It applies across all ages and user groups, including unpaid carers. It aims to enable people to live the life they want by giving them choice and control over their care and support and how it is delivered. When a person is assessed as eligible for social care, they will agree with social workers the outcomes that are important to them and choose one of four different options for how they would like their support delivered.

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<sup>3</sup> [https://www.cosla.gov.uk/data/assets/pdf\\_file/0025/28807/COSLA-Live-Well-Locally-Budget-Lobby-22-23.pdf](https://www.cosla.gov.uk/data/assets/pdf_file/0025/28807/COSLA-Live-Well-Locally-Budget-Lobby-22-23.pdf)

<sup>4</sup> [https://www.sehd.scot.nhs.uk/publications/CC2018\\_03.pdf](https://www.sehd.scot.nhs.uk/publications/CC2018_03.pdf)

<sup>5</sup> [https://www.sehd.scot.nhs.uk/publications/CC2018\\_03.pdf](https://www.sehd.scot.nhs.uk/publications/CC2018_03.pdf)

<sup>6</sup> [Social Care \(Self-directed Support\) \(Scotland\) Act 2013: statutory guidance - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/social-care-self-directed-support-act-2013-statutory-guidance/pages/12.aspx)

2.7 The four options are:

- (1) A direct payment to the person to purchase the agreed support
- (2) The person makes decisions about who will deliver their support, and the authority or a third party holds the money and arrange the chosen support on the person's behalf.
- (3) The authority selects the appropriate support and arranges it for the person
- (4) A mix of options 1,2 and 3 for different aspects of the person's support

## **Policy context**

### Health and Social Care Integration<sup>7</sup>

2.8 The Public Bodies (Joint Working) (Scotland) Act 2014 establishes the legislative framework for the integration of health and social care in Scotland. The Local Authority and Health Board delegate certain functions to an Integration Joint Board who are responsible for planning and commissioning of services.

2.9 Section 87 of the Social Work (Scotland) Act 1968 has been updated to reflect the integration of health and social care. The legal basis for setting charges remains with the Local Authority, however Integration Authorities can agree charges as part of their financial planning and budget setting process.

2.10 For this reason, and for the purpose of this guidance, Integration Authorities and Local Authorities are both referenced.

2.11 The integration of health and social care creates a specific context for charging which should be considered when developing local policy. Health services are largely free at the point of use, whereas social care support may be charged for. This may be unexpected for people using social care support where a charge may be due.

### Carers (Scotland) Act 2016

2.12 The Carers (Scotland) Act 2016<sup>8</sup> came into effect from 1<sup>st</sup> April 2018. The Act is designed to support carers' health and wellbeing and help make caring more sustainable. Measures include:

- a duty for Local Authorities to provide support to carers, based on the carer's identified needs which meet the local eligibility criteria
- a specific adult carer support plan or a young carer statement to identify carers' needs and personal outcomes and set out how the carer will be supported including in a preventative way
- a requirement for Local Authorities to have an information and advice service for carers which provides information and advice on, amongst other things, emergency and future care planning, advocacy, income maximisation and carers' rights

2.13 The Carers (Waiving of Chargers for Support) (Scotland) Regulations 2014 and the Self-directed Support (Direct Payments) (Scotland) Regulations 2014 require Local Authorities to waive charges in relation to support provided to carers. There are challenges where support may meet both the needs of the carer and the supported person. The Local Authority must decide whether it will provide:

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<sup>7</sup> <https://www.gov.scot/policies/social-care/health-and-social-care-integration/>

<sup>8</sup> <http://www.legislation.gov.uk/asp/2016/9/contents/enacted>

- support to the cared-for person to meet their assessed needs, the indirect consequence of which is not so much that the carer's identified needs are met, but that the carer no longer has those needs; or
- support to the carer to meet the carer's identified needs, which could be through care or support to the cared-for person.

2.14 Statutory Guidance relating to this is at Chapter 3, Part 3 of the Scottish Government guidance on the Carers (Scotland) Act 2016<sup>9</sup>. The Scottish Government, COSLA and social care practitioners have worked together to develop a series of examples to help with interpretation of these rules<sup>10</sup>. Share Care Scotland have also produced examples to support this.<sup>11</sup>

### Transition from Child to Adult Services

2.15 Currently, children are not charged for any social care up to the point they transition from children's social work services to adult social work services, this can be any point between their 16<sup>th</sup> and 18<sup>th</sup> birthdays if they are not looked after by Local Authorities.

2.16 Young people who have been looked after until their 16th birthday are entitled to support in order to smooth the transition to adulthood, in terms of duties in the Children (Scotland) Act 1995, as extended by the Children and Young People (Scotland) Act 2014.

2.17 Specifically, "continuing care" is the right to the same accommodation and assistance that the young person was being provided with immediately before ceasing to be looked after.<sup>12</sup> This applies until age 21 unless the young person chooses to leave the accommodation before then.

### Human Rights

2.18 Social care support protects people's human rights by ensuring they are connected with, and able to contribute to, society, and are supported to live as independently as they wish to. This includes the right to a family life and for carers to have a break and a life beyond caring.

2.19 The UN Convention on the Rights of Persons with Disabilities (UNCPRD) strengthens and contextualises these rights and recognises the role of community care in meeting them. Article 19 of the UNCPRD indicates that "disabled people have a right to live in the community, with the support they need and can make choices like other people do".

2.20 All of the human rights protected by the European Convention on Human Rights (ECHR), and those included in the Human Rights Act and in subsequent ratified Conventions, should be considered in decisions on whether or not to charge a person for their social care support and the development of local charging policies.

<sup>9</sup> <https://www.gov.scot/publications/carers-scotland-act-2016-statutory-guidance/pages/0/>

<sup>10</sup> <https://www2.gov.scot/Topics/Health/Support-Social-Care/Unpaid-Carers/Implementation/Guidance>

<sup>11</sup> <https://www.sharedcarescotland.org.uk/resources/carers-act-overview/waiving-of-charges/>

<sup>12</sup> <https://www.gov.scot/policies/looked-after-children/children-leaving-care/>

2.21 Local Authorities and Integration Authorities must not act in ways which are incompatible with the European Convention on Human Rights (ECHR) under section 6 of the Human Rights Act 1998. Many of the Articles of the ECHR are relevant to this Guidance but in particular Article 8 (the right to private and family life, including autonomy in decision making, the right to work and the right to live with dignity) and Article 14 (non-discrimination on a number of grounds, including “any other status”). These articles speak directly to the issues that connect to local charging policies for social care support, including portability of care, equality within and across jurisdictions, and issues around income maximisation. Human rights compatible outcomes should therefore underpin the development of local charging policies.

### Equality Act 2010

2.22 The Equality Act 2010 places both a general duty and a specific duty on Local Authorities, both of which are relevant to the development of charging policies. The general duty requires Local Authorities have due regard to the need to:

- eliminate discrimination, harassment and victimisation,
- advance equality of opportunity,
- promote good relations between persons who share a relevant protected characteristic and persons who do not share it

2.23 This duty relates to disability, age, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

2.24 As a result of the general duty, Local Authorities must consider how to promote equality and ensure that no group are put at a disadvantage by their charging policy. This should involve taking steps to ensure policies minimise any disadvantage experienced by any people of a protected characteristic, ensuring their specific needs are met, rights are upheld and encouraging participation in the development of relevant policies. The Equality Act 2010 also gives Scottish Ministers the power to impose specific duties on Local Authorities.

2.25 Equality Impact Assessments (EIA) can help to identify whether there is a disproportionate impact of a policy on people of a protected characteristic/group compared to those outwith that group. It is good practice for Local Authorities to carry out Equality Impact Assessments on their charging policies in order to identify whether there is a disproportionate impact on people of a protected characteristic and what can be put in place to mitigate the impact such as income maximisation or an appeal process on the grounds of hardship.

### Devolved Social Security

2.26 The Scotland Act 2016 devolved, from the UK Parliament to the Scottish Parliament, legislative competence over disability benefits, industrial injuries and carer’s benefits, benefits for maternity, funeral and heating expenses and Discretionary Housing Payments. As well as this, the Scottish Parliament can now legislate to top up benefits which remain reserved to the UK Parliament, and to create new social security benefits in any area except old age pensions or where there is a connection to a matter reserved to the UK Parliament (such as child support maintenance or reserved aspects of employment support).



- 2.27 The Social Security (Scotland) Act 2018 set out the Scottish Government's powers to administer benefits in these areas in accordance with regulations. The Scottish Government currently administers the following benefits using these powers: Best Start Grant, Carer's Allowance Supplement, Funeral Expense Allowance, Best Start Foods, the Young Carer Grant, the Scottish Child Payment and Child Winter Heating Assistance
- 2.28 The Scottish Government is currently preparing to roll-out Adult Disability Payment (ADP), followed by Pension Age Disability Payment (PADP). These two benefits will replace Personal Independence Payment (PIP) / Adult DLA and Attendance Allowance (AA). Individuals in Scotland receipt of DLA, PIP or AA will continue to receive these benefits from the DWP until they have been transferred on to the Scottish System. The Scottish Government is aiming complete case transfer by 2025. In order to facilitate a safe and secure case transfer, the eligibility criteria for CDP, ADP and PADP, and the rates of entitlement, are substantially the same as the DWP disability benefits that they will each replace. Taking this approach has still allowed for a number of changes to be made to improve the client experience of applying for disability benefits. With each new form of Disability Assistance, the Scottish Government will legislate to ensure individuals in receipt of CDP, ADP or PADP will have access the same passported entitlements and income disregards as individuals with an equivalent award of DLA, PIP or AA.
- 2.29 The Scottish Government's Adult Disability Payment was rolled out nationally for new applications from 29<sup>th</sup> August 2022.
- 2.30 Throughout this guidance the term 'Disability Assistance' is used to refer to CDP, ADP and PADP collectively.

### **Terminal Illness**

- 2.31 The Scottish Government will introduce a new definition of terminal illness for the purposes of determining entitlement to disability benefits<sup>13</sup>. This means that for all devolved disability benefits (when Social Security Scotland begins delivery) whether a person is eligible will depend on the clinical judgement of a medical practitioner or registered nurse involved in the care or diagnosis of the individual (having paid regard to Chief Medical Officer guidance that the individual has a progressive disease that can be reasonably expected to cause the individual's death. This guidance is due to be published in July 2021. Where this is the case, it is recommended that charges for social care are waived. This prognosis should be evidenced through a BASRiS form or a letter from the individual's General Practitioner or hospital consultant confirming the individual has already been awarded a BASRiS. In situations where a client has a DS1500 this can also be accepted to confirm prognosis. The introduction of this new guidance should not change the way individuals are currently treated for the purpose of social care support charging and Local Authorities should continue to follow their internal processes to ensure individuals benefit.

Perth and Kinross Council will waive charges from the date in which the BASRiS form confirms that special rules are met from – not from the date of diagnosis or date of issue.

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<sup>13</sup> <https://www.gov.scot/publications/terminal-illness-disability-assistance-policy-position-paper/>

## Reform of Adult Social Care Support<sup>14</sup> and Independent Review of Social Care

- 2.32 On 01 September 2020 the First Minister announced that there would be an Independent Review of Adult Social Care in Scotland as part of the Programme for Government. The review was published on 03 February 2021 and contained a recommendation to end non-residential charging.
- 2.33 In March 2021, the Scottish Government and COSLA issued a joint statement of intent outlining how we will work together to deliver the key foundation pillars set out in the Independent Review of Adult Social Care in Scotland. The statement of intents made a commitment to end charging for non-residential services as soon as possible. Progress on this work was reviewed in September 2022.
- 2.34 The National Care Service (Scotland) Bill was introduced by the Scottish Government in June 2022 and proposes changes to how social care, social work and community health services are delivered in Scotland. The Bill proposes transferring responsibility and accountability for care from councils to a National Care Service. This could see Local Government staff, functions and assets moved to a national structure under the direction of Scottish Government Ministers. The Bill proposes that Scottish Ministers would be empowered to create special and local care boards to deliver care, replacing current Integrated Joint Boards.
- 2.35 As referenced in Section 1 of this guidance the Scottish Government have committed to end charging for non-residential social care support within the lifetime of the current Parliament. Local Authorities and Health and Social Care Partnerships are engaged with this process through the relevant working groups and the COSLA Charging Working Group. This will be subject to the relevant political agreement from COSLA Leaders and the parliamentary and budget process.

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<sup>14</sup> [Independent Review of Adult Social Care - gov.scot \(www.gov.scot\)](https://www.gov.scot/independent-review-of-adult-social-care)

## Section 3 – Developing Local Policies

3.1 Local Authorities and Integration Authorities should have regard to the following principles when developing their local charging policies;

- Policies should be co-produced with the people who might be affected using the PANEL approach;
- Any additional charging income to improve the quality or scope of social care support services should be balanced against the impact on the quality of life for those who are charged;
- People who use social care support must understand the reasons for charging and its contribution to enabling the support they access;
- There should be transparency over how charges are calculated;
- Policies should define the financial decision-making processes that ensure the personal, social and economic circumstances of individuals are given due regard in determining whether charges should apply;

### Co-production

3.2 The involvement of people in the planning of the support they use is a core principle in promoting equality and is at the heart of co-production. Being involved is not the same as being asked or consulted. It means people who use support and policy makers working in partnership right from the start. It allows for the trading of skills, information and expertise and assists in achieving mutual objectives.

3.3 Co-production engages people who use support as equal citizens: to help create or improve systems and structures, to better inform planning and decision-making processes, and to deliver better outcomes. In recognition of their role as ‘equal and expert partners’ local charging policies should also be developed in co-production with unpaid carers and their representative organisations.

3.4 Charging Policies will be reviewed on an annual basis by Local Authorities and Integration Authorities as part of their budget setting processes. The ‘Planning with People: community engagement and participation guidance’<sup>15</sup> sets out further support to enable effective community engagement and co-production.

### Transparency and Communication

3.5 It is important that people are given accurate and clear information about the charges that may apply for social care support, why they are being asked to pay and the financial assessment process. This information should be provided upfront to allow people to come to an informed view about their support.

3.6 Where the supported person has difficulty in paying the contribution due to their financial circumstances, it is recommended that Local Authorities and Integration Authorities use their powers to abate or waive charges on a case by case basis. It is important, within this context, that councils take a holistic approach and consider the full impact of all prospective combined charges on the well-being and independence of the supported person. Care should be taken to ensure that where charging still relates to services that those who use more than one type of service are not unduly

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<sup>15</sup> <https://www.gov.scot/publications/planning-people/>

disadvantaged i.e., they are not being asked to contribute an unreasonable amount in total.

- 3.7 Aligned to this, it is recommended that all Local Authorities and Integration Authorities should be proactive in promoting benefit take up for people who use social care support. Doing this would not only be beneficial to the individual but could contribute to their revenue and their local economy. Where possible, dedicated staff should be employed to promote and assist with Income Maximisation processes for people who use support. Local Authorities should ensure that the benefit entitlement of supported people is reviewed on a regular basis.
- 3.8 To ensure transparency, it will be incumbent on Local Authorities and Integration Authorities to provide plain English explanations of the charges for social care support, both in policy terms and for billing purposes. Such information should be readily available and provided in a variety of accessible formats, including translations into minority languages, where appropriate. It would be good practice to secure a Crystal Mark for this information.

*A standard format for charging information is seen as an essential element to a consistent and transparent approach to charging for social care support and there is broad agreement that formats should be accessible to the person requiring the information.*

- 3.9 As an aid to greater consistency, templates for the presentation of charging information and other elements are included at Appendix 1. Councils should use a variety of media to promote this information, including the council website. In addition, links to the relevant parts will be made from the COSLA website.

## **Review of charging policy**

- 3.10 When making significant changes to local policy it is important to consider the impact on people who are being supported. The following checklist was included in previous charging guidance to ensure any transition is fair and transparent:
- A desktop analysis should be undertaken to determine the impact of changes to the policy on both individuals and income to the authority as a whole;
  - Any new policy should be co-produced with citizens and communities of interest;
  - An equality impact assessment should be undertaken;
  - Consideration should be given to transitional arrangements if the amount an individual is charged changes significantly. Any transitional protection should compare the amount that an individual paid under the previous charging policy against the amount he or she is required to pay under the new arrangements.
    - Transitional protection should have a clear timeframe which should apply equally to all, be transparent and recorded in a policy.
- 3.11 Consultation with stakeholders on any policy change is essential. Any consultation document would need to help people to understand why these changes are being introduced and how it will impact them.

## **Balancing Income against Impact**

- 3.12 In coming to a view about the quantum of resource to be raised through charges, it is important to have a sense of the opportunity cost associated with different policy

options. For example, a decision to completely eliminate charges would deliver maximum relief to those who would otherwise have been charged but will restrict the quality or range of social care support that might have been provided to the general population in need of social care. On the other hand, a charging regime that focuses solely on raising additional income could place at risk the overall well-being of those who are asked to pay the charges and their families and carers. This can, in turn, place an additional burden on other public sector services such as health services, social work and the police.

## Section 4 – Consistency

- 4.1 As set out in section 1 of this guidance, the purpose of developing a national guidance document is to improve the consistency of local charging policies across Scotland. However, legitimate variation according to local need and democratically determined priorities are important levers to ensure income can be reinvested into providing high quality social care support.
- 4.2 This does mean that there are variations which may impact the outcome of a financial assessment. Local Authorities and Integration Authorities should seek to embed accountability for their charging policy in local democratic decision making and in taking a human rights-based approach, recognising that tensions will have to be managed within this context. Ensuring that local charging policies are **accessible**, **transparent** and **publicly available** is vital to ensure people can understand these local variations.

### Portability of Care

- 4.3 Portability of care is a principle that has been strongly advocated by a number of stakeholders, including Independent Living in Scotland. Submissions to the Reform of Adult Social Care discussion paper<sup>16</sup> also highlighted that this can be an issue in some areas. A human rights-based approach requires that Local Authorities engage with this matter. This guidance therefore recommends that any person using social care support who is looking to move between areas in Scotland should be entitled to a description of any charges which would apply to them *as an individual* in advance of the move and any material differences in the nature of the support provided by the relevant authorities. The current and receiving Local Authority should work together to facilitate this, using the Ordinary Residence Guidance<sup>17</sup> guidance to support this process.

### COSLA Charging Guidance Surveys and Local Financial Returns (LFR) 3

- 4.4 COSLA runs an annual survey of councils, which collects information on charging for social care support at home to support local areas when they are updating their charging policy.
- 4.5 The Scottish Government Local Financial Returns (LFR) 3 is another key source of information on income from charging. The LFR information is used to monitor Local Authority expenditure for policy purposes and of specific interests is LFR3 which leads with social work expenditure.
- 4.6 These two sources of information can be used locally to promote greater consistency across Scotland and allow local areas to benchmark their own policies against other areas.

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<sup>16</sup> <https://www.gov.scot/publications/summary-report-discussion-paper-responses-analysis-responses-joint-discussion-paper-scottish-government-cosla-building-national-programme-support-adult-social-care-reform/pages/4/>

<sup>17</sup> <https://www2.gov.scot/Topics/Health/Support-Social-Care/Financial-Help/OrdinaryResidence>

## **Section 5 – Paying towards Care and Support**

### **Paying towards an individual budget**

- 5.1 Self-directed Support (SDS) is the mainstream approach to social care in Scotland. It allows people who are eligible for social care support, their families and carers to make informed choices about what their support looks like and how it is delivered. Further information can be found in the Statutory Guidance to accompany the Social Care (Self-directed Support) (Scotland) Act 2013.<sup>18</sup>
- 5.2 Where a person has been assessed as eligible for social care support and their Individual Budget has been calculated, the Local Authority or Integration Authority may apply a charge for some of the elements of the support provision. This would not include any elements of the support which would be non chargeable as set out in section 2.33 of the guidance.
- 5.3 Some Local Authorities have called this approach a contribution based charging policy, as people are now contributing towards their individual budget as opposed to paying a charge per service. However, many third sector organisations have raised concerns about this terminology as they feel it implies a voluntarism or willingness to pay. A standard approach across the 4 self-directed support options is usually applied, although there may be services that sit outwith this policy, for example, telecare equipment or community alarms.
- 5.4 The Chartered Institute of Public Finance & Accountancy (CIPFA) have produced guidance<sup>19</sup> intended for use by any staff with responsibility for the financial management of SDS. The guidance relates principally to council objectives and seeks to support and inform staff undertaking financial management duties so that social care outcomes, both at a personal and a local population level, are achieved.

### **Paying towards a non-residential care service**

- 5.5 Not all Local Authority and Integration Authorities have changed their charging policy to calculate the charges based on the individual budget. Many areas will apply a charge for a particular service and not an individual budget. Continuing to apply a charge per service rather than transitioning to a contributions model may be limiting in relation to creative Self Directed Support options as it is predicated on retrospectively applying traditional charging methods. Authorities should consider this in the development of their local charging policy to ensure they are compatible with Self Directed Support principles and ethos.

### **Calculating the charge**

- 5.6 Regardless of the mechanism to calculate the charge, the amount that a person pays towards their social care support should be determined by completing a financial assessment to determine available income as set out in section 6 of this guidance.

### **Collecting the Care and Support Charge for Option 1 and 2**

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<sup>18</sup> <https://www.sdsscotland.org.uk/wp-content/uploads/2018/11/Statutory-Guidance.pdf>

<sup>19</sup> <http://www.cipfa.org/members/regions/scotland/news/guidance-notes-on-self-directed-support>

- 5.7 The current position set out in the *Statutory Guidance to Accompany the Social Care (Self-directed Support) (Scotland) Act 2013*<sup>20</sup> states that the authority can arrange for the direct payment to be paid in instalments or in a lump sum payment. Where a person is eligible for a charge towards their support, the direct payment can be made on a “net” or a “gross” basis, i.e. the charge can be removed prior to the provision of the monthly direct payment or following the provision of the monthly payment. The supported person may request the payment be made gross. In this circumstance, the request should be given full consideration, taking into account the direct payment user’s reasons and circumstances behind this request prior to a decision being made. If the authority decides to pay the direct payment gross it will pay the relevant amount to the direct payment user and the direct payment user will pay the required contribution. If the authority refuses to pay direct payments on a gross basis they should inform the supported person as to the reasons why.
- 5.8 Local Authorities report a cost saving in identifying a net personal budget (where the overall quantum of public funding is reduced by the value of the care and support charge levied on an individual) in as much as it eliminates retrieval costs and maximises the potential to collect income.

Perth and Kinross Council operate, in the main, a net payment basis for Direct Payments. Where a client is assessed as being liable to make a contribution towards their care, this will be collected as follows:

Client Contribution Less than Direct Payment Amount

The assessed client contribution will be deducted from the Direct Payment (net payment) and the client will be expected to pay the assessed contribution in to their Direct Payment account in order to meet the cost of their ongoing services.

Client Contribution Greater than Direct Payment Amount

The client will receive their full Direct Payment required to meet their ongoing services. Perth and Kinross Council will then issue an invoice for the assessed contribution and the client will be expected to pay this to the Council.

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<sup>20</sup> <http://www.scotland.gov.uk/Resource/0044/00446933.pdf>



## Section 6 – Financial Assessment Guidance

- 6.1 This section details guidance on how the amount a person pays towards their social care support at home should be calculated. It should be used to develop local charging policies and aims to improve consistency across Scotland. This will also be of significant interest to a wider audience of stakeholder organisations and the general public who may wish to contact a local independent advocacy service for support.

### Charging Thresholds

- 6.2 A person who has income below the charging threshold will not pay towards their social care support if they have been assessed as eligible. This threshold ensures a person retains a level of income to meet their daily living expenses.

### DWP Rates

- 6.3 At the moment, and in the absence of any other suitable national index, the **charging threshold** is linked to rates set by the UK Government Department for Work and Pensions. These are rates of benefit which provide a top up of weekly income to a **guaranteed minimum amount** and are set out below

Income Support - Personal Allowance	2024/2025 (weekly)
Single Person	90.50
Couple	142.25

Disability Premium	2024/2025 (weekly)
Single Person	42.50
Couple	60.60

Pension Credit - Guarantee Credit	2024/2025 (weekly)
Single Person	218.15
Couple	332.95

Figures from DWP Schedule of benefit rates

### Buffer

- 6.4 A buffer is applied to these rates to recognise that not all of a persons income should be taken into account when calculating charges for people on low incomes or who may incur additional living costs due to their impairment or to support frailty. This buffer is currently set at **25%** (see fig 6.2 for an illustration of how the maximum charge is reached).
- 6.5 The **charging threshold** is worked out by adding the buffer (25%) to the appropriate DWP rate(s) for groups of people as set out in the following tables (\*all thresholds are rounded up).

- 6.6 For people below state pension qualifying age, the **Income Support Personal Allowance** and the **Disability Premium** are added together with the buffer added to the sum of these two rates as shown below.

	<b>Income Support - Personal Allowance</b>	<b>Disability Premium</b>	<b>Buffer 25%</b>	<b>Charging Threshold* (weekly)</b>
Single Person	90.50	42.50	33.25	<b>166.00</b>
Couple	142.25	60.60	50.71	<b>254.00</b>

- 6.7 For people of state pension qualifying age or above, the **Pension Credit Guarantee** is used as the basis for the charging threshold calculation with the buffer added as shown below (whilst at this time there is no change to the charging guidance on these age thresholds councils may wish to be aware of the information on the DWP alignment of pension ages set out at Annex B).

	<b>Pension Credit - Guarantee Credit</b>	<b>Buffer 25%</b>	<b>Charging Threshold* (weekly)</b>
Single Person	218.15	54.53	<b>273.00</b>
Couple	332.95	82.24	<b>416.00</b>

- 6.8 It is recommended that the charge thresholds be uprated on an annual basis, using the approach outlined in the above paragraphs.
- 6.9 Earlier guidance recommended that Local Authorities should specify different rates for persons under and over 60; this was based on previous DWP Guidance. However, councils may now wish to give consideration to this in the context of the Equality Act 2010<sup>21</sup> and the on-going DWP alignment of state pension qualifying age for men and women (Annex B).

Perth and Kinross Council apply a single threshold across all financial assessments, regardless of marital status or age. This is the equivalent of the single person of state pension age threshold detailed above; currently £273.00 per week.

## Income

- 6.10 This describes all income which needs to be taken into account to establish the income level for comparison with the charging threshold. Local Authorities and Integration Authorities should consider adopting a common approach to the treatment of income (see fig 6.1. for an illustration of the calculation process).

<sup>21</sup> The Equality Act (2010) includes powers to ban discrimination against older people in the provision of goods, facilities, and services. However, provisions that benefit older people, such as free bus passes, are still allowed. Within this context, it may be that preferential thresholds for people over 60 will continue to be lawful.

**Income from all sources should be considered including net earnings and all social security benefits with the exception of the mobility component of the Disability Living Allowance/Personal Independence Payment or Disability Assistance<sup>22</sup>.**

Perth and Kinross Council fully disregard both Disability Living Allowance (Mobility Component), Adult Disability Payment (Mobility Component) and Personal Independence Payment (Mobility) when calculating a client's contribution towards non-residential care services.

- 6.11 War Disablement Pension and compensation payments made through the Armed Forces Compensation Scheme should be disregarded from the financial assessment for social care support at home. In addition, there may also be local circumstances, where individual Local Authorities want to make local policy decisions to exclude or disregard other sources of income to reflect local needs. Examples include disregarding gallantry awards and disability premiums. **The use of such discretion is not limited by this guidance.**
- 6.12 The threshold figures should be **net** of housing and council tax costs (if applicable). Housing costs will include rent and mortgage interest payments and costs for Council Tax should also be deducted. Local Authorities and Integration Authorities may wish to consider including in the disregard water and sewerage costs and household insurance premiums as other housing costs.

Perth and Kinross Council disregard all rent, mortgage, Council Tax and water & sewerage costs on top of the income threshold of £273.00 per week.

**Case law suggests that where a Local Authority does not provide 'night time' support, it is inappropriate to have regard to the higher rate of Disability Living Allowance (DLA) or Attendance Allowance (AA) in the financial assessment (R v. Coventry City Council, November 2000). In these circumstances only the middle rate for DLA and the lower rate for AA should be taken into account.**

**Similarly, for people who receive the enhanced rate of Personal Independence Payment or Disability Assistance and who do not receive 'night time' support, it is recommended that in these circumstances only the standard rate should be taken into account.**

Where a person is assessed by Perth and Kinross Council as requiring night-time services but these are not provided or commissioned by the Council as part of the person's care and support package, the high rate element of DLA Care, PIP Daily Living or Attendance Allowance (£30.55 for 2024/2025) will be disregarded when calculating the client contribution. Otherwise, the full amount of the benefit will be included as income in the financial assessment.

<sup>22</sup> <https://www.gov.scot/policies/social-security/benefits-disabled-people-ill-health/>

## Earnings

- 6.13 Where a supported person or their partner is in receipt of earned income when assessing chargeable income, Local Authorities and Integration Authorities should only take account of net earnings. In addition, they should also apply minimum earnings disregard of at least £20.

Perth and Kinross Council disregard the first £20.00 per week of a client's earned income when calculating the client's contribution. All earnings above this amount will be taken into account in the financial assessment.

## Independent Living Fund

- 6.14 Payments from the Independent Living Fund Scotland (ILF) should be disregarded in a financial assessment. ILF Scotland have produced guidance on how they calculate a person's contribution towards ILF<sup>23</sup>.
- 6.15 The Independent Living Fund Scotland reviewed ILF Policy 4 which determines the level of financial contribution towards the cost of ILF. To ensure that ILF award holders benefit from this change in policy it is recommended that social care support charges are not increased in response to any reduction from 01 June 2021 onwards.

Where a person is contributing towards ILF payment, Perth & Kinross Council will disregard the amount they were paying at June 2021, even if this is less than the current contribution,

## Partners

- 6.16 Where one member of a couple is in receipt of social care support at home, most Scottish Local Authorities take account of the joint income and capital in the financial assessment. The basis for charging for non-residential care charges is S87 of the Social Work (Scotland) Act 1968.
- 6.17 COSLA has secured opinion from Senior Legal Counsel on this matter as follows; *"it is only the 'means' of the disabled person that can be taken into account. **However, the means of the disabled person could include an estimate of the value of the benefit provided by the partner in supporting the disabled person; i.e. the amount that is paid in respect of the disabled person's food; share of housing costs; payment of normal bills etc. on behalf of the disabled person.**"*
- 6.18 To secure further clarification the Society of Local Authority Lawyers & Administrators in Scotland (SOLAR) agree that "... whilst it is right that the 'means' of the person receiving care services should be taken into account when determining their contribution toward the cost of those services, it is not right to *routinely include all* of a partners financial resources/income as part of those means; although it may be appropriate to include a proportion of that resource.
- 6.19 Local Authorities and Integration Authorities should determine what is a reasonable and proportionate value of any such benefit either on a case by case basis or by setting a reasonable flat rate for all. In light of the legal opinion referred to here, it is important that consideration is given to the proportion of a partner's income or capital

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<sup>23</sup> <https://ilf.scot/wp-content/uploads/2018/11/Policy-4-Available-Income-Scotland.pdf>

that can be taken into account in the financial assessment. The table below sets out possible options for the treatment of income and capital.

<b>Ownership of income/capital</b>	<b>Treatment of Income/capital</b>
Solely owned by Individual	Taken into account subject to normal disregards
Solely owned by Partner	Should not routinely be taken into account as part of financial assessment. See paragraph 6.16 – 6.19 above. However, the Local Authority should look at this on a case by case basis.
Jointly owned	Normally the individual is considered to be in possession of an equal share of any joint financial resources.
Social security benefits paid to one member of a couple at couples' rates, for example, pension credit, income support etc.)	It would be appropriate to consider and determine what proportion of such income is "reasonable" to consider as part of the individual's means.

Perth and Kinross Council fully disregard any partner income or capital whilst taking into account 50% of any jointly awarded income and jointly held capital. This is also the case for any social security benefits paid to one member of a couple at couple rates.

## **Compensation Payments**

6.20 Whilst Local Authorities charging policies may currently follow DWP guidance in relation to capital, for the purposes of compensation payments (including compensation payments held in Trust) it is recommended that Local Authorities should establish the breakdown of any compensation award and consider whether some elements of compensation payments should be included when assessing a supported person's ability to pay a charge. This may include compensation paid to address future care needs. Whether compensation payments should be included in assessing a person's ability to pay should be determined on a case-by-case basis, depending on the settlement information that relates to future care needs, and where necessary informed by relevant legal input.

Where someone has been awarded a compensation payment, Perth and Kinross Council will require a breakdown of the compensation award when completing the financial assessment in order to consider which elements have been awarded in order to pay for anticipated future care costs. This amount will then be included as capital in the financial assessment. If this amount is above £35,000, and has not already been spent on care fees, the client will be deemed to be self-funding.

## **Discretionary Payments**

6.21 There are a number of discretionary capital payments that should be disregarded from the assessment of a person's capital. These discretionary payments include:

- Statutory Redress Scheme and Advance Payment Scheme– Survivors of Historical Child Abuse<sup>24</sup>

<sup>24</sup> <https://www.gov.scot/policies/child-protection/supporting-child-abuse-survivors/>

- Future Pathways – Discretionary Fund
- Thalidomide Trust
- Child Disability Payment (CDP) and Short-Term Assistance (STA)
- Scottish Infected Blood Scheme (SIBSS) (and equivalent UK schemes e.g. England Infected Blood Support Scheme)
- Victims Payment Regulations 2020
- Redress Board (Northern Ireland)
- Payment Scheme for Former British Child Migrants
- Windrush Compensation Scheme<sup>24</sup>
- UK Energy Bills Support Scheme
- Homes for Ukraine Payments

6.22 Disregarding these capital payments will ensure that the person receiving the payments receives the full benefit of the capital payments and they are not used to pay for social care support.

### Dependent Children

6.23 It is recommended that income derived from all benefit paid for, or on behalf of, a dependent child should be disregarded.

Perth and Kinross Council fully disregard all income paid in relation to a child when calculating a client's contribution.

### Capital & Tariff Income

6.24 Capital can be considered as a source of income, as such, councils may choose to include income based on capital held by the supported person. In calculating the income a person receives from capital they own, it is recommended that councils adopt the same approach as that used by the Department of Work and Pensions (DWP) for means testing income-based benefits (see table below). However, there can be no upper capital limit at which people would be refused support, as the provision of social care support at home will always be based legally on need rather than the ability to pay.

Clients with capital above £35,000 will be deemed to be self-funding and asked to pay the full cost of their services.

	<b>Disregard Capital Below</b>	<b>Weekly Tariff Income</b>
Below state pension qualifying age	£6,000	£1 per £250 <sup>(1)</sup>
State pension qualifying age or above	£10,000	£1 per £500 <sup>(1)</sup>

<sup>(1)</sup>Some councils may interpret this as 'part thereof'.

As per income thresholds, Perth and Kinross Council use a single capital threshold for all clients when calculating tariff income. To remain consistent with the income threshold rule, the "state pension qualifying age" capital disregard figure of £10,000 is used with tariff income calculated at £1 per £500, or part thereof, between £10,000 and the upper capital threshold of £35,000.

6.25 The approach set out above disregards income received against capital held up to a level of £6,000 for people below state pension qualifying age, or £10,000 for people of state pension qualifying age or above. For any capital held above those levels, a

weekly income is assumed and this is added as income in the financial assessment, as per the rates set out in the table.

- 6.26 It should be noted that where a supported person has capital in excess of the amount to be disregarded and is in receipt of Income Support, there will be no requirement to calculate the capital tariff contribution as this exercise will have been carried out by the Department of Work & Pensions (DWP) with an appropriate adjustment to the amount of Income Support paid to the supported person.

**Only available capital shall be taken into account. This precludes taking into account the value of the supported person's home in charging for social care support at home.**

Perth and Kinross Council take into account all capital when calculating a client's contribution although the value of their main residence is fully disregarded in the financial assessment. Should the client own a second property, the value of this capital is taken into account.

- 6.27 Capital income tariff does not take into account the interest received on cash held in saving accounts. The savings themselves and any interest received are included in the overall total of capital assets held at the time that the financial assessment is carried out. Capital tariff rates seek to take all this into consideration by establishing a weekly income.
- 6.28 The value of a person's home that they occupy is not counted as capital; neither are any business assets or money held in trust but any weekly income received from them is counted. For example, if part of a person's home is rented out some of the rent received as weekly income is counted.

**Capital Income: The cash increase in the value of a capital asset (investment or real estate) that gives it a higher worth than the purchase price. The gain is not realised until the asset is sold. A capital gain may be 'short term' (one year or less) or 'long term' (more than one year).**

The value of any property which the person does not occupy as their normal residence, will be taken in to account as capital and if this, together with other accessible capital, give the person a total capital above £35,000, they will be deemed as self-funding and asked to pay the full cost of their chargeable care and support services.

## **Tapers**

- 6.29 The previous section deals with setting a level of income below which a person is not required to pay toward the cost of the support they receive. So essentially it determines whether or not a contribution is needed.

**If a person's income is of sufficient level for a charge or contribution to be required, the amount the person pays will be determined by individual Local Authorities and Integration Authorities.**

- 6.30 A percentage taper is then applied to the available income over the threshold to determine a maximum contribution. A person's contribution should not exceed the cost of providing the support.



6.31 It is for each local area to agree the percentage of excess income which can be required as a maximum contribution. This could range from 0% up to any higher percentage of the excess income which can be justified by the Local Authority. Setting the percentage taper will be influenced by a number of factors, not least, the requirement to raise income to maintain good quality support.

Single Person - Below state pension qualifying age			Maximum Contribution (£) % determined by council							
Weekly Income (£)	Charging Threshold (£)	Excess Income (£)	30%	40%	50%	60%	70%	80%	90%	100%
100	156	-56	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
125	156	-31	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
150	156	-6	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
175	156	19	5.70	7.60	9.50	11.40	13.30	15.20	17.10	19.00
200	156	44	13.20	17.60	22.00	26.40	30.80	35.20	39.60	44.00
225	156	69	20.70	27.60	34.50	41.40	48.30	55.20	62.10	69.00
250	156	94	28.20	37.60	49.00	56.40	65.80	75.20	84.60	94.00

Single Person - State pension qualifying age or above			Maximum Contribution (£) % determined by council							
Weekly Income (£)	Charging Threshold (£)	Excess Income (£)	30%	40%	50%	60%	70%	80%	90%	100%
175	252	-77	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
200	252	-52	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
250	252	-2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
275	252	23	6.90	9.20	11.50	13.80	16.10	18.40	20.70	23.00
300	252	48	14.40	19.20	24.00	28.80	33.60	38.40	43.20	48.00
325	252	73	21.90	29.20	36.50	43.80	51.10	58.40	65.70	73.00

**It is recommended that authorities make a number of calculations based on alternative considerations of assessed income (known as a “better off” calculation) to ensure that those people who use support who have higher incomes, who require low levels of support, are not financially disadvantaged through the operation of an income-based charge.**

Perth and Kinross Council do not apply a taper. The client will be asked to pay their maximum assessed contribution or the cost of their services, whichever is the lower amount. This is shown as 100% in the example tables above.

## Disability Related Expenditure

6.32 The Social Work (Scotland) Act provides the legal basis for charging for social care support at home. Under s87 of the Act charges must be both “reasonable and practicable” for an individual to pay. Understanding the associated additional daily living costs of living with an illness or a impairment is essential to ensure charging levels meet this test. Failure to take Disability Related Expenditure (DRE) into account as part of the financial assessment could result in charging levels which cause financial hardship and undermine the right of people living with an illness or impairment to live independently.



6.33 To ensure the extra costs of being disabled are taken into account by charging policies, Local Authorities should be proactive in considering further disregard of income where additional expenditure is incurred by a supported person as a result of living as a disabled person. It is also important to ensure people undertaking the financial assessment process are aware to provide information relating to disability related expenditure.

6.34 Additional costs may relate to, but will not be restricted to:

- additional heating requirements
- energy costs for disability related equipment eg concentrators
- purchase, maintenance and repair of disability related equipment
- specialist dietary requirement
- specialist clothing
- help with cleaning and other domestic tasks including gardening (if that is something the person would have undertaken themselves)
- extra washing
- additional bedding

6.35 It is difficult to determine set costs that should be taken into account as these will vary on a person by person basis.

Perth and Kinross Council do not routinely disregard DRE from a person's financial assessment. However, if someone feels that they require a higher income threshold than they receive, they can apply in writing to the Perth & Kinross Health & Social Care Partnership Discretion Panel as detailed in sections 6.36-6.37 below.

## Financial Hardship

6.36 Where a supported person has difficulty in meeting the approved charges due to their financial circumstances, it is recommended that Local Authorities and Integration Authorities use their powers to abate or waive charges on a case by case basis. This information should be publicly available.

**It is unlikely that charging policies will be able to make provision for the full range of personal circumstances which may impact a person. This means that councils should exercise local discretionary powers to apply flexibility in cases deemed appropriate. It is neither necessary nor desirable to issue guidance on how these powers would be applied as such guidance would remove discretion and impose prescription.**

6.37 In designing charging policies, councils should give consideration to the impact of such policies on the well-being of carers, many of whom may experience hardship.

6.38 Councils may also wish to give consideration to current pressures facing people who use social care support within their consideration of financial hardship, such as increased cost of living.

Where a client or their financial representative feels that they are facing financial hardship due to the level of contribution levied for their care and support services, they can apply in writing for their contribution to be reduced or waived by submitting an application to be considered by The Discretion Panel. Applications should detail the

shortfall experienced by the client in meeting their daily living expenses and be submitted via the eform on the following link -

[Adult Social Work & Social Care Discretion Application Form \(office.com\)](#)

The Discretion Panel, consisting of 2 Service Managers from the Perth & Kinross Health & Social Care Partnership, with advice from a Legal Manager and a member of the Assessment & Charging Management Team, will recommend whether discretion should be awarded or not with the final decision made by the Head of Adult Social Work and Social Care.

Any discretion awards will be awarded from the date they are received, or that agreed by the Head of Adult Social Work and Social Care with any charges due before this date remaining due for payment.

There is no right of appeal against the decision of the Head of Adult Social Work and Social Care on discretion applications. However, the applicant may raise a complaint with the Complaints Team if they feel the case was not handled correctly.

## **Flat Rate Charges**

- 6.39 A number of local areas apply flat rate charges to services that do not require an assessment of eligibility such as community alarms or telecare. Consideration should be given to financial hardship caused by the application of flat rate charges and the process identified above should be followed.
- 6.40 The application of flat rate charges to meal costs would not routinely be considered under this process as meal costs would be covered by the application of the charging thresholds in a financial assessment process.
- 6.41 Flat rate charges applied to residential respite would normally follow Charging for Residential Accommodation Guidance (CRAG) section 3.<sup>25</sup>

## **Terminal Illness**

- 6.42 The Scottish Government will introduce a new definition of terminal illness for the purposes of determining entitlement to disability benefits. This means that for all devolved disability benefits (when Social Security Scotland begins delivery) whether a person is eligible will depend on the clinical judgement of a medical practitioner (having paid regard to Chief Medical Officer [guidance](#) that the individual has a progressive disease that can be reasonably expected to cause the individual's death). See Section 2.31 of this document for further advice on the treatment of this guidance.
- 6.43 In addition, DWP have recently updated their 'Special Rules for Terminal Illness' for reserved benefits. These are now referred to as 'Special Rules for End of Life' with the rules now applying to individuals who are likely within the last 12 months of their life. The intent of this change is to align with the current NHS/GMC definition of 'end of life' which states that 'patients are approaching the end of life when they are likely to die within the next 12 months'. The Special Rules state that an individual with an estimated prognosis of less than 6 months to live should use the DS1500 form, and individuals with an estimated prognosis of 6 to 12 months to live use the new SR1

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<sup>25</sup> [https://www.sehd.scot.nhs.uk/publications/CC2019\\_03.pdf](https://www.sehd.scot.nhs.uk/publications/CC2019_03.pdf)

form. It is recommended that, where an individual presents with either a DS1500 or a SR1, charges should be waived.

## Leaving Hospital

- 6.44 Older people leaving hospital who are assessed as requiring new, intermediate or additional reablement services at home should receive this free, for a period of up to 42 days; if they are aged 65 or over on the day of discharge and have been in NHS in-patient care for more than one day (24 hours) for treatment, assessment or rehabilitation, or had surgery as an NHS day case.
- 6.45 Relief from charging should not apply to discharges following admission on a regular or frequent basis as part of the person's on-going care arrangements. This would cover, for example, admissions for respite care or for on-going but episodic treatment. After 42 days Local Authorities and Integration Authorities should revert to normal charging policy.

**Only new, intermediate or additional support provided after a person comes out of hospital will be free for a limited period. Services that were in place pre-admission and continue after discharge will continue to be chargeable.**

*This recommendation was set within the context of the Scottish Executive Circular No. CCD 2/2001 "Free Home Care for Older People Leaving Hospital".*

## Collection of charges through third party suppliers

- 6.46 The collection of charges is the responsibility of Local Authorities. Some areas pay third party suppliers net of the individual's charge and ask providers to collect any charge directly from the individual. It should be recognised that where this is the case an additional administrative burden and financial risk has been placed on the provider. In some cases, this charge is collected as cash on the doorstep by the third party provider. In many cases this will be convenient for the individual but any potential risks to individuals who may be more vulnerable, because of their age, illness or impairment, must be considered before any such agreement is put in place. Any such arrangement should be considered on a case by case basis and should only be made with the agreement of the individual and after taking account of the person's capacity to consent to and manage such arrangements safely.
- 6.47 Similarly, Local Authorities which enter into contractual arrangements requiring a third party provider to collect payment of charges must carry out an effective risk assessment to ensure that all payment options offered by suppliers have sufficient safeguards to properly evidence payments made by individuals.

Perth and Kinross Council collect all client contributions direct with the exception of the Community Meals Service provided by Apetito and Wiltshire Farm Foods. Clients are responsible for paying for their meals direct to Wiltshire Farm Foods.

Figure 6.1: Supported Person's Income / Contribution Calculation Process

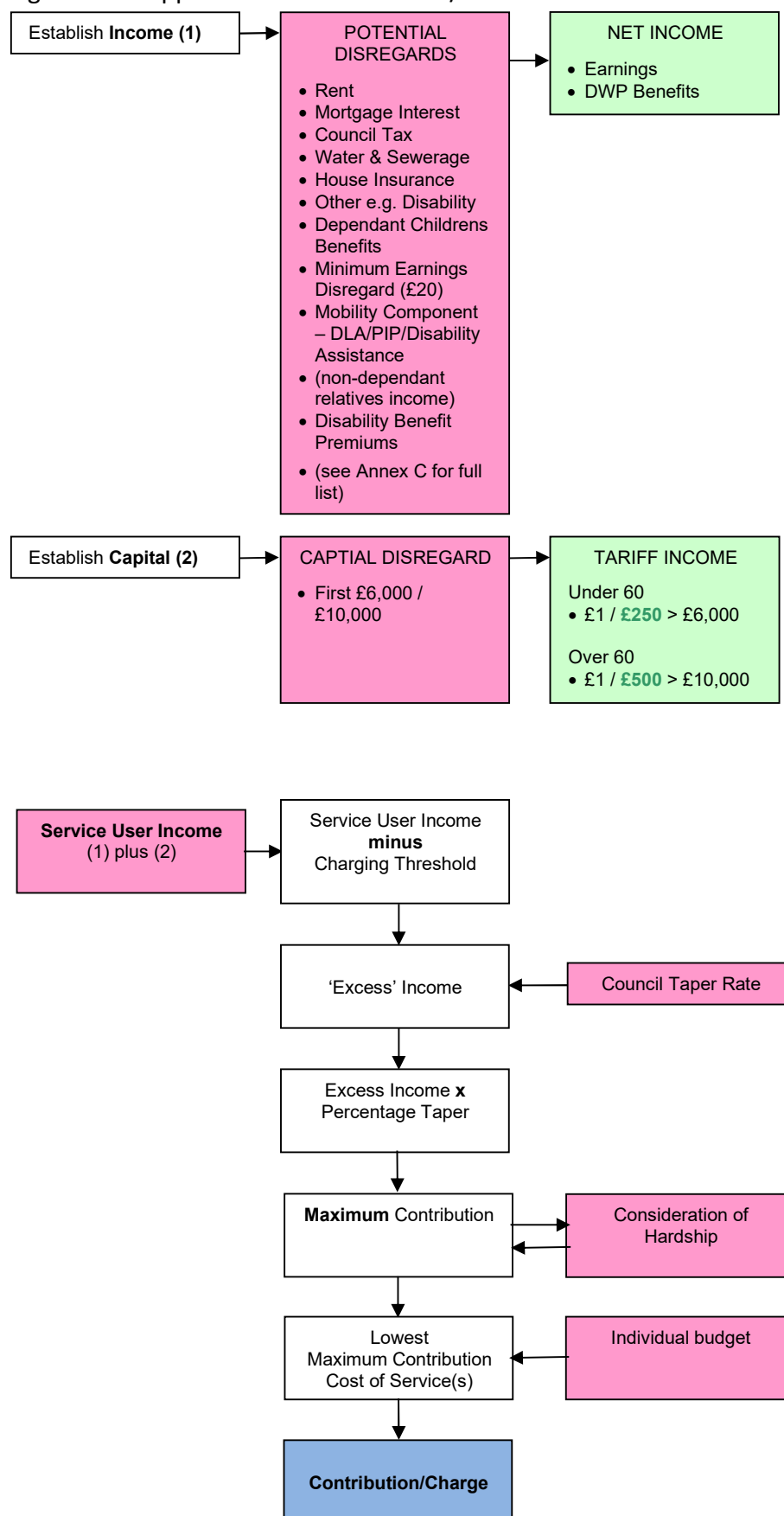
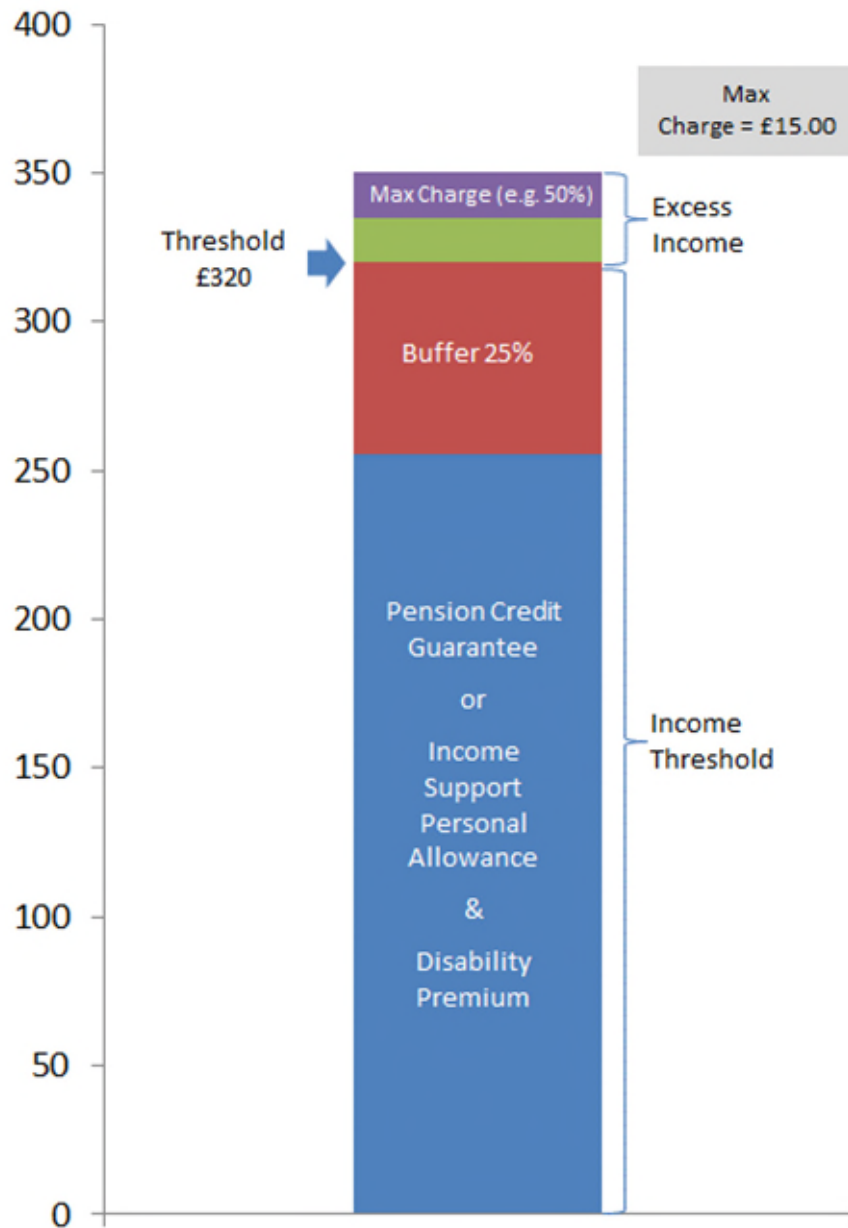


Figure 6.2 : Maximum Charge – Illustration  
 (Example – Couple of state pension qualifying age or above)  
 Based on weekly income of £350



## Annex A – Local Charges Information Template

For more information on Perth and Kinross Council's non-residential care charging, please visit [www.pkc.gov.uk/carecharges](http://www.pkc.gov.uk/carecharges)

Should you require any additional information, please contact the Assessment & Charging Team on 01738 476888 or [HCCAssessment&Charging@pkc.gov.uk](mailto:HCCAssessment&Charging@pkc.gov.uk)

## Annex B – DWP Alignment: Pension Credit & Women Pension Age / Men Pension Age

State Pension age for people affected by the equalisation of State Pension Age (the state pension age is under review and may change).

Check via: <https://www.gov.uk/state-pension-age>

Date of birth	Date of State Pension age
6 March 1952 to 5 April 1952	6 March 2014
6 April 1952 to 5 May 1952	6 May 2014
6 May 1952 to 5 June 1952	6 July 2014
6 June 1952 to 5 July 1952	6 September 2014
6 July 1952 to 5 August 1952	6 November 2014
6 August 1952 to 5 September 1952	6 January 2015
6 September 1952 to 5 October 1952	6 March 2015
6 October 1952 to 5 November 1952	6 May 2015
6 November 1952 to 5 December 1952	6 July 2015
6 December 1952 to 5 January 1953	6 September 2015
6 January 1953 to 5 February 1953	6 November 2015
6 February 1953 to 5 March 1953	6 January 2016
6 March 1953 to 5 April 1953	6 March 2016
6 April 1953 to 5 May 1953	6 May 2016
6 May 1953 to 5 June 1953	6 July 2016
6 June 1953 to 5 July 1953	6 September 2016
6 July 1953 to 5 August 1953	6 November 2016
6 August 1953 to 5 September 1953	6 January 2017
6 September 1953 to 5 October 1953	6 March 2017
6 October 1953 to 5 November 1953	6 May 2017
6 November 1953 to 5 December 1953	6 July 2017

## Annex B – DWP Alignment: Pension Credit & Women Pension Age / Men Pension Age

6 December 1953 to 5 January 1954	6 September 2017
6 January 1954 to 5 February 1954	6 November 2017
6 February 1954 to 5 March 1954	6 January 2018
6 March 1954 to 5 April 1954	6 March 2018
6 April 1954 to 5 May 1954	6 May 2018
6 May 1954 to 5 June 1954	6 July 2018
6 June 1954 to 5 July 1954	6 September 2018
6 July 1954 to 5 August 1954	6 November 2018
6 August 1954 to 5 September 1954	6 January 2019
6 September 1954 to 5 October 1954	6 March 2019
6 October 1954 to 5 November 1954	6 May 2019
6 November 1954 to 5 December 1954	6 July 2019
6 December 1954 to 5 January 1955	6 September 2019
6 January 1955 to 5 February 1955	6 November 2019
6 February 1955 to 5 March 1955	6 January 2020
6 March 1955 to 5 April 1955	6 March 2020
6 April 1955 to 5 April 1959	65th birthday



## Annex C – Potential Disregarded Benefits/Income List

Adoption (Scotland) Act 1978 (section 51A) Payments
Age-Related payments Act 2004 Payments
Backdated Benefits
Bereavement Payment
Budgeting Loan
Capital – various different levels of disregard
Carers Allowance (previously Invalid Care Allowance)
Carers Premium
Certain payments made to trainees
Charitable and special funds
Child Benefit
Child related premiums paid to pre April 2003 Income Support Claimant
Child Support Maintenance Payments
Child Tax Credits
Children's Benefits
Christmas bonus
Christmas Bonus paid with benefits
Cold Weather Payments
Concessionary Coal payments
Council Tax Benefit / Council Tax Reduction
Dependency increases paid with certain benefits
Difference between higher and lower rate of Attendance Allowance and higher and middle rate of DLA care when the person is not receiving night-time services
Difference between enhanced and standard rate of Personal Independence Payment (Daily Living Component) when the person is not receiving night-time services
Direct Payments made by a local authority under Section 12B of the Social Work (Scotland) Act 1968 to Individuals in respect of a care service that they or a dependent child have been assessed as requiring
Disability benefits paid to client's partners where the partner is not a service user
Disability Living Allowance or Disability Assistance (Mobility component)
Disability payment in respect of child
Discretionary Housing Payments
Earnings
Far East Prisoner of War payment
Gallantry Awards (e.g. GC, VC, similar from abroad)
Guarantee Credit
Guardian's Allowance
Housing Benefit
Income from a "home income plan" annuity
Income from a mortgage protection policy
Income frozen abroad
Income in kind

## Annex C – Potential Disregarded Benefits/Income List

Income Support
Independent Living Fund Scotland Payments
Industrial Disablement Benefit
Industrial Injuries Benefit
Industrial Injury Disability Benefit
Kinship Care payments
Personal Independence Payment (Mobility Component)
MOD Pension
Non-dependent child payments
Non-therapeutic Earnings
Partner's earnings
Personal property, such as household goods, family car etc.
Scottish Welfare Fund – Community Care Grants
Scottish Welfare Fund – Crisis Grants
Social Fund payments
Student Loan Repayment
Sure Start Maternity Grant
Tax Credits
The Macfarlane Trust
The value of any ex-gratia payments from the Skipton Fund to people infected with Hepatitis C as a result of NHS treatment with blood or blood products
Therapeutic Earnings
Trainees' training premium and travelling expenses
Victoria Cross/Japanese Prisoner of War Payments
Victoria or George Cross payments
War Pensioner's Mobility Supplement;
War Widow(er)'s supplementary pension
War Widow's Pension (but not War Widows' Special Payments).
War Widows Pension (pre 1973)
War widows special victims awards
War Widows/Widowers Pension.
War Widows' Special Payments
Where the Service User is a student, any grant payment for a public source intended for the childcare costs of a child dependent
Winter Fuel Payments
Work expenses paid by employer, and expenses paid to voluntary workers Earnings disregard of £20.00 per week.

The following may also be disregarded in calculations

- Contributions towards rent / mortgage after housing benefit
- Contributions towards Council Tax / Water & Sewerage

## Annex D – MINIMUM STANDARD FINANCIAL ASSESSMENT

### MINIMUM STANDARD FINANCIAL ASSESSMENT

#### INCOME

Capital (Tariff Income):	above pension age <sup>26</sup>	<b>£1 / £500</b>
	below pension age	<b>£1 / £250</b>
Non-dependent Relatives Income		<b>YES</b> (proportion of partners income can be counted)
Compensation (Care Element)		<b>YES</b>

#### DISREGARDS

Disability Related Expenditure (DRE)		<b>YES</b>
Capital (Disregard):	above pension age	<b>£10,000</b>
	below pension age	<b>£6,000</b>
Potential Disregarded Benefits		(see list <sup>27</sup> )

#### CHARGING THRESHOLDS<sup>28</sup>

Capital Upper Limit (above which full charge is made) (income based benefits / non-residential rate)		<b>£16,000</b>
Single Person - below pension age		<b>£164</b>
Single Person - above pension age		<b>£254</b>
Couple - below pension age		<b>£273</b>
Couple - above pension age		<b>£417</b>

<sup>27</sup> For consistency this lists the names of benefits and payments which councils may *consider* for disregard.

<sup>28</sup> Based on 2022/23 DWP Benefit Rates