

WIRRAL COUNCIL Adult Social Care



Charging Policy for Residential Care – December 2022

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Wirral Council

Adult Social Care - Charging Policy for Residential Care

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Wirral Council – Residential Care Charging Policy

1. Eligibility

1.1. Wirral Council has a duty to arrange care and support for those with eligible needs. This applies to adults, aged 18 or over, who are unable to perform some of their day-to-day tasks as a result of age, illness, disability or any significant change in their life.

1.2. Following a needs assessment, if it is agreed that eligible care and support needs which significantly impact well-being for a person then support will be offered to help find ways of meeting these needs. This policy is for people who have care and support needs, their carers and people who are planning their future care needs. The link below provides more information about the Council's eligibility criteria:

[Eligibility for adult support services](#)

2. Legal Status

2.1. The Care Act 2014 provides a single legal framework for charging and enables a Local Authority to charge a person when arranging to meet a person's care and support. This is set out in Sections 14 and 17 of the Care Act 2014. This charging policy for residential care came into effect on 1 April 2015 and is based on the Care Act 2014 and the regulations under it including the Care and Support (Charging and Assessment of Resources) Regulations 2014.

2.2. This policy is made having due regard to the Statutory Guidance issued by the Secretary of State. Wirral Council will apply the guidance contained in the Care and Support Statutory Guidance 2014, save where the contrary is indicated in this policy. The policy is made having regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010, together with the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

2.3. Where this policy leaves a discretion to the Council, Wirral Council exercise that discretion in the following way:

- The discretion will be applied to ensure as far as possible the person will contribute to the cost of their care and support in accordance with the Care and Support Statutory Guidance.
- Where a discretion has been exercised, the financial assessment will include a note of the written reasons why the discretion has been exercised in the way it has.
- The assessment will also include the initials of the person who has exercised the discretion along with those of a manager who will have approved this.

2.4. The overarching principle is that people should only pay what they can afford to pay, and this will be based on a means-test financial assessment unless the person has more than the upper capital limit (which is currently set at £23,250). Some people will be entitled to free care, and this is set out at 2.8 below. Wirral Council will not charge more than the cost that is incurred in meeting the assessed needs of the person.

2.5. If the person has more than the upper capital limit, they will be referred to as a self-funder and expected to pay the full cost of their care until their capital falls below the upper capital limit. The Council will not generally arrange care for people with more than £23,250 but will do so on a case-by-case basis, as and when required. The Council will assist self-funders by sharing relevant financial information and advice and signpost them accordingly. Please see section 14, which contains information and links to organisations that can offer financial advice and support.

2.6. Wirral Council's charging policy will ensure that people are not charged more than it is reasonably practicable for them to pay. The policy is comprehensive, to reduce variation in the way people are assessed and charged. The Council will ensure that financial information is clear and transparent, so people are able to gain a full understanding that charges will be applied for their care and support.

2.7. The financial assessment will be based on the person's income and capital only and their share of any joint income and capital. The Council does not assess couples or civil partners jointly. Capital is defined in Section 7.

2.8. Wirral Council charges for all types of residential and nursing care except for the following:

- Care and support provided to people with Creutzfeldt-Jacob Disease.
- After-care services/support provided under section 117 of the Mental Health Act 1983.
- Any service or part of the service which the NHS is under a duty to provide. This includes Continuing Health Care 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 may also not be charged for, since these processes do not constitute "meeting needs".

3. Residential and Nursing Care Services

3.1. Residential Care: if home-based care is not appropriate for the person, residential care may be required. Residential care refers to long-term care given to adults who stay in a residential setting rather than in their own home or family home. There are various residential care options available, depending on the needs of the person.

3.2. Residential EMI Care: are specialist elderly mentally infirm (EMI) homes for people with dementia who are no longer able to be looked after at home. To be eligible for Residential EMI care, the person must have care and support needs relating to mental health or dementia - but do not require 24 hour a day oversight by a registered nurse.

3.3. Nursing Care: is designed for people with complex conditions that need specific support. The carers include registered nurses who are highly trained in dealing with complex clinical cases. These clinicians will oversee case management holistically and liaise with relevant health professionals as needed. Funded Nursing Care (FNC) is funded by Wirral Integrated Care Setting (ICS)

3.4. Nursing EMI Care: are specialist elderly mentally infirm (EMI) homes for people with dementia who are no longer able to be looked after at home. To be eligible for Nursing EMI care, the person must have care and support needs relating to mental health or dementia – and require 24 hour a day oversight by a registered nurse

3.5. Short-Term Care: is a temporary solution that can last for a few weeks or months depending on the need. Care is provided to a person who may have had an illness, injury or surgery but is expected to recover.

4. The Financial Assessment

4.1. Wirral Council will carry out a financial assessment to determine what the person receiving care can afford to pay. The financial assessment looks across all of a person's assets, both capital and income, in accordance with the regulations and guidance. A financial assessment can be submitted online via the Council's website using the following link: <https://wirral.mycostofcare.com/OFA>. Alternatively, if the person/their support is unable to use the online route, the Council can obtain the assessment information by telephone.

4.2. In a financial assessment, income and capital will either be disregarded (ignored), partly disregarded or included in the calculation. For more information please see Capital disregards in section 7.19 and Income disregards at 9.17.

4.3. If the person's capital is more than the upper threshold limit (£23,250), and the Council agrees to commission services on their behalf, the actual cost of the services being received will be charged. As discussed in the previous section, the Council will not generally arrange care for people with more than £23,250 but will do so on a case-by-case basis, as and when required.

4.4. Where the person receiving care and support has capital at or below £23,250, but more than £14,250, they will be charged £1 per week for every £250 in capital between the two amounts. This is called "tariff income". For example, if a person has £18,250 (£4,000 above the lower capital threshold £14,250) they are charged a tariff income of £16.00 to be included in their financial assessment along with all other items of income.

4.5. Where a person's resources are below £14,250, they will not need to contribute to the cost of their care and support from their capital, i.e. the contribution will be based on their income only.

4.6. Every person who receives a financial assessment will be given a written record of the assessment which will explain how the assessment has been carried out, what the charge will be, how often it will be made, and when it will be reviewed. The Personal Finance Unit send out financial assessments to individuals or their representatives. The Council will communicate this to the person in a way that can be easily understood, in line with the Council's duty to provide information and advice under the Care Act 2014. If, after the financial assessment, a person must contribute to the cost of their care, they will not be asked to pay more than the assessment says they can afford to pay.

4.7. If the person lacks the mental capacity to take part in the financial assessment, Wirral Council will consult with individuals who hold:

- Enduring Power of Attorney (EPA)
- Lasting Power of Attorney (LPA) for Property and Affairs
- Lasting Power of Attorney (LPA) for Health and Welfare
- Property and Affairs Deputyship under the Court of Protection or
- Any other person dealing with that person's affairs (e.g. someone who has been given Appointeeship by the Department for Work and Pensions (DWP) for the purpose of benefits payments).

In these circumstances, the EPA, LPA or Deputy will take on the financial responsibilities of the person receiving care and will be liable to pay their care fees on their behalf once they have access to their funds. They will be recorded and referred to as the person's Financial Agent.

4.8. When people lack capacity to give consent to a financial assessment, the Council will work with the Financial Agent. In those circumstances, the Financial Agent will take on the financial responsibilities of the person receiving care and will be liable to pay their care fees on their behalf once they have access to their funds.

4.9. For those individuals who do not have anyone to act, the appointment of a Property and Affairs Deputy or DWP Appointee will be required. Family members, friends or solicitors can apply for these roles. Where this is not possible, the Council's Client Finance Support Team may assume these responsibilities if the person meets the eligibility criteria for this service. This process does take considerable time, but it then enables the person appointed to access information about bank accounts and financial affairs.

4.10. In the financial assessment, the person's capital is considered unless it is subject to one of the disregards set out in section 7.19. The main examples of capital are property and savings.

4.11. In assessing what a person can afford to pay, Wirral Council will consider the person's income except for earnings from current employment. Please refer to Section 9 for more information on Income.

4.12. The Council will review the person's assessed charge on an annual basis. Routinely this review takes place in March/April when annual increases in pensions and benefits occur as well as changes to the Council's charging rates. The Personal Finance Unit will send out updated financial assessments to individuals or their representatives at this time. It is the person's responsibility to check that the information contained within the financial assessment is correct and to notify the Council of any changes. **Unreported changes to finances could result in the financial assessment determining an incorrect charge towards the care costs. When reviewed this could result in a backdated invoice being raised from the date of the change. Alternatively, the review may show that a refund is due.** It is important to notify Wirral Council of any changes in finances immediately to enable a correct review of charges.

4.13. Examples of the changes the Council needs to be told about include an increase or reduction in the amount of a benefit/pension, an award of a new benefit/pension or changes in savings or capital.

4.14. The Council will communicate any changes to the person or representative in a way that can easily be understood, in line with the Council's duty to provide information and advice under the Care Act 2014. People will also be provided with a clear rationale for why any changes have been made, again they will not be asked to pay more than the assessment says they can afford to pay.

5. Light Touch Financial Assessments

5.1. Where Wirral Council plans to meet the person's care needs, and it proposes to undertake a light-touch financial assessment, it should take steps to assure itself that the person concerned is willing, and will continue to be willing, to pay all charges due. The person will be informed that a light-touch assessment has been completed but given the option of a full financial assessment if required, particularly where a person disputes the charges.

5.2. The main circumstances in which Wirral Council may consider carrying out a light-touch financial assessment are:

1. Where a person has significant financial resources and does not wish to undergo a full financial assessment for personal reasons but wishes to access local authority support in meeting their needs. Wirral Council may be able to assist under certain circumstances and will assume the person has financial resources of more than £23,250, they will be charged the full cost of their care.

2. Where the person has refused a financial assessment and the Council has been unable to carry out a full financial assessment, the Council will assume the person has financial resources more than £23,250 they will be charged the full cost of their care.
3. Where a financial assessment would be disproportionate for example, if the Council charges a small/nominal amount for a service (for example, for subsidised services) which a person is able to meet and would clearly have the relevant minimum income left.
4. When a person is in receipt of means-tested benefits which demonstrate that the person would not be able to contribute towards care and support costs.

5.3. Ways in which Wirral Council may be satisfied that a person is able to afford any charges due might include evidence that a person has either:

1. Property clearly worth more than £23,250, where they are the sole owner, or it is clear what their share is
2. Savings clearly worth more than £23,250
3. Sufficient income left following the charge due

6. Temporary and Short-term Residents

6.1. Following an assessment of a person's eligible care and support needs, a decision may be taken whether the person would benefit from a temporary stay in a care home.

6.2. The financial assessment will determine the person's contribution towards the cost of the placement (based on the individual's resources). The Council will give regard to any partner or the person left with pension credit remaining at home to ensure they are left with at least a basic level of income or pension credit to which they may be entitled.

Who is a temporary resident?

6.3. Temporary resident means a stay not intended to be permanent and it is unlikely to exceed 52 weeks. It can exceed this period in exceptional circumstances. There will be a plan to return home at some point. A decision to treat a person as a temporary resident will be agreed with the person and/or their representative and written into their care plan.

6.4. A person may be admitted to a care home with the intention of a permanent stay but a change in circumstances could result in it being temporary. In such cases the Council will treat the person as temporary from the date of admission for the purposes of charging.

6.5. Similarly, a stay which was initially intended to be temporary could become permanent. In such cases, the financial assessment of the person as a permanent resident should only be from the date that their care plan is amended and agreed with the person and/or their representative.

Charging for Temporary and short-term residents

6.6. Charges for temporary and short-term residents will be determined following completion of a financial assessment. The person will be notified in writing whether they have been assessed to pay the full cost or an assessed contribution for this service. As discussed earlier, full cost applies if the person has over £23,250 (including their share of jointly held capital).

Capital for Temporary and short-term residents

6.7. The person's main or only home, i.e., where the person lives, will be disregarded for temporary residents where the person:

1. Intends to return to that property as their main or only home and it remains available to them or
2. Has taken steps to dispose of the home to acquire one that is more suitable and intends to return to that property.

6.8. Any other capital assets will be treated in the same way as for permanent residents.

Income and earnings for Temporary and short-term residents

6.9. Both income and earnings should be treated in the same way as for permanent residents, as set out below. If the placement is temporary (up to 52 weeks) and the intention is that the resident will return to their own home then housing related costs and additional expenses to maintain the home will be disregarded in the financial assessment. These include, but are not limited to, mortgage repayments, rent and ground rent, council tax, service charges, water rates, and insurance premiums. If there is a partner who remains living at home, their needs should be considered when setting the personal expenses allowance. If the Council does not disregard enough income to ensure continued payment of bills and other unavoidable expenses at home, a review of the financial assessment should be requested and completed. Details of what to do if you disagreed with your financial assessment can be found in Section 15 of this policy.

6.10. In the financial assessment:

1. Where Attendance Allowance, Disability Living Allowance or Personal Independence Payments are being received, these will be completely disregarded. However, as the eligibility for these benefits cease after four weeks of local authority support, the Council will consider the impact on the person's ability to maintain their home.

2. Where a stay in a care home is temporary, the amount of means-tested benefits such as Universal Credit or Pension Credit a person receives will usually remain the same as the person will be treated as normally residing in their own home. However, any severe disability premium or enhanced disability premium that may have been included will no longer be paid if the Disability Living Allowance or Attendance Allowance or Personal Independence Payment has ceased.
3. There are special rules for Pension Credit, Income Support and income related Employment Support Allowance where one member of a couple enters a care home for a temporary period. This will be considered in calculating what a person can afford to pay.
4. If Housing Benefit is paid to the person, this will be disregarded as they will still be responsible for meeting any costs associated with their main or only home.
5. The Council will consider whether any payments to support the cost of housing and/or independent living are sufficient to cover the person's commitments during their temporary stay. For example, it might be as these costs were being met from the person's earnings and where these stop, the Council will calculate the additional cost and disregard this amount to ensure the person has enough money to maintain these costs.
6. Where a person is sub-letting their property, the income will be disregarded where the person occupies the property as their main or only home and they intend to return to the property.
7. Alternatively, a person may have a boarder living at their property. A boarder is someone for whom at least one cooked meal is provided. Where a person has income from a boarder, the first £20.00 per week of the income will be ignored plus half of any balance over £20.00.

Example of additional expenses for a temporary resident:

John lives at home alone and after receiving surgery is currently receiving temporary residential care as part of his return. John worked two days a week in the local supermarket when he was living at home and is hoping to return to work when he is better. He does not receive any other income.

John needs to be able to pay his rent and water rates whilst he is in residential care and needs to pay the rental agreement on his mobile phone. The mobile phone is essential as part of John's independence and John uses his earnings to cover the cost of this.

As John's period of care is temporary, Wirral Council will allow any payments that John needs to make to cover his rent and water rates in his financial assessment. It will also allow John's mobile phone rental whilst he is in temporary care and no longer earning the money that would normally cover this cost.

This will be kept under review.

7. Capital

7.1. A person with assets above £23,250 will be deemed to be able to afford the full cost of their care and would generally need to make private arrangements for residential care, unless they are unable to do so. Those with capital between £14,250 and £23,250 will be deemed as able to contribute, known as “tariff income”, from their capital (see paragraph 4.4 for more information on tariff income). Any capital below £14,250 will be disregarded (i.e. ignored).

What is Capital?

7.2. Capital 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.

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

1. Buildings
2. Land
3. National Savings Certificates and Ulster Savings Certificates
4. Premium Bonds
5. Stocks and shares
6. Capital held by the Court of Protection, or a Deputy appointed by that Court
7. Any savings held in Building Society Accounts and Bank Current Accounts, Deposit Accounts or special investment accounts. This includes savings held in the National Savings Bank; Giro bank and Trustee Savings Bank; SAYE schemes; Unit Trusts; Co-operatives share accounts.
8. Cash
9. Trust funds (in certain circumstances).

7.4. Resources will only be treated as income or capital but not both. If a person has saved money from their income, then those savings will normally be treated as capital. However, they should not be assessed as both income and capital in the same period. Therefore, in the period when they are received as income, the resource will not be counted as capital.

Where it is not clear whether a resource is capital or income?

7.5. In assessing a person’s assets, it may not be immediately clear where a resource is capital or income, particularly where a person is due to receive planned payments. In general, a planned payment of capital is one which is not in respect of a specified period and not intended to form part of a series of payments.

Examples of planned payments:

1. Tom receives a payment from a Trust established in the will of his late grandmother of £18,000. The money is paid into a building society account in his own name. The Trust is discretionary and there have been no other payments made from the Trust within the last year. The payment of this sum is treated as capital and Tom is treated as the beneficial owner of the whole amount.
2. Janet receives a payment of £500 from a Trust established in the will of her late father. The money is paid into a bank account in Janet's own name. Janet received a payment of £500 six months ago and again six months before that. In this instance, the payments recur periodically and form part of a series of payments. The payments of £500 are treated as income.

Who owns the capital?

7.6. A capital asset is normally defined as belonging to the person in whose name it is held, the legal owner. However, in some cases this may be disputed and/or beneficial ownership argued. Beneficial ownership is where someone enjoys the benefits of ownership, even though the title of the asset is held by someone else or where they directly or indirectly have the power to vote or influence a transaction regarding an asset. In most cases the person will be both the legal and beneficial owner.

Where ownership is disputed, Wirral Council will ask for written evidence to prove where the ownership lies. If a person states they are holding capital for someone else, Wirral Council will ask for evidence of the arrangement, the origin of the capital and intentions for its future use and return to its rightful owner.

Examples of a capital dispute:

1. Arlene has £14,000 in a building society account in her own name. She says that £3,000 is set aside for her granddaughter's education. Unfortunately, there is no deed of trust or other legal arrangement which would prevent Arlene using the whole amount herself. She is therefore treated as the beneficial owner of the whole amount.
2. Lisa has £10,000 in a bank account in her own name and shares valued at £6,500. She provides evidence to show that the shares were purchased on behalf of her son who is abroad and that they will be transferred to her son when he returns to the UK. Although Lisa is the legal owner, she is holding the shares in trust for her son who is the beneficial owner. Only the £10,000 is therefore treated as Lisa's capital.

7.7. Where a person has joint beneficial ownership of capital, except where there is evidence that the person owns an unequal share, the total value should be divided equally between the joint owners and the person should be treated as owning an equal share. Once the person is in sole possession of their actual share, they can be treated as owning that actual amount.

Example of joint ownership:

Claire is resident in a care home. She and her son Leon have £21,000 in a joint building society account. Claire has contributed £8,500 and Leon, £12,500. Each is treated as owning £10,500.

The joint account is then closed, and Claire and Leon open separate accounts. Claire now has £8,500 in her account and so is assessed as owning £8,500.

In some cases, a person may be the legal owner of a property but not the beneficial owner of a property. In other words, they have no rights to the proceeds of any sale. In such circumstances the property will not be considered, but they would need to provide evidence that the legal owner has no beneficial interest in the property.

How to calculate the value of capital

7.8. Wirral Council will need to work out the value of a capital asset to include it in the financial assessment. Other than National Savings Certificates, the valuation will be the current market or surrender value of the capital asset, e.g., property, whichever is higher, minus:

1. 10% of the value if there will be any actual expenses involved in selling the asset. These will be expenses connected with the actual sale and not simply the value of the asset. For example, the costs to withdraw funds from a bank account are not expenses of sale, but legal fees to sell a property would be; and
2. Any outstanding debts secured on the asset, for example a mortgage.

7.9. A capital asset may have a current market value, for example stocks or shares, or a surrender value, for example premium bonds. The current market value will be the price a willing buyer would pay to a willing seller. The way the market value is obtained will depend on the type of asset held. If the person and the financial assessment staff both agree that after deducting any relevant amounts, the total value of the person's capital is more than £23,250 or less £14,250, it is not necessary to obtain a precise valuation. If there are any disputes, a precise valuation should be obtained. However, Wirral Council will consider how close the person is to £23,250 when deciding whether to obtain a precise valuation. Where a precise valuation is required, a professional valuer should be asked to provide a current market valuation. Once the asset is sold, the capital value to be considered is the actual amount realised from the sale, minus any actual expenses of the sale.

7.10. Where the value of a property is disputed, the aim should be to resolve this as quickly as possible. Wirral Council will try to obtain an independent valuation of the person's beneficial share of the property within the 12-week disregard period. This will enable the Council to work out what charges a person should pay and will help the person, or their representative, to consider whether to seek a deferred payment agreement. The value of National Savings Certificates (and Ulster Savings Certificates) is assessed in the same way as other capital assets. A valuation for savings certificates can be obtained by contacting the NS&I helpline on 0808 500 7007. An alternative method to get the value of National Savings Certificates is to use the NS&I online calculator (please see <http://www.nsandi.com/savings-index-linked-savings-certificates#interest-calculator>). To enable an accurate value for the savings certificates the person will provide details of the certificate issue number(s), the purchase price and the date of purchase.

Assets held abroad

7.11. Where capital is held abroad and all of it can be transferred to the UK, its value in the other country will need to be obtained (this could be in the form of a letter from a property agent confirming the value) as it will be considered less any appropriate deductions. Where capital is held jointly, it should be treated the same as if it were held jointly within the UK. The details will depend on the conditions for transfer to the UK.

7.12. Where the capital cannot be wholly transferred to the UK due to the rules of that country, for example currency restrictions, the person will need to provide evidence

confirming this fact. Examples of acceptable evidence could include documentation from a bank, Government official or solicitor in either the UK or the country where it is held.

7.13. Where some restriction is in place, the person will need to provide evidence showing what the asset is and the value of the asset. Wirral Council will need to understand the nature and terms of the restriction so that should this change, the actual amount can then be revised accordingly.

Capital not immediately realisable

7.14. Capital, which is not immediately realisable due to notice periods, for example National Savings Bank investment accounts, will be considered in the normal way at its face value. This will be the value at the time of the financial assessment but may need to be confirmed and adjusted when the capital is realised. If the person chooses not to release the capital, the value at the time of the assessment will be used and reassessed each year in the normal way. Where the person receiving care and support inherits a sum of money, this will be included in the financial assessment from the date of entitlement.

Tariff Income

7.15. Where a person has assets between the lower and upper capital limits, tariff income will be included as part of their financial assessment. Tariff income assumes that for every £250 of capital, or part thereof, a person can afford to contribute £1 per week towards the cost of their eligible care needs.

Example of tariff income:

Nora has capital of £18,100. This is £3,850 above the lower capital limit of £14,250. Dividing the £3,850 by £250 produces a figure of £15.40. When calculating tariff income, the amount is always rounded up. This therefore gives a tariff income of £16 per week.

Notional Capital

7.16. In some circumstances a person may be treated as possessing a capital asset even where they do not actually possess it. This is called notional capital. Notional capital may be capital which:

1. Would be available to the person if they applied for it;
2. Is paid to a third party in respect of the person;
3. The person has deprived themselves in order to reduce the charge they may have to pay for their care.

A person's capital should therefore be the total of both actual and notional capital.

7.17. Where a person has been assessed as having notional capital, the value of this will be reduced over time. The rule is that the value of notional capital will be reduced weekly by the difference between the weekly rate the person has been assessed to pay for their care and the weekly rate they would have paid if notional capital did not apply.

Example of diminishing notional capital:

Hayley is receiving care and support in a care home. She is assessed as having notional capital of £20,000 plus actual capital of £6,000. This means her assets are above the upper capital limit and she needs to pay the full cost of her care and support at £400 per week.

If she did not have the notional capital, it would not affect her ability to pay. This is because she has an income of £124.40 and a personal allowance of £25.65 per week and would therefore be assessed as being able to pay £99.50 per week.

The notional capital should therefore be reduced by £300.50 per week – the difference between the sum Hayley is assessed to pay (£400) and would have paid without the notional capital (£99.50).

7.18. Where a person is benefiting from the 12-week property disregard (see point 7.30) and has chosen to pay a top-up fee from their capital resources between the upper and lower capital limits, the level of tariff income that applies during those 12 weeks is the same as it would be if the person were not using the capital to top-up.

Capital disregarded

7.19. The following capital assets will be disregarded:

1. Property in specified circumstances
2. The surrender value of any Life insurance policy and or Annuity.
3. Payments of training bonuses of up to £200.
4. Payments in kind from a charity.
5. Any personal possessions such as paintings or antiques, unless they were purchased with the intention of reducing capital in order to avoid care and support charges.
6. Any capital which is to be treated as income or student loans.
7. Any payment that may be derived from:
 - The Macfarlane Trust;
 - The Macfarlane (Special Payments) Trust;
 - The Macfarlane (Special Payment) (No 2) Trust;
 - The Caxton Foundation;
 - The Fund (payments to non-haemophiliacs infected with HIV);

- The Eileen Trust;
 - The MFET Trust;
 - The Skipton Fund;
 - The London Bombings Relief Charitable Fund
 - Scottish infected Blood Support Scheme
 - an approved blood scheme
 - London Emergencies Trust
8. Any payment made under or by trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother's pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State (the Thalidomide Trust)
 9. The value of funds held in trust or administered by a court which derive from a payment for personal injury to the person. For example, the vaccine damage and criminal injuries compensation funds.
 10. The value of a right to receive:
 - Income under an annuity,
 - Outstanding instalments under an agreement to repay a capital sum (money that is due to be repaid to the service user);
 - Payment under a trust where the funds derive from a personal injury;
 - Income under a life interest or a life-rent;
 - Income (including earnings) payable in a country outside the UK which cannot be transferred to the UK;
 - An occupational pension;
 - Any rent. Please note however that this does not necessarily mean the income is disregarded. Please see below for guidance on the treatment of income.
 11. Capital derived from an award of damages for personal injury which is administered by a court or which can only be disposed of by a court order or direction.
 12. The value of the right to receive any income under an annuity purchased pursuant to any agreement or court order to make payments in consequence of personal injury or from funds derived from a payment in consequence of a personal injury and any surrender value of such an annuity.
 13. Periodic payments as a consequence of personal injury pursuant to a court order or agreement to the extent that they are not a payment of income and are treated as income (and disregarded in the calculation of income).
 14. Refund of tax on interest on a loan which was obtained to acquire an interest in a home or for repairs or improvements to the home.
 15. Any capital resources which the person has no rights to as yet, but which will come into his possession at a later date, for example on reaching a certain age.
 16. Payments from the Department of Work and Pensions to compensate for the loss of entitlement to Housing Benefit.
 17. The amount of any bank charges or commission paid to convert capital from foreign currency to sterling.

18. Payments to jurors or witnesses for court attendance (but not compensation for loss of earnings or benefit).
19. Community charge rebate/council tax rebate.
20. Money deposited with a Housing Association as a condition of occupying a dwelling.
21. Any Child Support Maintenance Payment.
22. The value of any ex-gratia payments made on or after 1st February 2001 by the Secretary of State in consequence of a person's, or person's spouse or civil partner's imprisonment or internment by the Japanese during the Second World War.
23. Any payment made by a local authority under the Adoption and Children Act 2002 (under section 2(6)(b) or 3 of this act).
24. The value of any ex-gratia payments from the Skipton Fund made by the Secretary of State for Health to people infected with Hepatitis C as a result of NHS treatment with blood or blood products.
25. Payments made under a trust established out of funds provided by the Secretary of State for Health in respect of persons suffering from variant Creutzfeldt-Jakob disease to the victim or their partner (at the time of death of the victim).
26. Any payments under Section 2, 3 or 7 of the Age-Related Payments Act 2004 or Age Related Payments Regulations 2005 (SI No 1983).
27. Any payments made under section 63(6)(b) of the Health Services and Public Health Act 1968 to a person to meet childcare costs where he or she is
28. undertaking instruction connected with the health service by virtue of arrangements made under that section.
29. Any payment made in accordance with regulations under Section 14F of the Children Act 1989 to a resident who is a prospective special guardian or special guardian, whether income or capital.

Example of disregarded capital:

Mr T is a former Far East prisoner of war and receives a £10,000 ex-gratia payment because of his imprisonment. He now requires care and support and has a total of £25,000 in capital. When calculating how much capital should be considered, we will disregard the first £10,000 – the value of the ex-gratia payment. The normal capital rules are then applied to the remaining £15,000.

In this case, the first £14,250 would be completely disregarded in addition to the £10,000. Tariff income would therefore only be applied to the remaining £750 giving a tariff income of £3 per week.

Pension Flexibilities

7.20. From 6th April 2015, several changes were introduced to non-state pensions, which allow people to access their pension savings from age 55. These are generally known as “pension flexibilities.” The flexibility allows a person to choose what they want to do with their defined contribution fund or money purchase benefits scheme (referred as “pension pot”). If they want to, they can:

1. draw out all the pension pot;
2. purchase an annuity;
3. opt for a drawdown arrangement (where lump sums or regular amounts can be drawn down) without any restriction either in the form of a cap or a minimum income amount;
4. do nothing and leave the pension pot untouched

7.21. Effects on working age people:

1. While a person's pension pot is held by the pension provider, it falls to be disregarded as capital and no notional income is assumed from the pot.
2. Under pension flexibilities, there will be greater opportunity to withdraw money from a pension pot. This is known as a drawdown.
3. Where a person chooses to take ad-hoc withdrawals or take the whole sum; then the money falls to be treated as capital.
4. Where a person chooses to draw down amounts on a regular basis, then the money falls to be treated as income and should be considered as such.
5. Any amount remaining in the pension pot held by the pension provider following drawdowns should be disregarded as capital, and no notional income should be assumed from the remaining pot.
6. A person may choose to use their pension pot to purchase an annuity. As with any annuity, the capital held in the annuity is disregarded, but the income is treated as pension income in the financial assessment.

7.22. Effects on Pension Credit qualifying age:

1. While a person's pension pot is held by the pension provider, notional income should be assumed from it. The amount of notional income to be considered is the maximum amount of income that may be withdrawn from the pension pot.
2. Where a person chooses to take ad-hoc withdrawals or take the whole sum; then the money falls to be treated as capital.
3. Where a person chooses to draw down amounts on a regular basis and/or purchases an annuity with it, then the money falls to be treated as income and considered as such.
4. Where the pension pot is held by the provider and notional income is assumed, **but** the person also draws down income from their pension pot, Wirral Council use the whole notional income amount even if the persons decide to take a lesser amount.
5. For the purposes of notional income, the person's pot should be re-valued after:
 - every drawdown of capital;
 - every drawdown of income which exceeds the notional income amount; or
 - upon the person's request.

Property disregards

7.23. In the following circumstances the value of the person's main or only home, i.e. where the person lives, will be disregarded:

1. If the person's stay in residential or nursing care is temporary, and they intend to return to that property and that property is still available to them; or they are taking reasonable steps to dispose of the property to acquire another more suitable property to return to.
2. Where the person no longer occupies the property, but it is occupied in part or whole as their main or only home by any of the people listed below, the mandatory disregard only applies where the property has been continuously occupied since before the person went into a care home:
 - The person's partner, former partner or civil partner, except where they are estranged.
 - A lone parent who is the person's estranged or divorced partner.
 - A relative of the person or member of the person's family who is over age 60 or is a child of the resident aged under 18, or is incapacitated and has occupied the property as their main or only home since before the resident entered the care home.

7.24. For the purposes of disregard, a relative is defined as including any of the following:

1. Parent (including an adoptive parent)
2. Parent-in-law
3. Son (including an adoptive son)
4. Son-in-law
5. Daughter (including an adoptive daughter)
6. Daughter-in-law
7. Step-parent
8. Step-son
9. Step-daughter
10. Brother
11. Sister
12. Grandparent
13. Grandchild
14. Uncle
15. Aunt
16. Nephew
17. Niece
18. The spouse, civil partner or unmarried partner of 1 to 11 inclusive.

7.25. For the purposes of the disregard the meaning of "incapacitated" is not closely defined. However, it will be reasonable to conclude that a relative is incapacitated if either of the following conditions apply:

1. The relative is receiving one (or more) of the following benefits: incapacity

2. benefit, severe disablement allowance, disability living allowance, personal independence payments, armed forces independence payments, attendance allowance, constant attendance allowance, or a similar benefit; or
3. The relative does not receive any disability related benefit but their degree of incapacity is equivalent to that required to qualify for such a benefit. Medical or other evidence may be needed before a decision is reached.

7.26. For the purpose of the property disregard, the meaning of “occupy” is not closely defined. In most cases it will be obvious whether or not the property is occupied by a qualifying relative as their main or only home. However, there will be some cases where this may not be clear and Wirral Council will therefore undertake relevant enquiries in order to reach a decision. An emotional attachment to the property is not sufficient for the disregard to apply.

7.27. Circumstances where it may be unclear might include where a qualifying relative must live elsewhere for the purposes of their employment, for example a member of the armed services or the diplomatic service. Whilst they live elsewhere in order to undertake their employment, the property remains their main or only home. Another example may be someone serving a prison sentence. It would not be reasonable to regard the prison as the person’s main or only home and they may well intend to return to the property in question at the end of their sentence. In such circumstances Wirral Council will consider the qualifying relative’s length of sentence and the likelihood of them returning to the property. Essentially, the qualifying relative is occupying the property but is not physically present.

Example of emotional attachment to a property:

Bea is 62 years old and lives with her family in Manchester. Her father Patrick is a widower who has been living in the family home in Birkenhead that she and her sister grew up in and where she occasionally stays to help her father. Patrick has been assessed as having eligible care and support needs that are best met by moving into a care home.

Although Bea is over the age of 60, the family home is not her main or only home and the property is, therefore, not disregarded.

7.28. Wirral Council will take account of the individual circumstances of each case; however, the Council will consider the following factors in reaching the decision: -

- Does the relative currently occupy another property?
- If the relative has somewhere else to live do they own or rent the property (i.e. how secure/permanent is it?)
- If the relative is not physically present is there evidence of a firm intention to return to or live in the property?
- Where does the relative pay council tax?
- Where is the relative registered to vote?
- Where is the relative registered with a doctor?

- Are the relative's belongings located in the property?
- Is there evidence that the relative has a physical connection with the property?

Example of occupying a property when not physically present:

Matt is 60 years old and has been living overseas for the past 10 years due to his job in the diplomatic service. When he is in England, he lives at the family home he grew up in. His father Ken has been assessed as having eligible care and support needs that are best met by moving into a care home.

In Ken's financial assessment, the value of his property is disregarded as his son Matt is a qualifying relative who occupies the property as his main or only home. Although Matt is not physically present at the property at the point Ken moves into the care home, his alternative accommodation is only because of his employment and the family home is his main home.

Discretionary disregard

7.29. There may be other occasions where Wirral Council will use its discretion to apply the property disregard. However, in doing so the Council will need to balance this discretion with ensuring a person's assets are not maintained at public expense. An example where it may be appropriate to apply such disregard is where it is the sole residence of someone who has given up their own home to care for the person who is now in a care home or is perhaps the elderly companion of the person.

12-week property disregard

7.30. In line with the guidance, Wirral Council will disregard the value of a person's main or only home (e.g., the home they lived in before moving to permanent residential care) when the value of their non-housing assets is below the upper capital limit for 12 weeks in the following circumstances:

1. When they first enter residential care as a permanent resident; or
2. When a property disregard other than the 12-week property disregard unexpectedly ends e.g., the death of the person remaining in the former home.

There may be occasions when Wirral Council can use discretion to choose to apply the 12-week disregard when this is not usually the case, usually where there is a sudden and unexpected change in the person's financial circumstances, such as the example below.

Example of a discretionary 12-week property disregard:

Brenda and Bob have been married for 60 years and brought a home together.

Eighteen months ago, Brenda moved into residential care because of dementia. During her financial assessment, the value of the home she shared with Bob was disregarded as Brenda was over 60 years old and still lived in the property.

Bob has been in good health and there is no reason to anticipate a sudden change in circumstance. Unfortunately, Bob suffers a heart attack and passes away*, leaving the property to Brenda. There is no longer an eligible person living in the property, meaning its value can now be considered in what Brenda can afford to contribute to the cost of her care.

Given this was unplanned for, Brenda and her family need time to consider what the best option might be. The 12-week disregard would therefore be applied.

*This disregard would also apply if Bob had to go into residential care, e.g. both Bob and Brenda would get the 12-week disregard to consider their options about the property.

Where a person has been funding their own care for at least 12 weeks before Wirral Council agrees to take a contract with the provider, the person will be self-funding from the date Wirral Council starts to pay. This is because the Government's charging framework is to prevent people being forced to sell their home at a time of crisis. If the person has been living in residential care funding it themselves and the capital drops below the threshold, it is not necessarily a crisis situation.

26-week disregard

7.31. In line with the guidance, the following capital assets will be disregarded for at least 26 weeks in a financial assessment. However, there may be occasions where Wirral Council choose to apply the disregard for longer where it considers this appropriate. For example, where a person is taking legal steps to occupy premises as their home, but the legal processes take more than 26 weeks to complete.

1. Assets of any business owned or part-owned by the person in which they were a self-employed worker and has stopped work due to some disease or disablement but intends to take up work again when they are fit to do so. This will apply from the date the person first took up residence in the residential care home.
2. Money acquired specifically for repairs to or replacement of the person's home or personal possessions provided it is used for that purpose. This should apply from the date the funds were received.
3. Premises which the person intends to occupy as their home where they have started legal proceedings to obtain possession. This should be from the date legal advice was first sought or proceedings first commenced.

4. Premises which the person intends to occupy as their home where essential repairs or alterations are required. This should apply from the date the person takes action to effect the repairs.
5. Capital received from the sale of a former home where the capital is to be used by the person to buy another home. This should apply from the date of completion of the sale.
6. Money deposited with a Housing Association which is to be used by the person to purchase another home. This should apply from the date on which the money was deposited.
7. Grant made under a Housing Act which is to be used by the person to purchase a home or pay for repairs to make the home habitable. This should apply from the date the grant is received.

52-week disregard

7.32. In line with the guidance, the following payments of capital will be disregarded for a maximum of 52 weeks from the date they are received.

1. The balance of any arrears of or any compensation due to non-payment of:
 - Mobility supplement
 - Attendance Allowance
 - Constant Attendance Allowance
 - Disability Living Allowance / Personal Independence Payment
 - Exceptionally Severe Disablement Allowance
 - Severe Disablement Occupational Allowance
 - Armed forces service pension based on need for attendance
 - Pension under the Personal Injuries (Civilians) Scheme 1983, based on the need for attendance
 - Income Support/Pension Credit
 - Working Tax Credit
 - Child Tax Credit
 - Housing Benefit
 - Universal Credit
 - Special payments to pre-1973 war widows.

As the above payments will be paid for specific periods, they will be treated as income over the period for which they are payable. Any money left over after the period for which they are treated as income has elapsed will be treated as capital.

2. Payments or refunds for:
 - NHS glasses, dental treatment or patient's travelling expenses;
 - Cash equivalent of free milk and vitamins;
 - Expenses in connection with prison visits.

Example of a disregard for 52 weeks:

During his financial assessment it is identified that Colin is eligible for Pension Credit but is not currently claiming this benefit. He is therefore assessed as being able to pay £75 per week towards the cost of his care.

Colin tells the local authority that he will apply for Pension Credit. It is explained to him that the level of what he can afford to contribute will be reassessed once he starts receiving the additional benefit. If the payments are backdated, his contributions to the cost of his care will also be backdated and he may therefore need to make an additional payment to meet any arrears.

Colin therefore chooses to pay £90 per week. After six weeks, arrears of Pension Credit at £35 per week (£210) are received.

What Colin can afford to contribute is reassessed and he is now asked to pay £110 per week. As Colin has been paying £15 a week more than required, he only owes £120 rather than the full £210 of Pension Credit arrears. The remaining £90 of arrears payments should therefore be treated as capital and disregarded.

2-year disregard

7.33. In line with the guidance, Wirral Council will disregard payments made under a trust established out of funds by the Secretary of State for Health in respect of CJD to a member of the victim's family for 2 years from the date of death of the victim (or from the date of payment from the trust if later); or a dependent child or young person until they turn 18.

Other disregards

7.34. In some cases a person's assets may be tied up in a business that they own or part own. Where a person is taking steps to realise their share of the assets, these will be disregarded during the process. However, the person will be required to show that it is their clear intention to realise the asset as soon as practicable. In order to show their intent, Wirral Council will request the following information:

- A description of the nature of the business asset;
- The person's estimate of the length of time necessary to realise the asset or their share of it;
- A statement of what, if any, steps have been taken to realise the asset, what these were and what is intended in the near future; and
- Any other relevant evidence, for example the person's health, receivership, liquidation, estate agent's confirmation of placing any property on the market.

7.35. Where the person has provided this information to show that steps are being taken to realise the value of the asset, Wirral Council will disregard the value for a period that it considers to be reasonable. In deciding what is reasonable the Council will consider the length of time of any legal processes that may be needed.

7.36. Where the person has no immediate intention of attempting to realise the business asset, its capital value will be considered in the financial assessment. Where a business is jointly owned, this will apply only to the person's share.

Treatment of investment bonds

7.37. The value of Investments Bonds will generally be included in the financial assessment as a capital asset. The main exception to this will be where the bond includes one or more elements of life insurance policies that contain cashing in rights for total or partial surrender. The value of these rights will generally be disregarded.

7.38. Wirral Council recognise that Investment Bonds can be complex instruments, and it retains the discretion to consider the treatment of these on a case-by-case basis.

Capital treated as income

7.39. The following capital payments will be treated as income:

1. Any payment under an annuity, however, any tax free lump sum not used to purchase an annuity is still treated as capital;
2. Capital paid by instalment where the total of:
 - The instalments outstanding at the time the person first becomes liable to pay for their care, or in the case of a person in temporary care whom the Council had previously decided not to charge, the first day on which the Council decide to charge; and
 - The amount of other capital held by the resident is over £16,000. If it is £16,000 or less, each instalment should be treated as capital.

Income treated as capital

7.40. The following types of income will be treated as capital:

1. Any refund of income tax charged on profits from business or earnings of an employed earner; any holiday pay payable by an employer more than four weeks after the termination or interruption of employment.
2. Income derived from a capital asset, for example, building society interest or dividends from shares. This should be treated as capital from the date it is normally due to be paid to the person. This does not apply to income from certain disregarded capital.
3. Any advance of earnings or loan made to an employed earner by the employer if the person is still in work. This is as the payment does not form part of the employee's regular income and would have to be repaid.
4. Any bounty payment paid at intervals of at least one year from employment as:
 - A part time fireman;
 - An auxiliary coastguard;
 - A part time lifeboat man;
 - A member of the territorial or reserve forces.

5. Charitable and voluntary payments which are neither made regularly nor due to be made regularly, apart from certain exemptions such as payments from AIDS trusts. Payments will include those made by a third party to the person to support the clearing of charges for accommodation.
6. Any payments of arrears of contributions by a local authority to a custodian towards the cost of accommodation and maintenance of a child.

Capital available on application

7.41. In some instances a person may need to apply for access to capital assets but has not yet done so. In such circumstances this capital will be treated as already belonging to the person except in the following instances:

1. Capital held in a discretionary trust;
2. Capital held in a trust derived from a payment in consequence of a personal injury;
3. Capital derived from an award of damages for personal injury which is administered by a court;
4. Any loan which could be raised against a capital asset which is disregarded, for example the home.

7.42. Wirral Council will distinguish between:

1. Capital already owned by the person but in order to access it they must make an application for it. For example:
 - Money held by the person's solicitor;
 - Premium Bonds;
 - National Savings Certificates;
 - Money held by the Registrar of a County Court which will be released on application; and
2. Capital not owned by the person that will become theirs on application, for example an unclaimed Premium Bond win. This will be treated as notional capital.

7.43. Where the Council are including capital available on application as notional capital, the Council will only do so from the date at which it could be acquired by the person.

8. Personal Expenses Allowance (PEA)

8.1. The Personal Expenses Allowance (PEA) is the weekly amount that residents receiving care and support in a care home (arranged by the Council) are assumed to need as a minimum for their personal expenses. The Council will apply this allowance, as specified in regulations made under section 14(7) of the Care Act 2014.

8.2. For the financial year (2022 to 2023), the PEA is £25.65 per week. The amount of PEA is varied annually and is set by Ministers; the allowances set by the Government are binding.

8.3. The purpose of the PEA is to ensure that a person has money from their own income for their personal use. The person may decide to spend their allowance on personal items such as clothes and other items. It will not be used to cover any aspect of their care and support that has been contracted by Wirral Council and/or assessed as necessary to meet the person's eligible care needs.

8.4. The PEA is not a benefit, it is the amount of a person's own income that they will be left with after charges have been deducted. This is in addition to any income the person receives from their earnings.

8.5. Where a person's affairs are managed by an Appointee, Attorney or Deputy, it is their responsibility to ensure that the person receives their PEA. Where a person has no income, Wirral Council is not responsible for providing one. However, the council will support the person to access any relevant state benefits or independent advocacy. The council is unable to offer a loan for any PEA's which are pending appointeeship.

Additional Personal Expenses Allowance (PEA)

8.6. There may be some circumstances where it would not be appropriate for Wirral Council to leave a person only with the Personal Expenses Allowance after charges. For example:

1. Where a person has a dependent child, Wirral Council will consider the needs of the child in determining how much income a person should be left with after charges. This applies whether the child is living with the person or not.
2. Where a person is paying half of their occupational or personal pension or retirement annuity to a spouse or civil partner who is not living in the same care home, Wirral Council will disregard this money. This does not automatically apply to unmarried couples although the Council may exercise discretion in individual cases.
3. Where a person is temporarily in a care home and is a member of a couple – whether married or unmarried – the Council will disregard any Income Support or Pension Credit awarded to pay for home commitments and will consider the needs of the person at home in setting the personal expenses allowance. The Council will also consider disregarding other costs related to maintaining the couple's home (see below).
4. Where a person's property has not been disregarded, Wirral Council will ensure that the person is left with a Disposable Income Allowance of up to £144.00 per week, in line with the Care Act Guidance. This is to cover costs such as fixed payments (like mortgages, rent and Council Tax), building insurance, utility costs (gas, electricity and water, including basic heating during the winter) and reasonable property maintenance costs.
5. Where a person has necessary costs relating to a disability or illness that are in the care and support plan, but not provided by the care home, Wirral Council has the discretion to allow these as additional PEA. Evidence of the expense will be provided, and a social care worker/manager will verify the expense is necessary. We will evaluate this additional expense on a case-by-case basis. Examples of costs that may be included are:

- Additional clothing and footwear necessary due to greater-than-average wear and tear
 - Supported activities beneficial to the person's health and wellbeing, particularly to prevent social isolation and allow greater independence
 - Companion or service animals (where allowed in the care home), but only the cost of routine medical treatment (such as annual vaccinations and flea/worm treatment), basic insurance and basic food
 - Sensory items that help the person communicate, such as Makaton subscriptions for a mobile phone or tablet, magazine subscriptions in Braille, etc.
6. Although Wirral Council has the discretion to vary a PEA, when considering this, the Council will always be mindful of the public purse and fairness to other people using our services.

Disposable Income Allowance (DIA)

8.7. Where a person has a Deferred Payment Agreement in place, the Council will ensure that the person retains sufficient resources to maintain and insure the property in line with the Disposable Income Allowance (DIA). The DIA is a fixed amount of £144 per week. This is instead of the PEA. Wirral Council will require the person to contribute the rest of their income towards the cost of their care but will allow the person to retain as much of their DIA as they want to.

8.8. A person may choose to keep less of their income than the DIA. This might be advantageous to the person as they would be contributing more to the costs of their care from their income, and consequently reducing the amount they are deferring. However, this will be entirely the person's decision.

9. Income

9.1. Only the income of the person receiving care/support will be considered in the financial assessment. Where the person receives means-tested income as one of a couple, the starting presumption is that the person receiving care/support has an equal share of the income. However, the Council will consider the implications for the person's partner.

Example where benefits are being awarded to the service user as part of a couple:

Beryl and Tom are married and Tom has recently moved to long term residential care. After a financial assessment has been completed it is identified that Pension Credit is still being paid to Beryl and Tom as a couple.

The Financial Assessment Assistant (FAA) has asked the Pension Service to register a new claim for both Beryl and Tom as single people now that Tom is in residential care. The FAA has worked out how much Tom will pay towards his care charges while Pension Credit is awarded jointly and how much he will be liable to pay when it is awarded to him in his own right.

In working out how much Tom pays while Pension Credit is being paid jointly, the FAA has disregarded some of Tom's income to ensure that Beryl has sufficient money to meet her household costs (until she is awarded a higher level of Pension Credit).

Once Beryl is receiving the higher level of pension credit, Tom will be reassessed to pay more towards the cost of his residential care.

9.2. Income is net of any tax or National Insurance contributions.

9.3. Income will always be considered unless it is disregarded under the regulations. Income that is disregarded will either be partially disregarded or fully disregarded.

Earnings

9.4. In all cases, employed and self-employed earnings are fully disregarded in the financial assessment.

9.5. Earnings in relation to an employed earner are any remuneration or profit from employment. This will include:

1. Any bonus or commission;
2. Any payment in lieu of remuneration except any periodic sum paid to the person because the termination of their employment by reason of redundancy;
3. Any payments in lieu of notice or any lump sum payment intended as compensation for the loss of employment but only in so far as it represents loss of income;
4. Any holiday pay except any payable more than four weeks after the termination or interruption of employment;
5. Any payment by way of a retainer;
6. Any payment made by the person's employer in respect of any expenses not wholly, exclusively and necessarily incurred in the performance of the duties of employment, including any payment made by the person's employer in

respect of travelling expenses incurred by the person between their home and the place of employment and expenses incurred by the person under arrangements made for the care of a member of the person's family owing to the person's absence from home;

7. Any award of compensation made under section 112(4) or 117(3)(a) of the Employment Rights Act 1996 (remedies and compensation for unfair dismissal);
8. Any such sum as is referred to in section 112 of the Social Security Contributions and Benefits Act 1992 (certain sums to be earnings for social security purposes);
9. Any statutory sick pay, statutory maternity pay, statutory paternity pay or statutory adoption pay, or a corresponding payment under any enactment having effect in Northern Ireland;
10. Any remuneration paid by or on behalf of an employer to the person who for the time being is on maternity leave, paternity leave or adoption leave or is absent from work because of illness;
11. The amount of any payment by way of a non-cash voucher which has been taken into account in the computation of a person's earnings in accordance with Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001.
12. Working Tax Credit

9.6. Earnings in relation to an employed earner do not include:

1. Any payment in kind, with the exception of any non-cash voucher which has been taken into account in the computation of the person's earnings – as referred to above;
2. Any payment made by an employer for expenses wholly, exclusively and necessarily incurred in the performance of the duties of the employment;
3. Any occupational/personal pension.

9.7. Earnings in the case of employment as a self-employed earner means the gross receipts of the employment. This includes any allowance paid under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 to the person for the purpose of assisting the person in carrying on his business.

Earnings in the case of employment as a self-employed earner do not include:

1. Any payment to the person by way of a charge for board and lodging accommodation provided by the person;
2. Any sports award.

9.8. Earnings also include any payment provided to prisoners to encourage and reward their constructive participation in the regime of the establishment, this may include payment for working, education or participation in other related activities.

Benefits

9.9. Wirral Council will take most of the benefits people receive into account. Those the Council will include and disregard are listed below.

9.10. Any income from the following benefits will be taken fully into account when considering what a person can afford to pay towards their care from their income:

1. Attendance Allowance, including Constant Attendance Allowance and Exceptionally Severe Disablement Allowance*
2. Bereavement Allowance
3. Carers Allowance
4. Disability Living Allowance (Care component) *
5. Employment and Support Allowance or the benefits this replaces such as Severe Disablement Allowance and Incapacity Benefit
6. Income Support
7. Industrial Injuries Disablement Benefit or equivalent benefits
8. Jobseeker's Allowance
9. Maternity Allowance
10. Pension Credit
11. Personal Independence Payment (Daily Living component) *
12. State Pension
13. Universal Credit

* The disability benefits will not be taken into account for respite but will be included for the first 4 weeks of long-term care. The care element should then cease after 4 weeks, but you will need to notify the Disability Benefits Service to suspend these benefits. If you don't, the Department for Work and Pensions may impose a civil penalty and ask you to repay the money.

9.11. Where any Social Security benefit payment has been reduced (other than a reduction because of voluntary unemployment), for example because of an earlier overpayment, the amount taken into account will be the gross amount of the benefit before reduction.

Annuity and pension income

9.12. An annuity is a type of pension product that provides a regular income for many years in return for an investment. Such products are usually purchased at retirement to provide a regular income. While the capital is disregarded, any income from an annuity will be taken fully into account except where it is:

- Purchased with a loan secured on the person's main or only home; or
- A gallantry award such as the Victoria Cross Annuity or George Cross Annuity.

For those who have purchased an annuity with a loan secured on their main or only home (as per above), this is known as a 'home income plan'. Under these schemes, a person has purchased the annuity against the value of their home –similarly to a

Deferred Payment Agreement and may be disregarded in the financial assessment.

9.13. To qualify for a disregard on the income, one of the annuitants must still be occupying the property as their main or only home. This may happen where a couple has jointly purchased an annuity and only one of them has moved into a care home. If this is not the case, the disregard will not be applied.

Where the disregard is applied, only the following aspects will be disregarded:

1. The net weekly interest on the loan where income tax is deductible from the interest; or
2. The gross weekly interest on the loan in any other case.

Before applying the disregard, the following conditions will be met:

1. The loan will have been made as part of a scheme that required that at least 90% of that loan be used to purchase the annuity;
2. The annuity ends with the life of the person who obtained the loan, or where there are two or more annuitants (including the person who obtained the loan), with the life of the last surviving annuitant;
3. The person who obtained the loan or one of the other annuitants is liable to pay the interest on the loan;
4. The person who obtained the loan (or each of the annuitant where there are more than one) will have reached the age of 65 at the time the loan was made;
5. The loan was secured on a property in Great Britain and the person who obtained the loan (or one of the other annuitants) owns an estate or interest in that property; and
6. The person who obtained the loan or one of the other annuitant occupies the property as their main or only home at the time the interest is paid.

Where the person is using part of the income to repay the loan, the amount paid as interest will be disregarded. If the payments the person makes on the loan are interest only and the person qualifies for tax relief on the interest they pay, the net interest will be disregarded. Otherwise, it will be the gross interest that is disregarded.

9.14. Where a person is in a care home and paying half of the value of their occupational pension, personal pension or retirement annuity to their spouse or civil partner Wirral Council will disregard 50% of its value.

9.15. Reforms to defined contribution pensions came into effect from April 2015. The aim of the reforms is to provide people with much greater flexibility in how they fund later life. This may lead to changes in how people use the money in their pension fund. The rules for how to assess pension income for the purposes of charging are:

1. If a person has removed the funds and placed them in another product or savings account, they will be treated according to the rules for that product;
2. If a person is only drawing a minimal income, or choosing not to draw income, Wirral Council will operate in accordance with the treatment of income

3. support claimants: if a person is drawing income from their pension fund which is less than 100% of the annuity the fund would yield, then Wirral Council will only apply notional income equivalent to 100% of the annuity that would be yielded.
Any actual income drawn will be disregarded to avoid double counting. This means that where a person draws income that is less than 100% of the annuity that would be yielded, the notional income is the difference between the amount drawn and 100% of the annuity that would be yielded.
4. Where the income drawn is more than 100% of the annuity that would be yielded the actual amount is taken into account.
5. If a person is drawing down an income that is higher than the maximum previously payable under an annuity product, the actual income that is being drawn down will be taken into account.

Mortgage protection Insurance policies

9.16. Any income from an insurance policy is usually taken into account. In the case of mortgage protection policies where the income is specifically intended to support the person to acquire or retain an interest in their main or only home or to support them to make repairs or improvements to their main or only home it will be disregarded. However, the income will be being used to meet the repayments on the loan.

The amount of income from a mortgage protection insurance policy that should be disregarded is the weekly sum of:

1. The amount which covers the interest on the loan; plus
2. The amount of the repayment which reduced the capital outstanding; plus
3. The amount of the premium due on the policy.

Example of mortgage protection policy in payment:

Winifred has an outstanding mortgage and was making repayments of £180 per month to her lender until she suffered a stroke. Winifred has a mortgage protection policy which pays her the sum of £240 per month if she is unable to meet repayments due to ill health.

Winifred applies for Employment & Support Allowance. Winifred would usually be entitled to assistance with her mortgage but the amount she receives from her policy is greater than her mortgage. The mortgage protection policy is considered as income by the Department for Work & Pensions.

This reduces the amount of Employment & Support Allowance to which Winifred is entitled.

The financial assessment for her care will therefore only include the lower amount of Employment & Support Allowance paid to Winifred together with the excess income from the mortgage protection policy.

It should be remembered that Income Support, Employment and Support Allowance and Pension Credit may be adjusted to take account of the income from the policy.

Other income that is fully disregarded

9.17. Any income from the following sources will be fully disregarded:

1. Direct Payments
2. Armed Forces Independence Payments and Mobility Supplement
3. War Disablement Pension (except Constant Attendance Allowance)
4. Child Support Maintenance Payments and Child Benefit, except where the accommodation in which the adult and child both live is arranged under the Care Act
5. Child Tax Credit
6. Council Tax Reduction Schemes where this involves a payment to the person
7. Disability Living Allowance (Mobility Component) and Mobility Supplement
8. Christmas bonus
9. Dependency increases paid with certain benefits
10. Discretionary Trust
11. Gallantry Awards
12. Guardian's Allowance
13. Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme
14. Income frozen abroad
15. Income in kind
16. Pensioners Christmas payments
17. Personal Independence Payment (Mobility Component) and Mobility Supplement
18. Personal injury trust, including those administered by a Court
19. Resettlement benefit
20. Savings credit disregard
21. Social Fund payments (including winter fuel payments)
22. War widows and widower's special payments
23. Any payments received as a holder of the Victoria Cross, George Cross or equivalent
24. Any grants or loans paid for the purposes of education; and
25. Payments made in relation to training for employment.
26. Any payment from the:
 - Macfarlane Trust
 - Macfarlane (Special Payments) Trust
 - Macfarlane (Special Payment) (No 2) Trust Caxton Foundation
 - The Fund (payments to non-haemophiliacs infected with HIV)
 - Eileen Trust
 - MFET Limited
 - Independent Living Fund (2006)
 - Skipton Fund
 - London Bombings Relief Charitable Fund.

Charitable and voluntary payments

9.18. Charitable payments are not necessarily made by a recognised charity, but could come from charitable motives. The individual circumstances of the payment will need to be considered before making a decision. In general a charitable or voluntary payment which is not made regularly is treated as capital.

9.19. Charitable and voluntary payments that are made regularly will be fully disregarded.

Partially disregarded income

9.20. The following income is partially disregarded:

1. The first £10 per week of the following:
 - War Widows and War Widowers pension,
 - Survivors Guaranteed Income Payments from the Armed Forces Compensation Scheme (SGIP),
 - Civilian War Injury pension,
 - Payments to victims of National Socialist persecution (paid under German or Austrian law).

2. A savings disregard based on qualifying income is made to people as follows:

For individuals

- Where a person is in receipt of qualifying income of less than £158.47 per week there will be no Savings Disregard made.
- Where a person is in receipt of qualifying income between £158.47 and £182.60 per week the savings disregard is made, which will equal the actual amount of the savings credit received or a sum of £5.90 whichever is less.
- Where a person is in receipt of qualifying income more than £182.60 per week, and a savings credit reward is in payment, a flat rate savings disregard of £5.90 per week is made irrespective of how much the savings credit payment is.
- Where a person has qualifying income above the limit for receiving a savings credit reward (around £196.35 but could be higher if the person is severely disabled, has caring responsibilities or certain housing costs) a flat rate savings disregard of £5.90 is made.

For couples

- Where a person is part of a couple (including a civil partnership) and is in receipt of qualifying income of less than £244.12 per week there will be no savings disregard made.
- Where a person who is part of a couple (including a civil partnership) and is in receipt of qualifying income between £244.12 and £278.70 per week the savings disregard is made, which will equal the actual amount of the savings credit received or a sum of

- £8.85 whichever is less.
- Where a person who is part of a couple (including a civil partnership) and is in receipt of qualifying income more than £278.70 per week, and a savings credit reward is in payment, a flat rate savings disregard of £8.85 per week is made irrespective of how much the savings credit payment is.
- Where a person who is part of a couple (including a civil partnership) and has qualifying income above the limit for receiving savings credit (around £283.05 but could be higher if the person is severely disabled, has caring responsibilities or certain housing costs) a flat rate savings disregard of £8.85 is made.

The values of £182.60 and £278.70 above represent the standard minimum guarantee for an individual and couple respectively. These amounts are increased to an appropriate minimum guarantee where individuals and couples qualify as severely disabled or as carers because of receipt of qualifying benefits.

Notional income

9.21. In some circumstances a person may be treated as having income that they do not actually have. This is known as notional income. This might include, for example, income that would be available on application but has not been applied for, income that is due but has not been received or income that the person has deliberately deprived themselves of for the purpose of reducing the amount they are liable to pay for their care. For guidance on deprivation of assets, please see Section 12. In all cases Wirral Council will satisfy itself that the income would or should have been available to the person.

9.22. Notional income should also be applied where a person has reached retirement age (ie when the person reaches the Pension Credit qualifying age) and has a personal pension plan but has not purchased an annuity or arranged to draw down the equivalent maximum annuity income that would be available from the plan. Estimates of the notional income can be received from the pension provider or from estimates provided by the Government Actuary's Department.

9.23. Where notional income is included in a financial assessment, it will be treated the same way as actual income. Therefore, any income that would usually be disregarded will continue to be so.

9.24. Notional income will be calculated from the date it could be expected to be acquired if an application had been made. In doing so, Wirral Council will assume the application was made when it first became aware of the possibility and take account of any time limits which may limit the period of arrears.

Example of notional income:

Andrew is 70 and is living in a care home. He has not been receiving his occupational pension to which he would have been entitled to from age 65. After contacting his former employer, they state Andrew will be paid the entire pension due from age 65. NCC will therefore apply notional income from age 65.

Example of notional income in relation to new pension flexibilities:

Ben has a pension fund worth £30,000. He has taken the opportunity to access this flexibly and as a result is only drawing down £5 a week as income at the point he begins to receive care and support.

The equivalent maximum annuity income would be £120 per week. For the purposes of the financial assessment, NCC will assume an income £120 per week.

(See page 18 for more information on pension flexibilities.)

9.25. There are some exemptions and the following sources of income will not be treated as notional income:

1. Income payable under a discretionary trust;
2. Income payable under a trust derived from a payment made as a result of a personal injury where the income would be available but has not yet been applied for;
3. Income from capital resulting from an award of damages for personal injury that is administered by a court;
4. Occupational pension which is not being paid because:
 - The trustees or managers of the scheme have suspended or ceased payments due to an insufficiency of resources; or
 - The trustees or managers of the scheme have insufficient resources available to them to meet the scheme's liabilities in full.
5. Working Tax Credit.

10. Deferred Payments

Deferred Payments Scheme

10.1. Wirral Council operates a Deferred Payment Scheme for people in Residential and Nursing Care. Deferred Payments are designed to prevent people from being forced to sell their home in their lifetime to meet the cost of their care.

10.2. The Deferred Payments Scheme is designed to help people if they have been assessed as having to pay the cost of residential care – but cannot afford to pay the full weekly charge because most of the capital is tied up in the home.

10.3. Effectively the scheme offers a loan from the Council using the home as security. It doesn't work in exactly the same way as a conventional loan as the Council does not give the person a fixed sum of money when they join the scheme.

10.4. The Council will instead pay an agreed part of the weekly care and support bill for as long as is necessary. The person will pay a weekly contribution towards the care they receive from their income and other savings. The Council pays the part of the weekly charge that the person cannot afford until the value of the home is realised. The part the Council pays is the 'Deferred Payment'. The deferred payment builds up as a debt – which is cleared when the money tied up in the home is released. For many people this will be done by selling their home, either immediately or later on. The debt can be paid back from another source if the person wants to. However, the person does not have to sell their home if they do not want to – the person may, for example, decide to keep the home for the rest of their life and repay the debt from the estate.

10.5. If a person makes use of the Deferred Payment Scheme they can choose to retain a disposable income allowance of up to £144 per week from their income. Please be aware that if a person takes this option, it will mean that the amount the persons defers will be higher. The person may choose to take less but the Council will not force them to.

10.6. The person may want to rent out their own home to generate income. If the person does this, they will be given the option to use the rental income to increase the amount paid each week, thus reducing the weekly payments made by the Council, minimising the eventual deferred payment debt.

In order to apply for the Deferred Payment Scheme the person will:

1. Have been assessed as having eligible care and support needs under the Care Act and as a result require permanent residential /nursing care in a registered care home;
2. Have capital (excluding the property) of less than £23,250.
3. Own or have part legal ownership of a property, which is not benefitting from a property disregard, and ensure the property is registered with the Land Registry (if the property is not, the person will arrange for it to be registered at their own expense) – the person's financial assessor can advise on how to do this.
4. Have a home which is not occupied by a spouse or dependent relative.
5. Have the mental capacity to agree to a deferred payment agreement or have a legally appointed agent willing to agree this

Whilst in the agreement, you will also need to:

1. Have a responsible person willing and able to ensure that necessary maintenance is carried out on the property to retain its value, the person is liable for any such expenses;
2. Insure the property at the person's expense;
3. Pay any client contribution as agreed through the deferred payment

agreement. If the person fails to pay the client contribution the Council reserves the right to add this debt to the loan amount.

4. There can be no other beneficial interests on the property, for example outstanding mortgages or equity release schemes, unless this is approved by the Local Authority.

PLEASE NOTE: Acceptance of any application under the scheme is subject to the person meeting the criteria for entering into the scheme, and the local authority being able to obtain security on the property. Until an agreement has been completed the person will be liable for any contributions due and subject to the Council's normal debt collection processes.

Costs associated with the Deferred Payment Agreement

The Council's charges are listed below and, with the exception of the interest charge, will be reviewed on 1 April each year:

Type of Charge	Value
Set up of deferred payment agreement (Admin Charges)	£250
Legal Charges	£250
Any change to the detail of a deferred payment agreement (charge for each change)	£100
Repayment of a deferred payment agreement	£200

10.7. The loan will have interest charged on it in the same way a normal loan would be charged on money borrowed from a bank. The maximum interest rate that will be charged is fixed by the government. Currently, the maximum rate to be charged is based on the cost of government borrowing, and will change on 1st January and 1st July every year. Current rate is 0.55% (1 July 2022).

10.8. The interest will apply from the day the person entered into the Deferred Payment Scheme. The person will receive regular statements advising them how their charge is being calculated and what the outstanding sum on the deferred payment account is.

10.9. In addition to the Council's charges there will be Land Registry fees and the possibility of a fee for valuing the person's property, both of which may vary. The cost of the valuation will depend on the amount the person wants to defer and the value of the property.

Your agreement with Wirral Council

10.10. If the person decides to use the Deferred Payments Scheme, they enter into a legal agreement with the Council by signing an agreement document.

The Council then places what is called a 'legal charge' on the property to safeguard the loan and the person will be charged for this expense.

10.11. The agreement covers responsibilities for the person and the Council, one of which is to make sure that the home is insured and maintained; if the person incurs expenses in maintaining the home while they are in residential or nursing care, these will be allowed for in the amount that the person is assessed as contributing each week from their capital and income.

10.12. The person can end the agreement at any time (for example if the house is sold) and the loan then becomes payable immediately, otherwise the agreement ends on the person's death and the loan becomes payable 90 days later. The Council cannot cancel the agreement without the person's consent.

Other options

10.13. As mentioned above, the person may choose to rent out their property, which could give the person enough income to cover the full cost of care. There are advantages to this as the person will not accrue a debt, be liable for interest and administrative charges and the property will be occupied. The person's tenant will be paying utilities and council tax which will reduce outgoings. If this does not give enough income the person can still enter into a deferred payment but will defer less against their property. There are also various equity release products which may be suitable for the person's personal circumstances. The person may also choose to pay the full cost of care from available income and savings/assets; or a family member may choose to pay some or all of this for the person.

You should take independent financial and legal advice to help you decide which course of action will be financially better for you.

10.14. Under this agreement the council will pay the care home fees, without insisting that the person's former home is immediately sold. The person will still have to pay an assessed charge based on their income. The Council will recover the care home fees paid (apart from the first 12 weeks) after the person no longer pays for care from the proceeds of the sale of their former property.

Care Act statutory guidance has been produced and this can be viewed in Chapter 9 of the guidance – <https://www.gov.uk/guidance/care-and-support-statutory-guidance>

11. Choice of Accommodation

11.1. Where the care planning process has determined that a person's needs are best met in a care home, Wirral Council will offer an available placement. The placement that meets the person's needs will be within a care home that charges an agreed amount which the Council is able to fund. The appropriate type of accommodation will be agreed with the person/person's representative as part of the care and support

planning process.

11.2. The Council will ensure that the person has a genuine choice and will also ensure that at least one option is affordable and within the person's personal budget. However, a person will also be able to choose alternative options, including a more expensive setting where a third party or in certain circumstances the person is willing and able to pay the additional cost. This is known as a Top-Up. This additional payment will always be optional and never as the result of market inadequacies or commissioning failures leading to a lack of choice.

11.3. The Council will take steps to ensure the person understands the full implications of this choice, by providing sufficient information and advice around the terms and conditions. Further information can be found in the Council's Choice of Accommodation and Additional Payments (Top-Up) Policy by following this link:

<https://democracy.wirral.gov.uk/documents/s50033789/ChoiceofAccommodationandAdditionalPaymentstopupsPolicy060616.pdf>

12. Deprivation of Assets

12.1. People with care and support needs are free to spend their income and assets as they see fit, including making gifts to friends and family. This is important for promoting their wellbeing and enabling them to live fulfilling and independent lives. However, it is also important that people pay their fair contribution towards their care and support costs.

12.2. There are some cases where a person may have tried to deliberately avoid paying for care and support costs through depriving themselves of assets – either capital or income. There may also be valid reasons why someone no longer has an asset and therefore the Council will ensure all cases are fully explored before considering whether deprivation has occurred.

12.3. Deprivation of assets means where a person has intentionally deprived or decreased their overall assets to reduce the amount they are charged towards their care. This means that they will have known that they needed care and support and have reduced their assets to reduce the contribution they are asked to make towards the cost of that care and support.

12.4. Where this has been done to remove a debt that would otherwise remain, even if that is not immediately due, this will not be considered as deprivation.

Example of where a debt has been removed that would otherwise remain:

Jake took a second mortgage on his property to replace his roof and to update his central heating. He has £10,000 left outstanding on the 2nd mortgage and pays £100 per month. Jake has been receiving care and support in his own home but is due to move into residential care.

Jake's father dies and leaves him £20,000. Jake uses £10,000 of this to pay the 2nd mortgage even though he has 10 years left to pay it. NCC would disregard the £10,000 used to pay the debt, but include the other £10,000 as capital.

12.5. Where Wirral Council have evidence to support deprivation we will either charge the person as if they still possessed the asset or, if the asset has been transferred to someone else, may seek to recover the lost income or capital from the person to whom the asset has been transferred.

Has deprivation of capital occurred?

12.6. It is up to the person to prove to Wirral Council that they no longer have the asset. If they are not able to, the Council will assess them as if they still had the asset. For capital assets, acceptable evidence of their disposal would be:

1. A trust deed;
2. Deed of gift;
3. Receipts for expenditure;
4. Proof that debts have been repaid.

12.7. A person can deprive themselves of capital in many ways, but common approaches may be:

1. A lump-sum payment to someone else, for example as a gift;
2. Substantial expenditure has been incurred suddenly and is out of character with previous spending;
3. The title deeds of a property have been transferred to someone else;
4. Assets have been put in to a trust that cannot be revoked;
5. Assets have been converted into another form that would be subject to a disregard under the financial assessment, for example personal possessions;
6. Assets have been reduced by living extravagantly, for example gambling;
7. Assets have been used to purchase an investment bond with life insurance.

12.8. Deprivation will not be deliberate in all cases. The question of deprivation should only be considered where the person 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.

Example of where deprivation has not occurred:

Max has moved into a care home and has a 50% interest in a property that continues to be occupied by his civil partner, David. The value of the property is disregarded whilst David lives there, but he decides to move to a smaller property that he can better manage and so sells their shared home to fund this.

At the time the property is sold, Max's 50% share of the proceeds could be taken into account in the financial assessment, but, in order to ensure that David is able to purchase the smaller property, Max makes part of his share of the proceeds from the sale available.

In such circumstance, it would not be reasonable to treat Max as having deprived himself of capital to reduce his care home charges.

Emma gives her daughter Imogen a painting worth £2,000 the week before she enters a care home. The local authority should not consider this as deprivation as the item is a personal possession and would not have been considered in her financial assessment.

Example of where deprivation would be considered:

Looking at the example of Emma above, Emma had purchased the painting immediately prior to entering a care home to give to her daughter with £2,000 previously in a savings account, deprivation should be considered.

12.9. There may be many reasons for a person depriving themselves of an asset. Therefore, Wirral Council will always consider the following in the first instance:

1. Whether avoiding the care and support charge was a significant motivation;
2. The timing of the disposal of the asset. At the point the capital was disposed of could the person have a reasonable expectation of the need for care and support; and
3. Whether the person had a reasonable expectation of needing to contribute to the cost of their eligible care needs

12.10. It would be unreasonable to decide that a person had disposed of an asset to reduce the level of charges for their care and support needs if at the time the disposal took place they were fit and healthy and could not have foreseen the need for care and support.

Example of assets to be considered:

Mrs Kapoor has £18,000 in a building society and uses £10,500 to purchase a car. Two weeks later she enters a care home and gives the car to her daughter Vaneeta.

If Mrs Kapoor knew when she purchased the car that she would be moving to a care home, then deprivation will be considered. However, all the circumstances will be considered so if Mrs Kapoor was admitted as an emergency and had no reason to think she may need care and support when she purchased the car, this should not be considered deprivation.

Has deprivation of income occurred?

12.11. It is also possible for a person to deliberately deprive themselves of income. For example, the person could give away or sell the right to an income from an occupational pension.

It is up to the person to prove to Wirral Council that they no longer have the income.

12.12. Where the Council consider that a person may have deprived themselves of income, the Council may treat them as possessing notional income. However, in determining whether deliberate deprivation of income has occurred the Council will consider:

1. Was it the person's income?
2. What was the purpose of the disposal of the income?
3. The timing of the disposal of the income. At the point the income was disposed of could the person have a reasonable expectation of the need for care and support?

12.13. In cases where income may have been converted into capital, this may be deemed as deprivation. The Council will determine what tariff income may be applied to the capital and whether the subsequent charge is less or more than the person would have paid had the charge being paid based on the income.

Investigations into whether deprivation has occurred

12.14. As part of investigating whether deprivation has occurred, in exceptional circumstances the Council will follow the organisational policy around the use of the Regulation of Investigatory Powers Act 2000 (RIPA).

12.15. In all other circumstances the Council will carry out an investigation by asking for and obtaining evidence to support the information given in the financial assessment.

What happens where deprivation of assets has occurred?

12.16. Where Wirral Council decides that a person has deliberately deprived themselves of assets to avoid or reduce a charge for care and support, the Council

treat that person as still having the asset for the purposes of the financial assessment and charge them accordingly. If the person depriving themselves of an actual resource has converted that resource into another of lesser value, the person will be treated as notionally possessing the difference between the value of the new resources and the one which it replaced. For example, if the value of personal possessions acquired is less than the sum spent on them, the difference should be treated as notional resource.

Recovering charges from a third party

12.17. Where the person has transferred the asset to a third party to avoid the charge, the third party is liable to pay Wirral Council authority the difference between what it would have charged and did charge the person receiving care. However, the third party is not liable to pay anything which exceeds the benefit they have received from the transfer.

12.18. If the person has transferred funds to more than one third party, each of those people is liable to pay Wirral Council the difference between what it would have charged or did charge the person receiving care in proportion to the amount they received.

As with any other debt, Wirral Council will use the County Court process to recover debts once other avenues have been exhausted.

Example of liability of a third party:

Mrs Tong has £23,250 in her savings account. This is the total of her assets. One week before entering care she gives her daughter Kim and sons Gok and Li £7,750 each. This was with the sole intention of avoiding care and support charges.

Had Mrs Tong not given the money away, the first £14,250 would have been disregarded and she would have been charged a tariff income on her assets between £14,250 and £23,250. Assuming £1 for every £250 of assets, this means Mrs Tong should have paid £36 per week towards the cost of her care.

After 10 weeks of care, Mrs Tong should have contributed £360. This means Kim, Gok and Li are each liable for £120 towards the cost of their mother's care.

13. Debt Collection

13.1. Where a person is struggling to pay their assessed contribution towards their care charges, the person should contact the Council's Personal Finance Unit on 0151 666 5222 to discuss their financial circumstances.

13.2. The recovery of debts from those who are receiving care and support is a sensitive issue given the potential vulnerability of people who use Adult Social Care services.

There could also be a variety of reasons why the person has not paid the assessed charge which should be considered. Given this, the Council will bear in mind the following principles when approaching debt recovery:

- Capacity – does the person have capacity to deal with their finances or have an appropriate Financial Agent
- Clear Information – has the Council provided the person/person's representative with the relevant charging information regarding the cost implications of receiving commissioned care/support
- Reasonability/Affordability – the Council will act reasonably, particularly when attempting to recover backdated care charges. Consideration will be given to the affordability of the debt which had accrued and the circumstances surrounding this.
- Communication - Debts will be clearly discussed with the person or their representative
- Payment Arrangements – any repayment arrangements will be mutually agreed and affordable
- When a debt is disputed, an appeals process will be followed

13.3. If a debt has accrued the person can contact the Collections and Recovery Team on 0151 666 3228 to discuss repayment options; the person may be required to complete an Income and Expenditure Form. Based on the information provided, they will be advised of affordable repayments based on their income and outgoings. Further information can be found in the Council's Debt Policy using the following link:

<https://www.wirral.gov.uk/sites/default/files/all/About%20the%20council/Performance%20and%20spending/Wirral%20Council%20Corporate%20Debt%20Recovery%20Policy%202021.pdf>

13.4. Where a person has accrued a debt the Council will use powers under the Care and Support Statutory Guidance issued by the Department of Health and Social Care with specific reference to Annex D relating to the Recovery of Debts. This may involve the Council initiating legal proceedings to recover the debt. However, the Council should only use this power after other reasonable alternatives for recovering the debt have been exhausted. Further information can be found using the following link:

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#AnnexD>

14. Financial Information and advice

14.1. Under section 4 of the Care Act local authorities have a duty to establish and maintain an information and advice service relating to care and support for adults and support for carers. Wirral Council has the Central Advice and Duty Team (CADT) which can be contacted on 0151 514 2222. Information is also available on the Council's website using the following link:

<https://www.wirral.gov.uk/benefits-and-money/cost-living>

14.2. Information and advice will be proportionate and accessible. This applies to financial information and advice and means that the person concerned (or their representative) will be able to understand any contributions they are asked to make and how they can pay. Wirral Council will therefore provide information to help people to understand care charges, (including how contributions are calculated), and means-tested support available, top-ups, and how care and support choices may affect costs.

14.3. Wirral Council will also make people aware of independent financial advice, including the existence of regulated financial advice. This is to ensure that people have a better understanding of how their available resources can be used more flexibly to fund a wider range of care options. In these cases, Wirral Council will ensure that people are helped to understand how to access this advice.

14.4. There will be occasions where Wirral Council can provide advice and similarly where the person has to be referred elsewhere. The advice that Wirral Council will provide will be limited to how to understand care charges; ways to pay; money management; making informed financial decisions and facilitating access to independent financial information and advice.

14.5. Where the Council recommend the person seeks independent financial advice, we will make the person aware which independent services may charge for the information and advice they provide. The Council will also describe the general benefits of independent information and advice and explain the reasons why it may be beneficial for a person to take independent financial advice.

Further Advice

For additional independent advice regarding Adult Social Care charging there are a number of free factsheets and information available on the internet. These are available at:

<http://www.ageuk.org.uk/publications/age-uk-information-guides-and-factsheets/>

<http://www.disabilityrightsuk.org/charging-residential-accommodation>

<https://www.ageuk.org.uk/information-advice/care/paying-for-care/paying-for-homecare/>

<https://www.citizensadvice.org.uk/family/looking-after-people/carers-help-and-support/>

<https://www.wirral.gov.uk/health-and-social-care/adult-social-care/paying-adult-support>

<http://www.moneyadviceservice.org.uk/en>

<http://www.fca.org.uk/>

<http://www.payingforcare.org/>

<http://www.firststopcareadvice.org.uk/>

15. What to do if you disagree with your financial assessment

15.1. You can ask the Council to look again at the amount you have been assessed to contribute toward the cost of your service, if you think something is incorrect or if you don't understand the assessment outcome information.

15.2. You may wish to point out any mistakes that you believe the Council have made. You may think the Council have made the wrong decision because the Council have missed some information, or the Council do not know something about your circumstances, including any exceptional expenses because of an illness or disability. You may have forgotten to tell us about something. If so, please contact the Council on 0151 666 5222 and let the Council know what you think is wrong. You may be asked to provide supporting evidence.

15.3. The Council will then review the assessment and correct any errors where the Council can. If the Council's original decision is found to be incorrect, the Council will update your contribution and tell you the revised amount. If the Council's decision is found to be correct, the Council will tell you why.

15.4. The Council aim to complete this review in 14 working days from receipt of the request (or supporting evidence).

15.5. If you are still not satisfied with the decision, you can appeal against it.

15.6. If you remain unhappy, then you should submit an Appeal to the Complaints Disputes & Appeals Officer (CDAO) at the postal or email address on your contribution or decision letter. You will tell the Council why the decision or assessment is wrong (i.e. not that you simply disagree with the decision).

15.7. The CDAO will review your case to make sure that:

- The charge has been raised in accordance with the Council's charging policies
- The Council have followed the correct procedures when calculating your contribution
- Equity and fairness is maintained to other people who have been assessed and charged in similar circumstances.

15.8. While your appeal is being considered, you will continue to get invoices based on your original financial assessment. You should continue to pay any invoices to avoid running up any debts on your account. If your appeal is successful and CDAO reduces all or part of your contribution, any overpayments you have made on your account while your appeal was being considered will be either refunded to you or credited to your account. If your appeal is rejected, you will be told the reasons why it was unsuccessful, and your financial assessment will be based on the original information you have supplied.

What if I am unhappy with the Appeal decision?

15.9. If you are still not satisfied with your financial assessment after the appeal process, you may make a formal complaint please see details below.

16. Complaints

16.1. It is recognised that making a complaint can be a stressful experience. The Council seek to minimise this stress and wish to make it as easy as possible to make a

complaint. A person may wish to make a complaint about any aspect of the financial assessment or the fact that the Council have chosen to charge. Wirral Council will therefore make it clear what the complaints policy is and provide information and advice on how to lodge a complaint.

16.2. All complaints relating to the Adult Social Care Charging Policy should be referred to the Complaints Resolution and Information Team (Adult Social Care). Full details on how to do this and how complaints are handled can be found on the Council's website using the following link:

<http://www.wirral.gov.uk/about-council/complaints/complaints-about-adult-social-services>

16.3. The Complaints Resolution and Information Team (Adult Social Care) can be contacted

- By email - dasscomplaints@wirral.gov.uk
- By telephone – 0151 666 4810
- In person
- By letter to the Complaints Resolution and Information Team (Adult Social Care), Wirral Council, PO Box 290, Brighton Street, Wallasey, Wirral, CH27 9FQ