

## Adult Services and Wellbeing Calderdale Metropolitan Borough Council

### Charging Policy for Care Home Services for Adults

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#### **Policy Version Control**

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## **Contents:**

<b>1.</b>	<b>Introduction</b>	<b>4</b>
<b>2.</b>	<b>Personal budgets</b>	<b>4</b>
<b>3.</b>	<b>Financial Assessments</b>	<b>4</b>
<b>4.</b>	<b>What Counts as Income</b>	<b>6</b>
<b>5.</b>	<b>What Counts as Savings</b>	<b>7</b>
<b>6.</b>	<b>Property</b>	<b>7</b>
<b>7.</b>	<b>How CMBC Work Out Tariff Income</b>	<b>7</b>
<b>8.</b>	<b>Personal Expenses Allowance</b>	<b>8</b>
<b>9.</b>	<b>Mental Capacity</b>	<b>8</b>
<b>10.</b>	<b>Start and End Date of Charges</b>	<b>9</b>
<b>11.</b>	<b>Outcome of the Financial Assessment</b>	<b>9</b>
<b>12.</b>	<b>Treatment of First or Third party Top-Ups in Care Homes</b>	<b>9</b>
	Third Party Top-Up Fees	9
	First Party Top-Up Fees	9
<b>13.</b>	<b>Temporary (Respite or Short Term) Stay in Care Homes</b>	<b>10</b>
<b>14.</b>	<b>Hospital Discharge</b>	<b>10</b>
<b>15.</b>	<b>Heatherstones Court</b>	<b>11</b>
<b>16.</b>	<b>Deferred Payment Agreement (DPA)</b>	<b>11</b>
	Eligibility for a DPA	11
	Power to Offer a DPA	13
	Mandatory Disregards	13
	Responsibilities Under a DPA	14
	Terminating the Deferred Payment Agreement	15
<b>17.</b>	<b>Self-Funders</b>	<b>16</b>
<b>18.</b>	<b>Former Self-Funders</b>	<b>16</b>
<b>19.</b>	<b>Deprivation of Income/Assets</b>	<b>17</b>
<b>20.</b>	<b>Notional Capital/Income</b>	<b>18</b>
<b>21.</b>	<b>Diminishing Notional Capital</b>	<b>18</b>
<b>22.</b>	<b>Duty to Notify Changes of Circumstances</b>	<b>18</b>
<b>23.</b>	<b>Recovery of Debt</b>	<b>19</b>
<b>24.</b>	<b>Review and Appeals Process</b>	<b>19</b>

## **1. Introduction**

- 1.1 Calderdale Metropolitan Borough Council (CMBC) arrange long term, respite and short stay care and support services for people who have been assessed as being eligible for care and support in a care home.
- 1.2 Care home means that the person is:
  - Living in a residential care home
  - Living in a nursing care home
  - Having a temporary stay in a care home
- 1.3 The Care Act 2014 is the overarching legislation alongside associated regulations and guidance that sets out the law relating to adult social care in England.
- 1.4 CMBC's charging policy follows Government guidelines. CMBC use a financial assessment to work out if the Council can offer the person any help in paying for the care and support they receive in a care home. This takes into account a person's individual income, capital and allowable expenditure. The charging policy will be applied fairly to everyone.
- 1.5 CMBC will charge for care and support delivered in a care home.
- 1.6 In line with Care Act recommendations, care homes are paid their fee in full by CMBC. CMBC will invoice the person or their representative for the amount they need to pay.

## **2. Personal Budgets**

- 2.1 Where a person has been assessed as eligible for care and support, an amount of money will be identified that will be enough to meet their needs. This agreed amount of money is called a Personal Budget. In most circumstances, the person will be expected to contribute financially (in part or in full) to their Personal Budget, and fund part or all of their care and support.

## **3. Financial Assessment**

- 3.1 A person will be expected to pay the full cost of their care and support unless they can show CMBC that they cannot afford it. To do this they will need to complete a financial assessment.
- 3.2 CMBC use a financial assessment (a means test) to work out how much a person will need to pay towards the cost of their care and support. Not everyone will be required to pay the same amount.
- 3.3 [Section 8.14](#) of The Care and Support Statutory Guidance instructs that local authorities are not permitted to charge for provision of the following types of care and support:

- Equipment (aids and minor adaptations) less than £1,000.00
- Services provided to those with Creutzfeldt Jakob Disease
- Any service or part of service which the NHS is under duty to provide, this includes Intermediate Care, Continuing Healthcare, and the NHS contribution to Registered Nursing Care
- Advice and information around care and support
- Assessment of needs, care planning and reviews including the cost of carrying out the financial assessment
- Services which the local authority has a duty to provide through other legislation, for example aftercare services under Section 117 of the Mental Health Act 1983. These are services which are provided to meet a need arising from, or related to, the person's mental disorder, in order to reduce the risk of a deterioration of the person's mental health condition and need for re-admission for the treatment of that mental disorder.

3.4 Local authorities are permitted to charge for provision of the following types of care and support:

- Services that meet needs which are unrelated to Section 117 aftercare services as defined above at 3.3. These services will be subject to CMBC's charging policy.
- The difference between the actual cost of preferred accommodation in a care home and the usual cost of providing or arranging for the provision of accommodation of that kind under Section 117.
- Joint funded services – A person will be required to pay towards the cost of the services provided by CMBC but not those provided by the NHS as part of a joint package of support.

3.5 The financial assessment looks at the person's individual income, capital and allowable expenditure to work out the maximum amount they will pay. CMBC will compare this to the cost of the person's care and support and the person will pay the lowest amount of the two.

3.6 For CMBC to carry out the financial assessment, the person will need to complete a financial information form and provide evidence to support it, such as bank statements. If a person refuses, or chooses not to be financially assessed, they will have to pay the full cost of their care and support.

3.7 CMBC will always undertake a financial assessment to work out how much a person should pay, except when it is clear that they have savings in excess of the upper capital limit. The current upper capital limit is £23,250. This is set by the Department of Health.

3.8 If a person has savings in excess of the upper capital limit, they will be expected to meet the full cost of the care and support they receive.

3.9 When a person's financial assessment has been completed, they will be told the weekly charge they will need to pay towards the cost of the care and support they have.

- 3.10 If the financial assessment process concludes that a person needs to pay towards the cost of their care and support services, the charge will be applied from the date of admission to the care home.
- 3.11 Reviews of a person's financial assessment will be completed in accordance with Care Act guidance. These will be conducted annually. The review will take into account any changes to a person's financial circumstances. For example, a decrease in the level of their capital resources, or an increase in the level of their income.
- 3.12 The cost of care and support services provided or arranged through CMBC are reviewed annually and may be subject to an inflationary increase which may increase a person's care charge.

#### **4. What Counts as Income**

- 4.1 All income is taken fully into account in the financial assessment unless the regulations to the Care Act require that it should be disregarded either partially or fully. Income that is available or due to a person but has not been sought or applied for may be taken into account as notional income in the financial assessment. Notional income may also apply where a person has reached pension credit qualifying pension 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.
- 4.2 All State and Welfare benefits count as income. These could include but is not limited to:
- Guaranteed Pension Credit
  - Employment Support Allowance (ESA)
  - Universal Credit
  - State Retirement Pension
  - Disability Living Allowance (DLA)
  - Attendance Allowance
  - Personal Independence Payment (PIP)
  - Universal Credit

All private income. These could include but is not limited to:

- Private pensions
  - Works / Occupational pensions
  - Tariff income
  - Any other income received on a regular basis.
- 4.3 CMBC currently disregard some types of income when carrying out a financial assessment for care home services. These include:
- War Pension
  - PIP mobility

- DLA mobility

4.4 This list is not exhaustive. The Care and Support Statutory Guidance, [Annex C: Treatment of Income](#) provides further details on sources of income which must be disregarded.

## 5. What Counts as Savings

5.1 For the purpose of a care home financial assessment, savings can include but is not limited to:

- Money held in a bank, building society or post office account (50% if a joint account)
- ISAs
- Stocks and shares
- Premium Bonds
- National Savings Certificates
- Property and/or land, unless the property is subject to the mandatory disregard.

The Care and Support Statutory Guidance [Annex B: Treatment of Capital](#) provides further details on mandatory disregards.

## 6. Property

6.1 There is a requirement that any property owned by a person should be included in the financial assessment unless there is a statutory disregard of the property as defined within the Care and Support Statutory Guidance.

6.2 CMBC has discretion to disregard the value of a person's property in other circumstances. It does not have to exercise this power but will consider each request on a case-by-case basis. CMBC reserve the right to refuse a property disregard if it is not considered to be appropriate.

## 7. How CMBC Work Out Tariff Income

7.1 The tariff income calculation is set by the Department of Health and may be subject to change. Tariff income is meant to represent an amount a person with savings between the lower and upper capital limits should be able to contribute towards their care and support and is not representative of any interest-earning capacity of those savings.

7.2 If a person has savings between the lower and upper capital limits, CMBC will include tariff income in their calculations. For 2024/25 the capital limits are:

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

7.3 CMBC calculate a notional income of £1 per week for each £250 (or part thereof) of any amount between the lower and upper capital limits. For example, savings

of £16,400 will attract a tariff income of £9 per week ( $£16,400 - £14,250 \div £250 = £9$ )

## **8. Personal Expenses Allowance**

- 8.1 CMBC must leave a person with a minimum amount of money each week. This is known as the Personal Expenses Allowance. This is set by the Department of Health in their Local Authority Circulars which are usually reviewed and published in April of each year. These circulars can be found at [Local authority circulars - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- 8.2 There may be some circumstances where it would not be appropriate for CMBC to leave someone with only the personal expenses allowance after charges. For example, where the person is paying half their private pension to their spouse who is not living in the same care home or where a person's property has been disregarded. CMBC will consider allowances for fixed payments such as mortgages, rent and council tax. The Care and Support Statutory Guidance, [Annex C: Treatment of Income](#) provides details of further circumstances.

## **9. Mental Capacity**

- 9.1 CMBC will follow the Care and Support Statutory Guidance when undertaking a financial assessment and will establish whether the relevant adult has capacity to take part in the financial assessment.
- 9.2 Where an adult lacks capacity, CMBC will ascertain if the person has an 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 (for example, someone who has been given appointeeship by the Department for Work and Pensions (DWP) for the purpose of benefits payments).
- 9.3 People who lack capacity to give consent to a financial assessment and who do not have any of the above people with authority to be involved in their affairs, may require the appointment of a property and affairs deputyship if they have assets other than benefits. A family member could apply for this to the Court of Protection. In the absence of any family members CMBC may make the application for the appointment of a deputy for property and affairs.
- 9.4 If CMBC is appointed corporate appointee by the DWP then it will only provide benefit information for the purposes of the financial assessment, in the person's best interests. If there are other assets, and in the absence of others to do so, an application will need to be made to the Court of Protection to provide CMBC with the authority to use this information for the purposes of the financial assessment and in the person's best interests, in accordance with the Mental Capacity Act 2005.



## **10. Start and End Date of Charges**

10.1 If the financial assessment process concludes that a person needs to pay towards the cost of their care and support services through CMBC, the charge will be applied from the day the person's care and support starts.

10.2 Care charges may end in the following circumstances:

- When a person enters hospital (see 14.1)
- When a person returns to the community
- From the date a person's financial circumstances change
- When a person dies, the care charge ends on the date of death

## **11. Outcome of the Financial Assessment**

CMBC will send the person a letter to explain:

- How much they need to pay towards their care and support (if anything)
- How it has been calculated
- How to pay it

11.1 It is the person or their representative's responsibility to check the letter carefully and let the Financial Assessment and Charging Team know straight away if anything is missing or incorrect.

## **12. Treatment of First or Third Party "Top-Ups" in Care Homes**

12.1 Where a person chooses a care home that is more expensive than what CMBC deems is required to meet their eligible care and support needs, the difference, referred to as a "top-up," must be paid by the person or a third party subject to the conditions below. This is subject to completion of a first or third party charge written agreement which has been authorised by CMBC, which will be reviewed on an annual basis.

### **12.2 Third party Top-Up Fees**

If a person chooses a care home that is more expensive than the rate set by CMBC, a third party such as a family member or charity can pay the difference in the amount. The person is not allowed to pay this top-up fee.

### **12.3 First Party Top-Up Fees**

Where a person chooses a care home that is more expensive than the rate set by CMBC, they may themselves choose to make a "top-up" payment only in the following circumstances:

- where they are subject to a 12-week property disregard
- where they have a deferred payment agreement in place with the local authority. Where this is the case, the terms of the agreement should reflect this arrangement.

- where they are receiving accommodation provided under S117 for mental health aftercare

- 12.4 The person or their representative (third party) would enter into a legal agreement with CMBC. This states that they are responsible to pay the top-up fees and that any debts may be recovered from them through legal action. CMBC will not agree to any first or third party top-up arrangement unless the legal agreement has been signed and agreed. The person or third party is not permitted to enter into a private arrangement with a care home contracted by CMBC to pay a top-up unless this has been agreed with CMBC and the care home provider.
- 12.5 CMBC will ensure that the person or third party is aware of the consequences of failing to maintain the top-up payment which can include a move to an alternative affordable placement that is suitable to meet the service user's care and support needs (subject to a care and support assessment).

### **13. Temporary (Respite or Short Term) Stay in Care Homes**

- 13.1 Charges for short term care, such as respite care will be based on a financial assessment. During periods of respite, the financial assessment will take into account costs from the person's home, such as rent, mortgage or Council tax.
- 13.2 As with all social care costs, the charges will be based on the amount a person has been assessed as being able to pay. If a person refuses or opts out of a financial assessment, they will need to pay the full cost of their stay.
- 13.3 Those who have a temporary stay that becomes permanent will be assessed for a permanent stay at the date permanency is confirmed, their care and support plan will be amended and a financial assessment will be carried out.

### **14. Hospital Discharge**

- 14.1 Care home charges will still apply when a person is in hospital. This arrangement may change from the date it is deemed that it is no longer appropriate for the person to return to the care home.
- 14.2 A short-term care home placement may be offered if a person requires a period of assessment to determine their future care and support needs and they do not need to stay in hospital whilst this assessment takes place (transitional bed). Transitional beds are non-chargeable up until the point of assessment. After the assessment has taken place, charges will be based on a financial assessment.
- 14.3 A short stay care home placement may be offered if a person has received an assessment in hospital and it is determined that they are unable to return home in the first instance, this could be due to housing issues. Short stay care home placements are chargeable from the point of discharge. Charges will be based on a financial assessment.

14.4 A short-term care home placement may be offered if a person is non-weight bearing. This is non-chargeable up until the point of assessment. After the assessment has taken place, charges will be based on a full financial assessment.

14.5 Intermediate Care services provide support for a short time to help the person recover and increase their independence. This refers to both care within an intermediate care bed and reablement. Intermediate care beds are in a dedicated 24-hour rehab facility. Reablement is a type of care in the person's own home. Intermediate care services are free for up to six weeks. For example, if a person has received 3 weeks in an intermediate care bed, they would only be eligible for up to 3 weeks reablement at home. If intermediate care services are required after 6 weeks, charges will be based on a full financial assessment.

## **15. Heatherstones Court**

15.1 Heatherstones Court consists of apartments provided by CMBC, designed to offer the help and support a person requires but cannot receive at home, for a short period, if they have both housing and care and support needs. The accommodation and fuel bills at Heatherstones are free of charge, but a person will need to pay for general living expenses such as food and toiletries. This is subject to review.

## **16. Deferred Payment Agreement (DPA)**

16.1 The deferred payments agreement under the [Care Act 2014](#) is intended to ensure that people are not forced to sell their home during their lifetime to pay for care.

16.2 A deferred payment is a loan from CMBC. It allows people who require care and support in a care home to defer paying some of their charges, until a later date. The person will still need to pay in part towards their care home placement from their assessed income and the difference will accrue as a debt.

16.3 The financial assessment allows a person to keep up to £144 of their weekly income. This is called a disposable Income Allowance and is an amount set by the Department of Health.

16.4 CMBC will require a charge to be placed against the property to ensure the Council will be able to recover the debt on sale of the property. The person may decide to keep their property for the rest of their life and repay the debt from their estate.

### **16.5 Eligibility For a DPA**

16.6 A person may be eligible if they:

- Have been assessed by CMBC's Adult Services and Wellbeing as requiring a care home placement.
- Are responsible for paying their own care charges,

- and own, or jointly own their own home / property & have less than £23,250 in capital & or savings.
- The person's needs for care and support are:
  - being met under [section 18](#) (duty to meet needs) or [section 19\(1\) or \(2\)](#) (power to meet needs) of the Care Act 2014 and the care and support plan for the person specifies that the Local Authority (LA) is going to meet the adult's needs by providing accommodation in a care home;
  - not being met by the LA under section 18 or section 19(1) or (2) of the Care Act 2014 and the LA considers that if it had been asked to meet the person's needs it would have done so by providing the person with accommodation in a care home; or
  - not being or going to be met by the LA under section 18 of the Care Act 2014 and are needs that the LA considers it would be required to meet under that section by providing accommodation in a care home, but for the fact that the adult's financial resources exceed the financial limit
  - The LA is satisfied that the adult has a legal or beneficial interest in a property that is the person's main or only home, and where a financial assessment pursuant to [section 17\(5\)](#) of the Care Act 2014 has been carried out in respect of the person:
    - the value of that interest has not been disregarded in the financial assessment for the purposes of calculating the amount of the person's capital (in other words, no spouse, partner, or dependants are living in the property); and
    - the capital that they own, less the value of that interest, does not exceed £23,250. Alternatively, where a financial assessment has not been carried out in respect of the person, this condition would still be satisfied if such an assessment were carried out. ([Regulation 2\(2\)](#), Deferred Payment Regulations 2014).
  - The LA is able to obtain adequate security for the payment of the person's deferred amount and any interest or administration costs that are treated in the same way as the deferred amount [regulation 4\(1\)\(a\)](#), Deferred Payment Regulations 2014). Adequate security for these purposes means a charge by way of legal mortgage for an amount which is at least equal to the deferred amount and any interest or administration costs which are to be treated in the same way as the adult's deferred amount and which is capable of being registered as a first legal charge in favour of the LA in the land register ([regulation 4\(2\)](#)).
  - Genuine and informed written consent to the matters specified in [regulation 4\(5\)](#) of the Deferred Payment Regulations 2014 is provided by any person who the LA considers has an interest in the land or other asset in respect of which a charge will be obtained, and whose interest the LA considers may prevent it from exercising a power of sale of the land or asset or recovering the deferred amount ([regulation 4\(4\)](#)). The matters in respect of which consent must be provided pursuant to [regulation 4\(5\)](#) are to:
    - the creation of the charge; and
    - the charge taking priority to and ranking before any interest the person has in the land or other asset that will be the subject of the charge.

- The person agrees to all the terms and conditions that are included in the agreement, in accordance with [regulation 11](#) of the Deferred Payment Regulations 2014 ([regulation 2\(1\)\(c\)](#)).

#### 16.7 Power to Offer a DPA

16.8 [Regulation 3](#) of the Deferred Payment Regulations 2014 gives LAs the power to offer a DPA to people who do not satisfy the criteria specified in [regulation 2](#). Unlike a mandatory DPA, a discretionary DPA can also be offered to people requiring care and support in supported living accommodation.

16.9 A LA can exercise its discretion to enter a DPA if:

- The person's needs for care and support are:
  - being met under [section 18](#) or [section 19\(1\) or \(2\)](#) of the Care Act 2014 and the care and support plan for the person specifies that the LA is going to meet the adult's needs by providing accommodation in a care home. CMBC does not currently exercise the power to offer discretionary DPAs for people requiring care and support in supported living accommodation.
  - not being met by the LA under section 18 or section 19(1) or (2) of the Care Act 2014 and the LA considers that if it had been asked to meet the person's needs it would have done so pursuant to those provisions, by providing the person with accommodation in a care home or supported living accommodation; or
  - not being or going to be met by the LA under section 18 of the Care Act 2014 and are needs that the LA considers it would be required to meet under that section by providing accommodation in a care home, but for the fact that the LA is satisfied that person's financial resources exceed the financial limit of £23,250. ([Regulation 3\(1\)\(a\)](#), Deferred Payment Regulations 2014.)
  - The condition in [regulation 4](#) of the Deferred Payment Regulations 2014 pertaining to the LA's ability to obtain adequate security is met ([regulation 3\(1\)\(b\)](#)).
  - The person agrees to all the terms and conditions that are included in the agreement, in accordance with [regulation 11](#) of the Deferred Payment Regulations 2014 ([regulation 3\(1\)\(c\)](#)).

#### 16.10 Mandatory Disregards

16.11 Property owned by the person entering the care home is included in the financial assessment. 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:

- (i) the person's partner, former partner or civil partner, except where they are estranged
- (ii) a lone parent who is the person's estranged or divorced partner;
- (iii) a relative of the person or member of the person's family who is either:
  - 1) aged 60 or over

- 2) is a child of the resident aged under 18
- 3) is incapacitated

The Care and Support Statutory Guidance, [Annex B: Treatment of Capital](#) provides further details on property disregards.

Where the property is to be included in the financial assessment and the eligibility criteria is met, the person may enter into the Deferred Payment Agreement (DPA) with CMBC. And if entitled, CMBC will exclude from the assessed charge the value of the property up to the first twelve weeks of a person's stay. This period is called the twelve-week property disregard period and gives people time to seek independent financial advice and consider the options available to them to fund their care and support costs.

- 16.12 If a person does not enter into a Deferred Payment Agreement, they will be responsible for paying the full cost of their care home placement, after any disregard period. They will need to decide how they will make these payments if their capital is tied up in their property. A person may choose to rent their property out. This could give them enough income to pay for the cost of their care home placement.
- 16.13 To secure the accruing debt whilst a person is on the Deferred Payment Agreement, a charge will be placed onto their property as security to ensure the money owed to CMBC is repaid. The Care and Support (deferred payment) Regulations [regulation \(4\)](#) to the Care Act 2014 provides that a local authority must obtain adequate security in place for the payment of an adult's deferred amount when a person enters into a Deferred Payment Agreement with CMBC.

#### 16.14 Responsibilities Under a DPA

The person's responsibilities under a DPA:

- Maintain and insure their home/property
- Ensure a representative is willing to maintain the property (have necessary remedial works conducted if required) to retain its value on their behalf – the person is liable for these expenses
- Pay the assessed charge on a regular basis, if this charge is not paid CMBC reserves the right to terminate the agreement
- Advise CMBC of any outstanding mortgage(s), debts and / or any equity release schemes taken out on the property

CMBC's responsibilities under a DPA:

- Provide people with 6 monthly written updates of the amount of fees deferred, of interest and administrative charges accrued to date, and of the total amount due and the equity remaining in the home
- Provide a statement on request within 28 days. LAs may also provide updates on a more frequent basis at their discretion. An update should set out the amount deferred during the previous period, alongside the total

amount deferred to date. It should also include a projection of how quickly the person will deplete all equity remaining in their chosen form of security up to their equity limit

- Re-assess the value of the chosen form of security once the amount deferred exceeds 50% of the security (and periodically thereafter) and adjust the equity limit and review the amount deferred if the value has changed. Re-valuation of property should be carried out annually

16.15 CMBC do not charge any administration fees for setting up and ongoing administration of a DPA. This is subject to review.

16.16 When a person's property sells or their placement ends, they will be advised on how much they owe in deferred charges and will be asked to repay the debt that has accrued.

16.17 Although there is no requirement that a person will have to sell their property during their lifetime, their representatives will be asked to repay money shortly after they have passed away or conversely if the property is sold whilst the person is in care home accommodation, where a deferred payment agreement has been entered into.

#### 16.18 Terminating a Deferred Payment Agreement

16.19 A DPA ends:

- On the death of the person or
- On the sale of the property
- When terminated by the adult or their representative giving notice and payment of the deferred amount in advance or
- When the capital assets decrease

16.20 Where a person has passed away and the property is not sold within 90 days of date of death, interest is chargeable from the 91st day after date of death for a Deferred Payment Agreement. CMBC charge 1% above the base interest rate.

The calculation from the 91<sup>st</sup> day after death to the date of sale completion of the property is as follows:

$((A/B) \text{ multiplied by } C\%) \text{ multiplied by } D$

Where

A = number of days after date of death to redemption date

B = 365 (days in a year – or 366 for leap year)

C = interest rate, as per above

D = amount outstanding

## **17. Self-Funders**

17.1 A “Self-Funder” means that the person is required to pay the full amount of all qualifying fees for their stay in a care home.

17.2 CMBC will treat a person as being a “Self-funder” where they:

- Have savings and other financial resources, including but not limited to land, property and income above the upper capital limit, currently £23,250
- Fail to co-operate and/or do not provide a completed financial assessment form, within 21 days of agreeing a support plan or the commencement of chargeable services (whichever is sooner);
- Provide an incomplete financial assessment form. Where possible CMBC will use other information sources available to complete the financial assessment, however, where this is not possible and the person (or their representative) fails to provide all of the information requested within 21 days; CMBC will be deemed to have undertaken a financial assessment in accordance with [regulation 10](#) of the “The Care and Support (Charging and Assessment of Resources) Regulations 2014 (as amended), and the person/representative will be charged the full cost of the care and support service(s)
- Receive a declaration from the person or their representative that they do not wish to go through a full financial assessment;
- Receive a financial assessment that deems they are assessed to contribute the full cost for their care and support

## **18. Former Self-Funders**

18.1 Former self-funders are those people whose assets fall below the threshold to become eligible for Council funding (below the £23,250 upper capital limit).

18.2 It is the responsibility of the person or their representative to contact [Gateway to Care](#) three months prior to their savings dropping below the £23,250 asset threshold. CMBC will become responsible for paying for care and support:

- If CMBC assesses there that there are eligible care and support needs

**AND**

- a financial assessment has been completed and confirmed the person is below the financial limit

18.3 If a person self-funds their care and support and their capital falls below the threshold, CMBC can only be responsible for any funding from the Monday following the date assets fall below the threshold.



18.4 CMBC will not be responsible for debts incurred before the former self-funder or their representative has completed a financial assessment. CMBC will become responsible for paying for care and support:

- If CMBC assesses there that there are eligible care and support needs

**AND**

- a financial assessment has been completed and confirmed the person is below the financial limit

18.5 It is the responsibility of the self-funder or their representative to contact Gateway to Care three months prior to the person's savings dropping below the £23,250 asset threshold. CMBC's responsibility starts only when the self-funder, or their representative has made contact.

18.6 The financial assessment will identify the date the former self-funders funds will become depleted and calculate the charge towards the cost of meeting their eligible care and support needs. This means that they may be asked to explore such options as selling property or entering into a deferred payment agreement (unless the property falls to be disregarded) in order to generate assets to contribute to their care and support.

**19. Deprivation of Income/Assets**

19.1 Deprivation of income and/or assets is the disposal of income and capital (for example, property and investments) to avoid or reduce care and support charges; disposal can take the form of transfer of ownership or conversion into a disregarded form. In all cases, it is up to the person to prove to CMBC that they no longer possess an income or an asset, and the reason for this. CMBC will determine whether to conduct an investigation into whether deprivation of income or assets has occurred.

19.2 Any investigation will have regard to guidance contained within the [Regulation of Investigatory Powers Act, 2000](#). Following the investigation, where CMBC decides that a person has deliberately deprived themselves of an asset or income to reduce a charge for care and support, CMBC will initially charge the person as though the deprivation has not occurred and treat them as still owning the asset or income. This will be treated as notional capital or notional income.

19.3 Where the person has transferred the asset to someone else, that person may be liable to pay CMBC the difference between what it would have charged and did charge the person receiving care and support. However, that person is not liable to pay any more than the benefit that they have received from the transfer. If the person has transferred funds to more than one person, each of those people may be liable to pay CMBC the difference between what it would have charged or did charge the person in proportion to the amount they received.

## **20. Notional Capital/Income**

- 20.1 In some circumstances, CMBC may treat a person as having capital/ income that they do not actually have. This is known as notional capital or notional income.
- 20.2 Notional capital may be capital which:
- a. would be available to the person if they applied for it
  - b. is paid to a third party in respect of the person
  - c. the person has deprived themselves of to reduce the amount of charge they have to pay for their care
- 20.3 Notional income may be income which:
- a. would be available to the person if they applied for it
  - b. income that is due to the person but has not been received
  - c. income that the person has deliberately deprived themselves of for the purpose of reducing the amount they are liable to pay for their care.

## **21. Diminishing Notional Capital**

- 21.1 Where a person has been assessed as having notional capital, the value of this will be reduced weekly by the difference between the weekly rate the person is paying for their care and support and the weekly rate they would have paid if notional capital did not apply.
- 21.2 Notional capital included in a financial assessment will be re-calculated when the annual review takes place.

## **22. Duty to Notify Changes of Circumstances**

- 22.1 A new financial assessment needs to be completed when there is any change in the person's financial circumstances, for example where their income goes up or down or there is a change in their savings. A person must tell the Financial Assessment and Charging Team about any change within one month of the change happening who will then complete a new financial assessment from the date of the change.
- 22.2 If a person does not tell the Financial Assessment and Charging Team about any change within a month and the change means that they have been paying too much for their care and support, the assessing CMBC officer will only complete the financial assessment from the week CMBC are told about the change.
- 22.3 If a person does not tell the Financial Assessment and Charging Team about any change within a month and the change means they haven't been charged enough they will have to pay the extra charges going back to when the change happened or a maximum of 12 months if an annual review of finances has not been carried by the Financial Assessment and Charging Team since their last financial assessment.

## **23. Recovery of Debt**

- 23.1 The Care Act 2014 consolidates CMBC's powers to recover money owed for arranging care and support for people. These powers can be exercised where someone refuses to pay the amount they have been assessed as being able to pay.
- 23.2 The powers granted to CMBC for the recovery of debt also extends to the person or their representative, where they have misrepresented or have failed to disclose (whether fraudulently or otherwise), information relevant to the financial assessment of what they can afford to pay.
- 23.3 CMBC will approach the recovery of debt in line with its Debt Recovery Policy which sets out the approach to debt recovery for Adult Social Care.

## **24. Review and Appeals Process**

- 24.1 If a person or their representative believes the result of their financial assessment is incorrect, due to inaccurate information being used, or if they wish to claim additional expenses, they can ask for a review of the assessed weekly charge by emailing or writing to the Financial Assessment and Charging Team below who will look at the calculation again and let them know the outcome.

Financial Assessment and Charging Team  
Calderdale Council Adult Services and Wellbeing  
PO Box 51  
Halifax  
HX1 1TP  
[FinAssess@calderdale.gov.uk](mailto:FinAssess@calderdale.gov.uk)

- 24.2 If the person or their representative still disagrees, they can appeal the decision by email or in writing. Their appeal will be acknowledged within three working days. The appeal will be investigated with the aim to respond within 20 working days. The person or their representative will receive a response in writing.
- 24.3 If the person or their representative is still not satisfied, they can make a complaint. The complaint can be made online, by email or by letter. They can do this themselves or they can ask someone to do it for them. The person or their representative should contact the complaints team below directly if they need help to do this
- Phone: (01422) 288005.
  - Visit a [Customer First](#) in person.
  - Post to: Calderdale Council, Complaints and Compliments, FREEPOST RTGL-EXHR-SRLH, 19 Horton Street, Halifax. HX1 1QE.
  - [Complaints and compliments | Calderdale Council](#)

- 24.4 If the person or their representative is not satisfied with the outcome of the complaint, the Complaints and Compliments Team will provide them with contact details of the Health and Social Care Ombudsman.