



## **Health & Social Care Moray**

# **Policy for Contributing to the Cost of Adult Social Care and Support (non- residential) within a Self-Directed Support System**

**Draft**

**2021/22**

## **This document is available in large print format upon request.**

If you need information from the Moray Council in a different format, such as Braille, audio tape or large print, please contact:

如需其他格式（如盲文、录音磁带或大号印刷体）的莫瑞市议会资讯，请联系：

Jei pageidaujate tarnybos Moray tarybos teikiamą informaciją gauti kitokiu formatu, pvz., Brailio raštu, garso įrašu ar stambiu šriftu, kreipkitės:

Jeśli potrzebują Państwo informacji od Rady Okręgu Moray w innym formacie, takim jak alfabet Braille'a, kasety audio lub druk dużą czcionką, prosimy o kontakt:

Se necessitar de receber informações por parte do Concelho de Moray num formato diferente, como Braille, cassete áudio ou letras grandes, contacte:

Если вам нужна информация от «Морей Каунсл» в другом формате, например шрифтом Брайля, в виде аудиозаписи или крупно напечатанная, обращайтесь:

Si necesita información del consejo de Moray en un formato diferente, como Braille, cinta de sonido o en letra grande, póngase en contacto con:



Moray Council, High Street  
Elgin, IV30 1BX



01343 563478



[CMTAdmin@moray.gov.uk](mailto:CMTAdmin@moray.gov.uk)

## Contents

1. Introduction .....	4
2. Principles of the policy .....	5
3. Self-Directed Support, Options 1 to 4 .....	6
3.1 Key issues relating to Direct Payments (Option 1) .....	8
4 Services out with the Individual Budget.....	11
5. Services which an individual will not be required to pay towards .....	11
6. The Financial Assessment .....	13
7. Determining the level of the person's contribution to the individual budget	14
7.1 Capital.....	15
7.2. Property .....	166
7.3. Income and capital not taken into account .....	166
7.4. Allowable Expenses .....	177
7.5. Personal Allowance .....	188
7.6. Couples.....	199
7.7 The final determination of the contribution- The Taper .....	20
7.8 Deprivation of Capital .....	21
8 Agreeing the individual's financial contribution .....	22
9 Appeals .....	23
10. Permanent Residential Care.....	25
11. Equalities Statement.....	25
12. Data Protection.....	26
13. Freedom of Information.....	26
14. Human Rights Act.....	27
15. Review and Feedback .....	28
16. Links to other policies, procedures and legislation .....	28
17. Glossary of terms.....	29
18. Appendices (Financial Assessment Form and Guidance, Non Residential Care Information Booklet).....	31

Agreed by **Moray Council Committee Services** on **XX/XX/2021**  
Review Due **March 2022**

Implementation date: **XX/2021**:

## 1. Introduction

Health & Social Care Moray (HSCM) was required by the Scottish Government to, and did, implement the Social Care (Self-Directed Support) (SDS) (Scotland) Act 2013. More information is available on the [Self-directed Support in Scotland](#) website.

This requires HSCM to provide four SDS options (see section 3 of this Policy), with varying levels of choice and control, to people (service users and/or unpaid carers) with eligible social care and support needs.

To ensure a fair, effective, consistent and transparent system is in place, HSCM moved to a contributions policy (Care & Support charge – see the **COSLA Guidance** on [Charging for Non-Residential Care](#)) with the introduction of the Social Care (Self-directed Support) (Scotland) Act 2013.

Under Self-Directed Support (SDS), individuals (service users and/or unpaid carers) will know up front what money, if any, they are entitled to from Health & Social Care Moray as part of their overall weekly personal (individual) budget, to provide the care and support they are eligible for. The aim of the care and support is to achieve the agreed personal outcomes they have identified as important to them.

They will also know how much they will have to contribute (based on their ability to pay) towards their individual budget for the care and support they choose. This is where the support required can be charged for which is not always the case. For example,

- Support that meets the definition of Free Personal Care will not require a contribution from the service user and,
- Unpaid carers will not be required to contribute towards the cost of the support they are eligible for, in line with the Carers (Scotland) Act 2016.

This policy explains how Health & Social Care Moray considers and calculates the care & support charge (contribution) individuals over the age of 16 years (unless they remain in children's services beyond that age) will be expected to make (if any) to their overall weekly individual budget for care and support (non residential).

All care & support contributions are determined in accordance with the Department for Works and Pensions rates and regulations, legislation and guidance incorporating the Social Care (Self-directed Support (SDS) (Scotland) Act 2013 and **COSLA** National Strategy & Guidance – [Charges Applying to Non-residential Social Care Services 2020/22](#).

## 2. Principles of the policy

This policy is based on the following principles:

- The provision of a Self-directed Support (SDS) individual budget is based on an assessment of care and support needs by Health & Social Care Moray Social Care staff, in accordance with Health & Social Care Moray [Eligibility Criteria](#).
- Any care & support financial contribution an individual is required to make towards the cost of their weekly individual budget is based on HSCM's financial assessment process
- The financial assessment will include specialist advice and assistance to support individuals to maximise their income through claiming for welfare benefits to which they may be entitled
- The proportion of the financial contribution the individual may be required to make will not be influenced by the size of the care and support package required. It will be based on their ability to pay as per the financial assessment process which

considers their income and capital (as well as various disregards that may apply to that individual's income and/or capital – see Section 7)

- There may be some cases where the service user's contribution to the cost of the weekly individual budget is amended or reduced due to an additional disregard, for example, where they have additional costs i.e. additional costs related to a disability and they are in receipt of a disability benefit. This will be considered on a case-by-case basis.

### **3. Self-Directed Support**

Self-Directed Support (SDS) in Scotland (more information via Age Scotland's Factsheets is available [here](#)) empowers people (service users and/or unpaid carers) by ensuring they are at the centre of the process of assessment of their care and support needs and their care and support planning to meet the agreed outcomes they want to achieve.

The objective of SDS is to promote independence, health and wellbeing by giving an individual more choice and control over the support they access to meet their assessed eligible care and support needs and, to achieve the agreed personal outcomes that are important to them.

This includes the use of resources and requires an individual to be aware of the financial value attributed to meeting their agreed personal outcomes – known as an individual budget. An individual budget is an allocation of money (agreed at a Resource Allocation Meeting which considers the individual's care needs/agreed personal outcomes and the support to meet those agreed outcomes) that can be used by an individual to design and purchase support from the public, private or voluntary sector to meet their assessed eligible care and support needs, in line with their personal outcome-based Support Plan or Adult Carers Support Plan (for unpaid carers).

A weekly individual budget might be used by a service user to purchase support, for example, having a bath or getting washed and dressed to continue to live in their own home (this type support is likely to meet the definition of free personal care and SDS individual budgets can be used to meet those support needs/personal outcomes). Out-with the home it could be used to arrange support for an individual in college or to enjoy community based leisure pursuits etc. It could also be used by an unpaid carer to access training or leisure activities etc.

The use of an individual budget is subject to certain restrictions and safeguards as set down by law. It must be used in an appropriate way to meet the individual's assessed, eligible, care and support needs and the agreed, personal outcomes they have identified as important to them.

The weekly individual budget is worked out by Health & Social Care Moray using a Resource Allocation System which provides a transparent process for the allocation of resources. The process links the amount of money in each case to the individuals care and support needs/personal outcomes, taking into account the different levels of support people need to achieve their outcomes. This provides an indication (indicative budget) of what it may reasonably cost to meet the service user's outcomes and may not be the final amount allocated. This is so the individual (with support where appropriate) can start to choose and/or arrange support as soon as possible. The initial indicative budget may be 'moderated' (changed slightly based on the service user's care and support needs and the actual cost of achieving their personal outcomes) to give the agreed individual budget.

There are 4 options available to an individual to choose, arrange and manage their support:

**Option 1** – Health & Social Care Moray making a **direct payment** to the service user for them to choose and arrange their own support to achieve the agreed outcomes in their support plan (help is available with this if it is required by the service user).

**Option 2** - The selection of support by the service user, the making of arrangements for the provision of that support by Health & Social Care Moray on behalf of the service user and, where that support is provided by someone other than Health & Social Care Moray, the payment by Health & Social Care Moray of the relevant amount in respect of the cost of that support.

**Option 3** - The selection of support for the service user by Health & Social Care Moray, the making of arrangements for the provision of that support by Health & Social Care Moray and, where that support is provided by someone other than Health & Social Care Moray, the payment by Health & Social Care Moray of the relevant amount in respect of the support.

**Option 4** - The selection by the service user of a mix of Options 1, 2 and/or 3 for their support and, where the support is provided by someone other than Health & Social Care Moray, the payment by Health & Social Care Moray of the relevant amount in respect of the support.

### **3.1 Key issues relating to Direct Payments (Option 1)**

#### **3.1.1**

##### Direct Payments paid Net of the service user's contribution and Prepayment Cards

In many cases, where the service user is assessed as able to contribute some of their income towards their individual budget, the individual budget amount will be made up of a contribution from the service user and a contribution from HSCM. The contribution from HSCM to the cost of meeting the eligible care and support (the



service user's overall individual budget) is paid as a Direct Payment to the service user if the service user chooses option 1 under Self-directed Support.

HSCM will pay its contribution as a Direct Payment to the service user (so the payment will be Net of the service user's contribution) rather than paying the full amount of the individual budget then asking the service user to pay their contribution to HSCM. This is consistent with CoSLA Charging Guidance and simplifies the administrative process.

Instead of paying their contribution to the individual budget to HSCM, the service user will have a prepayment card (in cases where the Direct Payment is not used to directly employ a Personal Assistant) that they can add their contribution to (see also section 8 of this policy). This will enable them to secure the support they have been assessed as requiring through combining HSCM contribution (the Direct Payment) with their own contribution applied to the prepayment card. As stated in section 8 of this policy, any issues with making payments and with use of the individual budget can be picked up and addressed earlier through reports that can be generated about use of the prepayment cards.

A Gross payment (i.e. the entire individual budget paid by HSCM as a Direct Payment to the service user in lieu of a reimbursement from the service user for their assessed contribution) would only be considered in exceptional circumstances. If a request from a service user to have a Direct Payment paid Gross (rather than Net) is made this would be discussed between the SDS Team and Team/Service Managers for a decision to be made and, to ensure a consistent approach is being taken when considering a request for a Gross payment of the Direct Payment.

### 3.1.2

What if the service user does not make their contribution to the Individual Budget?

If the service user does not make their assessed contribution to their weekly individual budget they will only have the Net payment which was contributed by the Authority. That means that the service user will either not be able to meet all of their agreed, personal outcomes or they will be able to but at a lower cost than their individual budget was first calculated at. In these circumstances there are several possible options which will be discussed with a Team/Service Manager;

- a) Remind the service user of the need to make their assessed contribution from their weekly income (**as per the signed Direct Payments Agreement**) in order to meet all their support needs/agreed, personal outcomes.
- b) Reiterate to the service user the need to pay in their assessed contribution and if not, the Direct Payment could be reduced (following a **review of the support & the Direct Payment by a Social Worker** to ensure the personal outcomes were still being met) by the level of the service user's assessed contribution. This is because the service user may have been able to meet their outcomes with a smaller budget.
- c) Reiterate the need for the assessed contribution to be paid into the account. If the service user continues not to pay this into the account, then they may no longer be able to receive a Direct Payment as they are not adhering to the terms and conditions of the Direct Payment Agreement. Other SDS Options may be offered instead of Option 1 after a social work review of the support.
- d) See also Section 9 of this Policy

### 3.1.3

#### A Cap on HSCM contributions under option 1 – Direct Payments

The purpose of a Direct Payment is to provide choice and control for the service user to meet their agreed personal outcomes and to do so within the resources allocated (through Resource Allocation – applying outcomes to the real cost of meeting these outcomes).

One of the most important elements of the Self-directed Support legislation and guidance is that service users should have more choice over how their care and support is delivered and who provides it. Therefore when HSCM sets the cap on the amount we contribute for care and support, the amount has to ensure that the service user's choice of support/provider is not unduly restricted.

HSCM has benchmarked the hourly rate it pays and at this time is satisfied that the 'agency' rate (i.e. for the service user to employ a private home care provider) it has set ensures maximum choice, in that the service user could secure support from a range of providers at the rate we have set, or less. This rate will continue to be benchmarked against private agency rates.

#### **4. Support out with the individual budget**

There is a range of support which Health & Social Care Moray has a duty to provide for which an individual will not be required to use their individual budget to pay for.

These include:

- Information and advice
- A care needs assessment
- A financial assessment
- Care management (please note: this may be part of the cost of choosing an Individual Service Fund (ISF) Provider under Option 2 of SDS and this cost will be included in the Individual Budget in such cases)
- Criminal Justice Social Work Services.

#### **5. Support which an individual will not be required to contribute towards**

**Unpaid Carers** will not have to contribute towards the cost of support they are eligible for, in line with the [Carers \(Scotland\) Act 2016](#). Unpaid Carers can access support they

are eligible for via Self-directed Support (SDS) and any contribution they are eligible for from HSCM to meet their agreed personal outcomes.

**Service Users** will not be required to pay towards the cost of:

- Personal care/support that meets the definition of Free Personal Care, including support with meal preparation
- Non-personal care at home which is a new or additional service for up to a maximum of 12 weeks (84 days) following discharge from hospital
- Support classed as Education or Training funded through a Self-directed Support Budget

Anyone diagnosed with end stage terminal illness ([DS1500](#) form to have been issued or the eligibility criteria met – see the sections on eligibility specifically Critical and Substantial Care Needs descriptions in Section 7 of the [National Guidance](#)) will not be required to pay towards the cost of:

- End of life care at home.

Anyone receiving treatment under the Mental Health (Care and Treatment) (Scotland) Act 2003 who has a compulsory treatment order in place, will not be required to pay towards the cost of their care and support. More information on the Act and compulsory orders can be viewed on the Mental Welfare Commission website <http://www.mwcscot.org.uk/the-law/mental-health-act/>.

Individuals will not be required to contribute towards the cost of Reablement support they have been assessed as eligible for, including personal and non-personal care at home, for a maximum of 12 weeks (84 days). Reablement sits at tier 2 of the **Moray (Partners in Care) 3 tier policy** for the delivery of health and social care services.

Tier 1 support involves advice, information, prevention and signposting to relevant local support.

Tier 2 support includes [reablement](#) intensive support to help regain or retain skills for independent living and where possible to prevent, reduce or delay longer-term or ongoing care and support needs).

For example;

Mr R had a fall at home and was later discharged from hospital after being assessed as needing support to go back home. It was assessed that he may benefit from Reablement support to help him to regain some skills for independent living. He was provided with this free support for a time-limited period of up to 12 weeks at home. Health and Social Care professionals identified with Mr R the personal outcomes that were important to him and provided support to enable him to achieve these. This included supporting him to carry out his own personal care tasks, support with falls prevention, practical support with shopping/support to make meals and providing him (based on an OT assessment) with some minor disability adaptations to assist with his mobility (he was supported to use these). This achieved the aim of minimising the amount of ongoing care and support he needed and supported him to achieve the personal outcomes he had identified as important (including increasing his ability to carry out tasks himself as well as increasing his confidence and sense of security/safety when carrying out daily living tasks). As part of ongoing assessment Mr R's care and support needs were reviewed throughout the 12 weeks. This confirmed that he no longer required ongoing community care support. Mr R was then provided with information and advice about, signposted to and accessed wellbeing and prevention support/facilities provided in his local community. This continued to help him to delay and/or prevent longer-term care and support needs.

## 6. The Financial Assessment

This relates to **service users** (unpaid carers will not have to contribute to the cost of the support they are eligible for). After an individual has had an assessment of their care and support needs and if they are eligible for support, they will be offered a financial assessment. This is carried out by a member of the Community Care Finance Team who will require a range of information (gathered by the team/social work) relating to the person's finances to determine their ability to contribute towards the cost of their weekly individual budget and at what level. If an individual does not take up the offer of a financial assessment, it will be assumed they have sufficient income to meet the total value of the chargeable element of their individual budget.

A copy of the Financial Assessment form (and other supporting documents such as the financial assessment guidance and procedure notes) is available from the Community Care Finance Team.

## 7. Determining the level of the person's contribution to the individual budget

Section 7 to 7.7 relates to **service users** (unpaid carers will not have to contribute to the cost of the support they are eligible for). The amount will vary from individual to individual.

A person's ability to contribute towards their weekly individual budget is based upon their available weekly income and level of capital. This is worked out by looking at what can be included in the calculation and what should be left out or disregarded.

Health & Social Care Moray begins by considering income from a range of sources, for example (this list is not exhaustive):

- Capital, savings and investments

- Net earnings from employment
- Other property/land (not the individual's sole or main property)
- Any other sources of income such as rental income
- Allowances – Attendance Allowance; Carers Allowance; Disability Living Allowance/Personal Independence Payment (PIP) care component/daily living amount; Disability Living Allowance (mobility component)/Personal Independence Payment (PIP) mobility component; Employment and Support Allowance; Severe Disablement Allowance
- Credits - Pension Credit – Guarantee Credit; Pension Credit – Savings Credit; Universal Credit; Working Tax Credits
- Benefits
- Pensions - Bereavement Pension/Allowance; Retirement Pension; War Widows Pension; War Disability Pension; Occupational Pension
- Income Support
- Compensation Payments

### 7.1. Capital and Tariff Income

Anyone under pension age who has capital (including savings) of over £16,000 will not receive funding from Health & Social Care Moray towards their chargeable individual budget costs.

If someone **under pension age** has capital of between £6,000.01 and £16,000 a tariff (or assumed) income will be applied to that capital at the rate of £1 for every £250 they have above £6,000.01 and this will be added to the calculation of their actual weekly income.

For example, if the person has £7,100 in savings they will be assumed to have an additional income from that capital of £5 per week which will be added to their

actual weekly income from pensions and other benefits etc. and the total income will be included in the financial assessment.

For anyone **over pension age** there is no upper capital limit.

If someone over pension age has capital over £10,000 a tariff (or assumed) income will be applied to that capital at the rate of £1 for every £500 they have above £10,000 and this tariff (or assumed) income will be added to their actual weekly income for the financial assessment.

For example, if the person has £13,200 in savings they will be assumed to have an income from those savings of £7 per week and that is added to their actual weekly income for the financial assessment.

## **7.2. Property**

The value of the home in which the individual lives i.e. the main or sole residence, is disregarded in full.

The value of the person's ownership in any second or subsequent properties will be taken into account as capital.

If the property (main residence or second property) is being marketed for sale it will be disregarded for a period of 26 weeks or longer if considered reasonable in line with Department of Work and Pensions (DWP) regulations.

## **7.3. Income and capital not taken into account**

The following types of income are not taken into account in the financial assessment.

Any payment from:

- Child benefit
- Child Tax Credit



- Christmas bonus
- Council Tax Benefit
- Disability Living Allowance/Personal Independence Payment (Mobility component)
- Far East Prisoner of War payment
- Gallantry awards
- Housing Benefit / Discretionary Housing Payment
- Kinship Care payments
- Social Fund Payments
- Payments from the Scottish Welfare Fund
- Student's grant payment from a public source intended for the childcare costs of a child dependent
- Therapeutic Earnings/Permitted Work Earnings
- Value of a service-user's main or sole residence
- War Pension
- War Disability Pension
- War Widows Pension (Pre-1973)
- Winter fuel payments

#### **7.4. Allowable Expenses**

Deductions/disregards will be made from an individual's assessed income for the following allowable expenses:

- Housing Costs - Rent/Mortgage Payments
- Discretionary Housing Payment
- Council Tax/Water Rates
- Mortgage Insurance
- Property Insurance – Buildings
- DWP Personal Allowance
- DWP Pensioner Premium

- DWP Disability Premium
- Employment Support Allowance – Work Related Activity or Support Component
- Attendance Allowance – Night Element (if applicable)
- DLA Care Component – Night Element (if applicable)
- Personal Independence Payment – enhanced daily living element (if applicable)
- DLA/PIP Mobility Element (if applicable)
- War Widows Pension (Pre 1973)
- % of Income from Lodgers
- % of Earnings
- % of Student Loan
- % of Regular Charitable Payments
- Couples Income Adjustment

## 7.5. Personal Allowance

To ensure an individual is not forced below recognised subsistence levels, Health & Social Care Moray applies an income protection threshold. This threshold is set at a person's basic DWP benefit entitlement (Personal Allowance - such as Income Support/Pension Guarantee Credit) plus a buffer of 25% (rounded up, where applicable, in favour of the service user). This means that a person will retain **at least** (there may also be other income disregards as above) their weekly DWP personal allowance (i.e. Pension Guarantee Credit if over pension age) plus a buffer of 25% over and above that amount.

For example;

Ms. L who is over pension age is assessed as having eligible care and support needs and receives free personal care at home. She requires some other support at home which can be charged for by Health & Social Care Moray. The

financial assessment identifies that Ms. L has savings under £10,000 (so no tariff income is applied on her capital) and income of £272 per week made up of a State Pension, Pension Guarantee Credit and Attendance Allowance. Ms. L has to keep at least her Pension Guarantee Credit (£177.10 for a single person) plus the 25% buffer which comes to £222 (rounded up in favour of the service user). Ms. L therefore appears to have £50 available for a contribution to her support costs (individual budget contribution). However Health & Social Care Moray policy still applies a taper so that only 70% of the £50 available income (after other disregards have been applied) will be used for contributions to the cost of the individual budget. Therefore Ms. L retains an additional £15 from that £50 meaning in total she retains £237 of her weekly income and contributes £35 towards the cost of her chargeable individual budget.

## 7.6. Couples

The income and capital of both members of a couple will be considered as follows when assessing for a contribution towards Non Personal Care:

- a) Where the member of the couple receiving support has personal income and capital below the level of benefit entitlement to that of a single person, they will be assessed as if they were in receipt of single person benefits
- b) If the person receiving support has personal income and capital above the level of benefit entitlement to that of a single person, their actual income will be taken into account

## HOWEVER

If the calculation at b) leaves the member of the couple not requiring support with personal income below the level of benefit they would be entitled to receive as a single person, an adjustment will be made to account for the shortfall.

- c) If the couple are in receipt of joint benefits, all income will be taken into account and couple disregards applied.

When assessing for a contribution towards Non Personal Care joint income and capital will be taken into account and couple disregards applied because both members of the couple may benefit from this type of support (i.e. domestic-type support).

### **7.7. The final determination of the individual's contribution – The Taper**

To determine the maximum amount an individual is financially assessed as being able to contribute, as described earlier, a Taper of 70% (no change from the previous year) is applied to the service user's available/excess income above their personal allowance (see the previous information/examples).

This is consistent with the Charging Guidance from CoSLA which suggests that each Authority should apply a final taper (from 0% to 100%) to available income so that the service user may retain more of their income and not contribute all of their available/excess weekly income after the other disregards have applied. This is consistent with maximising the service user's ability to live independently and with dignity. Setting the taper at less than 100% enables the person to retain an additional amount above their personal allowance (plus 25%). This is consistent with maximising independent living and economic participation in the community for service users (as discussed in the COSLA Charging Guidance).

A service user who is able to contribute from their income will therefore be required to contribute to their individual budget 70% of the income assessed as being available (after their personal allowance and other disregards have been applied - see the above example in section 7.5).

The taper level is kept under review to account for other changes impacting on service user contributions/care costs (for example, the extension of free personal care to people under 65 who have eligible support needs, increases in or freezing of benefits by the DWP, introduction of, increases or freezes in the cost of support charged for at a **flat rate** (see below - additional to any contribution towards an Individual Budget) such as for the maintenance of community alarms, or stair lifts etc.) and balancing that with HSCM need to raise the income required to provide sustainable and quality services/support for all eligible service users in the local population. This balancing of contribution levels with raising income to provide services is consistent with the guidance from COSLA on charging for non-residential care and support.

**Please note:** as stated above there may be some **flat rate charges**, separate and additional to a contribution towards an Individual Budget under Self-directed Support (SDS) that **sit outside the Contributions Policy** (which is only concerned with the contribution towards an Individual Budget). It is important to evaluate the likely impact of the introduction of additional flat rate charges or increasing existing flat rate charges before implementing them as these are an additional cost to the service user above and beyond the assessed contribution to their SDS Individual Budget. It is only the financial assessment and assessed contribution (under this policy) to the service user's Individual Budget that is mindful of their weekly Minimum Income Guarantee/charging threshold (i.e. Pension Guarantee Credit plus 25% buffer for someone over pension age). As such, in line with the CoSLA charging guidance (contributions/charging should be human rights compatible, ensuring dignity, maximising independence and maximising economic participation in the community for service users) any additional flat rate charges that sit outside the contributions policy will be evaluated and kept under review to ensure the policy and overall charging/contributions system is compatible with these principles.

## 7.8 Deprivation of Capital

This is a term used to describe a situation where someone has deliberately transferred to another person or spent capital/savings to avoid costs associated with their care/support. There can be many reasons for transferring or spending capital/savings and not all of them would amount to deprivation of capital. The council needs to make a decision (if it appears during a financial assessment that there may have been a transfer or large spend of capital/savings) based on the circumstances of each case and factors could include; the health of the person when capital was spent or transferred, the timing of the transfer or spend (was it at a time when the person could have anticipated the need for care/support), what it was spent on (i.e. was it spent to meet support needs that could not be met by other means, or otherwise), the type of capital (the council should only consider questions of deprivation of capital when the person ceases to possess capital which would otherwise have been taken into account in a financial assessment), the method/nature of transfer (and whether it constitutes or otherwise ‘acceptable evidence of disposal/transfer’) etc.

In any case where it has been decided that a deliberate deprivation of capital has taken place, the council may treat the person as still having the actual capital that was transferred/disposed of or spent when completing the financial assessment (and calculating any contribution for care/support). The Charging Appeals and Complaints processes are still available in these circumstances.

## 8. Agreeing and paying the individual’s financial contribution

This relates to **service users** (unpaid carers will not have to contribute to the cost of support they are eligible for). Before arrangements are put in place for an individual budget to start, the individual will be asked to agree the level of the financial contribution they are being asked to make towards their chargeable individual budget.

### Introduction of the prepayment card for contributions from service users receiving Direct Payments only (Option 1 of SDS)

As stated previously, HSCM is implementing prepayment cards for service users who receive a Direct Payment (Option 1 of SDS) and who are not supported by one of HSCM's approved managed account payroll providers (and therefore not directly employing a Personal Assistant). In relation to the contribution from the service user, the card provider can support/facilitate the contribution being paid onto the card, and can also provide reports to the Self-directed Support team when accounts have been inactive, have no contingency, have excessive spend or the service user contribution is not paid in. This allows for any issues to be identified prior to the financial reviews of the accounts and can be addressed more quickly.

Where a managed account payroll provider is used, the contribution is to be made into the designated bank account. The payroll provider will notify the SDS team when a required contribution is not made, when accounts are inactive, have no contingency or have excessive spend.

If the service user does not agree their level of financial contribution to their weekly individual budget (whether they choose a Direct Payment (option 1 of SDS) or any of the other SDS Options)) they can ask for the financial assessment to be reviewed, explaining why they consider the original calculation is incorrect.

If they remain dissatisfied with the outcome they will be referred to Health & Social Care Moray's Community Care Charging Appeals Group in the first instance.

## **9. Appeals**

This relates to **service users** (unpaid carers will not be required to contribute towards the cost of support they are eligible for). The Charging Appeals Group will consider requests for additional disregards to be applied to the financial assessment (such as an

amount towards Disability-Related Expenses if someone accessing care support is also in receipt of a disability benefit such as Attendance Allowance or Personal Independence Payment and has extra expenses – a non-exhaustive list of examples is outlined in section 6.34 of the [CoSLA guidance](#) - directly attributable to their disability).

The individual or their representative will be invited to write to the Community Care Finance Officer outlining the additional costs/disregards they feel should be taken into account. As per COSLA Guidance HSCM applies local discretion on a case-by-case basis, taking into account personal circumstances, where such appeals are made.

Contributions towards the service user's individual budget once the care/support ends

The care and support could end for a number of reasons including; the service user moving into permanent residential care (care home), the death of the service user or the service user simply deciding to end the care and support.

Previously, this has led to situations where a contribution has continued, in some cases, after the care and support has ended. For example, if a large amount of the budget was spent on an expensive item/service to meet eligible care and support needs at the start of the financial year only for the care and support to end soon after (therefore the service user having contributed less at that point than they should have done as a percentage of the total amount spent from their Individual Budget to that point). This could be complicated and could seem unreasonable to service users leading to complaints or appeals. That was because although the financial assessment for a possible service user contribution was generally worked out using their weekly income, the individual budget was traditionally worked out as the amount required in one year or an annual budget divided generally into weekly amounts, to meet that service users eligible care and support needs.



HSCM will no longer (once current service user's annual budget cycles have ended), seek contributions towards the cost of an individual budget after the care and support has ended. To ensure this we have reverted back from an annual budget to the individual budget being a weekly budget which may include our contribution and a contribution from the service user's available/excess weekly income (where the support is chargeable and not free and where a financial assessment has concluded the service user is able to contribute).

## 10. Permanent Residential Care

There is a separate Guidance ([Charging for Residential Accommodation Guide – CRAG](#)) on paying to the cost of residential care. There is also information on Age Scotland's [Care Home Funding](#) Factsheet.

## 11. Equalities Statement

Health & Social Care Moray endeavours not to negatively discriminate on any grounds. Health & Social Care Moray advocates and is committed to equalities and recognises its responsibilities in this regard. Health & Social Care Moray will ensure the fair treatment of all individuals and where any individual feels that they have been unfairly discriminated against, that individual shall have recourse against Health & Social Care Moray in line with the grievance and harassment procedures.

In relation to equality of information provision, Health & Social Care Moray will ensure that all communications with individuals are in plain English, and shall publish all information and documentation in a variety of formats and languages. Where required, Health & Social Care Moray will use the services of its translation team to enable effective communication between us and the individual. Where an individual has sight, hearing or other difficulties, we will arrange for information to be provided in the most appropriate format to meet that individual's needs. We will also ensure that there are no physical barriers that could prohibit face to face communications.

If there is a complaint about discrimination, click on the link below for the reporting form and procedure: <http://www.moray.gov.uk/downloads/file62366.pdf>.

## 12. Data Protection

Data Protection Legislation, including the Data Protection Act 2018 (DPA) and the General Data protection Regulations (GDPR), governs the way information is obtained, recorded, stored, used and destroyed. Data protection is the responsibility of everyone and data protection legislation gives individuals rights to know how personal information can be collected, used and stored. Health & Social Care Moray complies with all the requirements of the legislation and ensures that personal data is processed lawfully, fairly and in a transparent manner; that it is used for the purpose it was intended and that only relevant information is used. Health & Social Care Moray will ensure that information held is accurate, and where necessary kept up to date, and, that appropriate measures are taken that would prevent the unauthorised or unlawful use of any personal information.

Any sharing of data between NHS Grampian and the Health & Social Care Moray is carried out in accordance with the Information Sharing Protocols between the two bodies. Refer to the Single Shared Assessment page of the intranet, particularly the Practitioner Leaflet v5.0 and the Information Sharing without Consent Protocol.

The Council's Data Protection Officer is Alison Morris, Records and Heritage Manager. For more information please see the Council's DPA Guide: [http://intranet.moray.gov.uk/Information\\_management/information\\_security.htm](http://intranet.moray.gov.uk/Information_management/information_security.htm) or [http://www.moray.gov.uk/moray\\_standard/page\\_119859.html](http://www.moray.gov.uk/moray_standard/page_119859.html) for Subject Access Request information.

### 13. Freedom of Information

The purpose of the Freedom of Information (Scotland) Act 2002 is to “provide a right of access by the public to information held by public authorities”. In terms of section 1 of the Act, the general entitlement is that a “person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority”. Information that a person is entitled to is the information held by the public authority at the time that the request is made. This is a complex area of the law that can overlap with the Data Protection Act and other legislation.

Please see the following link for guidance to the law in Scotland;

<http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Briefings.aspx>

All FOI requests to Health & Social Care Moray should be directed to the FOI team via [info@moray.gov.uk](mailto:info@moray.gov.uk). More information is available: [http://www.moray.gov.uk/moray\\_standard/page\\_53728.html](http://www.moray.gov.uk/moray_standard/page_53728.html).

### 14. Human Rights Act

In October 2007 the three equalities commissions: Racial Equality, Disability Rights and Equal Opportunities were merged to form one Commission: **The Equality & Human Rights Commission (Scotland)**

<https://www.equalityhumanrights.com/en/commission-scotland>.

The main aspects covered in the **Human Rights Act 1998** are:

Right to life; protection from torture; protection from slavery and forced labour; right to liberty and security; right to a fair trial; no punishment without law; right to respect for private and family life; freedom of thought, belief and religion; freedom of expression; freedom of assembly and association; right to marry; protection from discrimination; protection of property; right to education and right to free elections.

The Human Rights Act can overlap with many areas of Health & Social Care Moray's policies, any doubts or queries regarding its effect or implications must be referred to the Legal Services Manager (Litigation and Licensing).

## 15. Review and Feedback

An Equality & Diversity Impact Assessment has been carried out for this Policy.

This policy document has been reviewed and updated for 2020/21 and will be reviewed thereafter each year and in line with CoSLA/DWP guidance. Specific costs for support documentation such as booklets/leaflets on fees and entitlements will be reviewed annually and changed as appropriate.

Feedback on this policy from service-users, unpaid carers, the public, nominated Government officials and Health & Social Care Moray staff will be considered at review and amendments, enhancements made to the policy as appropriate.

## 16. Links to other policies, procedures, guidance and legislation

This policy is linked to;

- [CoSLA guidance on charging for non-residential care services 2021/22](#)
- Social Work (Scotland) Act 1968 (Section 87)  
<http://www.legislation.gov.uk/ukpga/1968/49/section/87>
- Community Care and Health (Scotland) Act 2002 (Part 1 Community Care)  
<http://www.legislation.gov.uk/asp/2002/5/part/1>
- Social Care (Self-Directed Support) (Scotland) Act 2013  
<http://www.legislation.gov.uk/asp/2013/1/contents/enacted>
- [CCD3/2018](#) – extension of Free Personal Care to under 65's
- [Carers \(Scotland\) Act 2016 and Statutory Guidance](#)
- [Eligibility Criteria Policy](#)

- [Self-Directed Support \(SDS\) Policy](#)
- [Self-directed Support \(SDS\) Procedure](#)
- [Hospital Discharge Policy](#)
- [The Moray \(Partners in Care\) 3 tier policy](#)
- Reablement Policy

## 17. Glossary of terms

**Self-Directed Support (SDS)** – SDS is the support a person chooses; purchases or arranges to meet their agreed health and social care need and achieve the outcomes most important to them. There are 4 options for SDS including a Direct Payment to the service user to purchase and arrange their own care and support (with support to do so if required).

**Contribution** – this is the amount of weekly income the person is assessed as being able to pay towards the care and support they need as part of their SDS Individual Budget.

**Non-residential services** – this is care and support that is provided outside of permanent residential care (i.e. a care home) and can include care at home and in supported or sheltered housing.

**Individual budget** – this is the amount of money Health & Social Care Moray has worked out it will cost to meet the person's eligible care and support needs and personal outcomes.

**Financial assessment** – this is the process of looking at the capital (including savings and investments) and weekly income the person has, to work out how much they can contribute towards the cost of the individual budget to meet their eligible care and support needs and outcomes they have identified as important to them.

**Capital** – this is the term used to describe assets such as savings, investments and property.

**Tariff income** – this is the term used to describe the income that the council assumes someone to have from their capital such as savings if the value is over £6000 (if you are under pension age) or £10,000 (if you are above pension age). This is added to the

person's actual weekly income from benefits, state and occupational pensions etc. to work out the total income someone has each week for the financial assessment.

**Personal allowance** – this is the amount of money the Government has set as the weekly minimum that someone should be entitled to have depending on their circumstances (for example, £163.30 for a single person over pension age who is entitled to Pension Guarantee Credit).

**Buffer/income buffer** – this is the additional income above the personal allowance that the person is entitled to retain (as a minimum) each week to promote and maximise independent living.

**Disability-related expenses** – this is the term to describe the additional costs that someone has due to the disability they have. This could be the cost of extra heating or laundry or a special diet related to the disability. A disregard towards such expenses can increase the amount of income the person may be able to retain above the personal allowance and income buffer. This also promotes/maximises independent living.

**Disability Premium** – an additional amount paid on top of certain benefits such as Income Support and Income-based Jobseekers Allowance if someone is registered blind and/or entitled to, for example, Disability Living Allowance or Personal Independence Payment. For further information see <https://www.gov.uk/disability-premiums-income-support/overview>.

**Severe Disability Premium** – an additional amount paid on top of certain benefits (such as Pension Guarantee Credit) depending on the person's circumstances and on the benefits they are entitled to (including Attendance Allowance, middle or high rate care component Disability Living Allowance or standard or enhanced rate daily living component of Personal Independence Payment. For further information see <https://www.gov.uk/disability-premiums-income-support/eligibility>.

**Compulsory Treatment Order (CTO)** – an order under the Mental Health (Care & Treatment) (Scotland) Act 2003. It authorises the detention in hospital and/or treatment of a person for a period of six months. The CTO will set out a number of conditions that the person will need to comply with. These conditions will depend on whether the

person has to stay in hospital or is in the community. Only the Mental Health Tribunal may grant one in specific circumstances.

**Resource Allocation System (RAS)** – this is the tool/method Health & Social Care Moray uses to work out how much is needed to meet the person's required care and support outcomes. Points are allocated according to the amount/type of support the person needs and the points are then turned into an amount of money (the indicative budget) that is required to achieve those care and support outcomes.

**Reablement** – this is the term used to describe a time-limited (up to 12 weeks) process of supporting someone to carry out their own daily living tasks so that the person can retain or regain independent living skills to maximise their long-term independence and/or delay or reduce care needs.

**Moray Partners in Care (3 tier) policy** – this is the policy for Moray in relation to the delivery of integrated health and social care services which aims to support better outcomes for service users, patients and unpaid carers. Tier 1 is 'help to help you' (including information and advice) with the focus on supporting people to prevent, reduce and delay their care and support needs. Tier 2 is 'help when you need it' (immediate help in a crisis and re-ablement support to help maximise independence and reduce or delay care needs). Tier 3 is 'ongoing support for those who need it' (for people with ongoing eligible care and support needs and can include Self-Directed Support).

## 18 Appendices

### Appendix 1

Links to the;

- Financial Assessment Completion Guidance
- Financial Assessment Form
- Non-Residential Care Booklet

These appendices will be linked to once the up-to-date versions are available