

DOMICILIARY CHARGING POLICY

ISSUE DATE: 22 OCTOBER 2007

REVIEW DATE: APRIL 2008

KENT ADULT SOCIAL SERVICES

DOMICILIARY CHARGING POLICY

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1. INTRODUCTION

Kent County Council, like the overwhelming majority of local authorities, charges for the provision of domiciliary care (i.e. care provided in the service user's own home).

The legal powers required to charge for domiciliary services are contained within Section 17 of the Health & Adult Social Services and Social Security Adjudications Act 1983 (HASSASSAA). This gives local authorities the discretionary power to charge, but unlike with residential care, does not make it a mandatory duty to charge.

In addition to the above Act, the Department of Health issued statutory guidance in 2001 on how charging policies should be carried out. Details of this can be found in Local Authority Circular LAC(2001)32.

This guidance had to be implemented by April 2003 and in particular required the following:

- Capital limits, where they applied, should be at minimum in line with those for residential care. They could be more generous, but not less
- Service users' incomes must be protected to at least the level of basic Income Support /Pension Credit plus 25% (the "Protected Income Level")
- Earnings from paid must be completely disregarded
- Disability benefits can be taken into account but if they are, there should be provision to take account of a service user's disability-related expenditure.
- All service users should have their benefits maximised at the same time as the charging assessment is carried out.

KCC implemented these requirements by 2003 but did this within the framework of the old 4-band structure. It was then decided, from 10 April 2006, to remove the bands and introduce a revised charging policy more closely related to a service user's income. Further changes were made from 22 October 2007. In brief these are:

- 85% of available income will be used to work out a person's charge
- actual cost of services will be used to work what a person should pay
- there will be a £15 per week cap on any increase for all service users
- the cap will be in place for up to three years (up to April 2001) if it applies and
- the £20 per week standard disability related assessment allowed for everyone will be retained.

2. WHY IS BENEFIT MAXIMISATION SO IMPORTANT?

Over £1 billion of Social Security benefits go unclaimed every year. We need to ensure that our service users are not missing out. The take up of welfare benefits is very important for three main reasons:

- To maximise the income of our service users, which has a direct effect upon their living standards, dependency levels and participation in society.
- To maximise income for the authority, Adult Social Services needs the contributions that it's service users make, to ensure we are able to continue to help as many people as possible with the limited resources that are available to us.
- The take up of Income Support, Pension Credit and Attendance Allowance is monitored by Central Government, who use this information to inform the Formula Spending Share (FSS). The FSS is used to calculate the level of funding a local authority receives from Central Government.

When financially assessing a service user, benefit issues could go unnoticed. Therefore we need to check that service users have all the benefits that they are entitled to. When you have completed financially assessing a service user you will need to complete a **Benefits Checklist**. The benefits checklist indicates whether a service user may be entitled to claim a specific benefit.

If you are assisting a service user with benefit issues, you will need to obtain their permission to allow the DWP to share their claim details with you. Please use the customer consent form in the CM10 for this purpose.

The County Benefits Service is a resource that is available to help with benefit issues. There is a **Benefits Helpline** to provide advice on one off benefits queries, every week day **9.00-1pm call 01622 221900**. **On no account should this number be given to service users or the public.** There are also 11 Area Benefit Officers (ABOs) who provide a comprehensive service, providing advice, information and support to staff about individual claims (including appeal representation) or enquiries and training for staff regarding a range of welfare benefits.

3. INFORMATION TO HELP COMPLETE THE CM10

3.1 Front Sheet

Please fill in fully all sections of the front sheet.

3.1.1 Charge Details

The cost of the service will be calculated using the information on SWIFT. It is important that all changes are recorded on SWIFT as the service user's charge will be based on this information.

Please indicate the number of hours (to nearest ½ hour) in each of the boxes underneath the days of the week. This information is needed because it is used to calculate whether adjustments to the charge need to be made if a person receives less than their usual service in any week. Refer to section 4.10 There will be some circumstances when you will not be able to do this. For example sometimes a service user receives a set number of hours per week but these are delivered on varying days. In these cases just record the total number of hours. If the total number of hours varies from week to week average the number over an appropriate period.

3.1.2 Couples

Since the introduction of the Civil Partnership Act on 5 December 2005, the definition of couples has been widened to include same-sex couples living together as a couple (regardless of whether they have a registered Civil Partnership).

3.1.3 Payment Method

Please encourage, where possible, the use of Direct Debit as the payment method. This is much cheaper for KCC to administer and is less time consuming for the service user and reduces the possibility of debts accruing.

3.2 Assessing Capital

Step 1 is to assess the service user's capital.

Include all sources of capital held solely by the service user. Any capital jointly owned should be divided in 2 unless there is strong evidence why this should not happen.

Generally speaking you should include as capital all capital assets that can be realised e.g.

- Money in bank, building society, post office
- Premium bonds
- National Savings
- Stocks and shares (valued according to the latest FT index – Finance colleagues will assist)
- Investment bonds that can be realised
- ISA, etc

If an asset is taken into account as capital then any **actual income** from that capital asset should be ignored. Instead the **tariff income** rules should apply (see later).

Capital that has been used to purchase Income Plans such as **annuities** which cannot be realised **should not** be taken into account as capital. Instead the actual income generated from them should be taken into account as income.

3.2.1 Capital to be disregarded

- The service user's own home
- The value of a "second home" or property elsewhere. This may, however, generate a rental **income** which can be counted (this should **not** be seen as earnings which are disregarded)
- The surrender value of an annuity or life assurance/endowment policy.
- Personal possessions, antiques etc.
- Funds held in trust for vaccine damage, criminal, personal injuries etc.
- Arrears of benefits. These should, however, be taken into account as income in a retrospective charging assessment (see later).
- Capital of any partner (if capital is held in joint names it should be divided).

3.3 Deprivation of Capital Sums

Deprivation is a serious issue facing the Directorate. More and more people are consulting legal advisers about how and when to give away capital and property before seeking our services. The Directorate has a clear and firm line on this issue, we will use the legal powers we have available in such cases. These legal powers, however, do **not** extend to domiciliary charging, only when assets are being "held" by a third party and are still **technically available** to the service user may we still count them as **belonging** to the service user.

Although the deprivation powers are NOT applicable for domiciliary charging purposes, it is important to record details of all current assets **and any instances where assets have recently been given away** as this information may be useful for a future **residential** services assessment.

If there is any doubt over what capital to take into account refer to the Specialist Finance Teams or Officer, Area Benefit Officer.

3.4 Service Users with Capital in Excess of £21,500

Service users with **MORE** than £21,500 in capital are required to pay the full cost of their care package. Service users who have the capacity should be encouraged to arrange their services directly. It should **not**, however, be automatic that these service users purchase their care directly. Having capital over £21,500 **MUST NOT** be used as a means of removing service users from active case loads or screening people out of the service. All available options should be carefully discussed with the service user, their carer and/or family

as appropriate. Adult Protection issues should be considered. If a service user decides to purchase their care directly from a private provider, it must be explained that KCC will not be involved in the day to day management of that care or financial matters concerned with the care package.

3.5 Service Users with capital very close to £21,500

At the point of assessment or review, if a service user has capital or assets only marginally over £21,500 they may choose to purchase their services through us or privately.

Either way, given the cost of domiciliary care their savings are likely to come down to £21,500 rapidly. **You should:**

If they choose to purchase their care privately, explain that if and when they return to us for assistance with the funding of their care package they would be re-assessed using our eligibility criteria and that may mean we would not fund a privately purchased care package fully.

If they purchase their care through us, put a ‘flag’ on the assessment and review in a few months.

3.6 Assessing Income

All income (except disregarded income) paid to the service user should be included in the assessment. The CM10 shows the main forms of income to be included and those to be disregarded. In particular note the following:

- Pension Credit – only include the Guarantee Credit, not the Savings Credit.
- AA, DLA Care (and equivalents) should only be taken into account up to £43.15 (lower rate of AA)
- DLA Mobility should be disregarded.
- All earnings should be disregarded including earnings from “permitted” (therapeutic) work.
- Working Tax Credit should be disregarded as this tops up low wages.
- All income paid in respect of children should be disregarded – Child Benefit, Child Tax Credit, amounts paid with Income Support etc for Children (from April 2004 these amounts are being transferred to Child Tax Credit but this process has not been completed so some people will still be receiving them).
- Amounts in Income Support or Pension Credit paid in respect of mortgage interest should be disregarded.
- War Pensions and War Widows Pensions should be disregarded except for the following elements:- Constant Attendance Allowance (CAA) – Exceptionally Severe Disablement Allowance (ESDA). These elements are similar to Attendance Allowance/DLA Care and are paid instead of them – they should therefore be taken into account – to the value of lower rate A.A (currently £43.15).

- Income from tenants living in a second home should be fully taken into account. Income from sub-tenants in service user’s own home should also be fully taken into account.
- Charitable payments should have a £20 disregard applied to them.
- Private insurance towards the cost of domiciliary services – these may be provided to supplement the services arranged by KCC or may meet part or all of the charge levied by us. These payments should be disregarded in the assessment of income.
- Independent Living Fund (ILF) payments should be totally disregarded.
- Amounts sometimes paid with Incapacity Benefit, Retirement Pension etc for dependent spouses should be disregarded.

3.6.1 Income of Couples

The initial charging assessment should only take into account the income of the individual service user and not that of their partner. This is called a “half-couple” assessment. Retirement Pensions, Occupational Pensions etc are usually paid in respect of one person only and so should be attributed to whoever’s name they are in. Certain benefits, however, are paid in respect of the couple and should therefore be divided in two, e.g. Pension Credit and Income Support.

Example Mr & Mrs Smith

Mr Smith	receives	£87.30	State Retirement Pension
Mrs Smith	receives	£52.30	SRP + AA of £43.15

In addition they receive Pension Credit as a couple, paid in this example to Mr Smith. Pension Credit received is £42.10. This should be divided in two giving each person £21.05. So if Mrs Smith was the service user her income would be

52.30	SRP
21.05	half of PC
<u>43.15</u>	AA
<u>116.50</u>	

At the end of the initial assessment if the partner is willing to disclose their finances a couples assessment should be carried out (see section 3.12.2)

3.6.2 What if the Pension Credit/Income Support includes amounts for a carer?

The Carers Premium/Addition **must** be deducted from the Income Support or Pension Credit before dividing it in two.

3.6.3 Failure to apply for benefits

We only take into account the benefits a person actually receives and cannot force them to apply for benefits such as AA, DLA, Pension Credit, Income Support etc. It should, however, be explained that they will usually be better off if they do, even after charging.

3.7 Verification

Verification is an important part of the financial assessment when working out a service user's charge. You must at some stage verify a service user's Income and /or Capital. The service user simply stating that they are in receipt of certain benefits and/or own capital is not sufficient.

3.8 Protected Income Level

This is the minimum income the Government wants service users to be left with after KCC has charged them for domiciliary care. If the charge for domiciliary care would reduce a service user's income below this level, we cannot make this charge. The charge would have to be reduced accordingly. At present, we only need to apply this test if a service user has less than £21,500 in capital. However, it has to be applied whether or not they receive Income Support or Pension Credit.

How Protected Income Level is worked out

This is done by taking the Income Support 'Applicable Amount'/Pension Credit Guarantee Level for an individual (excluding amounts and premiums for children, carers, the Severe Disability Premium and housing costs). 25% is then added on to this figure. You do not need to work out the Protected Income Levels as they are listed on the CM10s and need to be put in Box E on the CM10 (see overleaf)

Single person aged 60 plus

Minimum Guarantee Credit £119.05 + 25% = **£148.81**

Single person under 60

Personal allowance of £59.15 + Disability Premium of £25.25 + Enhanced Disability Premium of £12.30 = £96.70 plus 25% = **£120.88**

Note the Enhanced Disability Premium is added whether in reality the Service User is entitled to it or not.

Couples – at least one member 60 plus

Minimum Guarantee Credit for a couple £181.70 divided by two = £90.85 plus 25% = **£113.56**

Couples – both members under 60

Personal allowance for a couple of £92.80 + Disability Premium for a couple £36.00 plus Enhanced Disability Premium for a couple £17.75 = £146.55 divided by two = £73.28 plus 25% = **£91.60.**

Note the Enhanced Disability Premium is included whether in reality the Service User is entitled to it or not.

See section 3.12.2 for the PILs for the couples assessment.

3.9 Working out the income available for charging

This is a fairly straightforward calculation. From the service user's total assessable income (Box C of the CM10) you should deduct the following:

- The appropriate Protected Income Level
- Any weekly loan repayment for OT adaptations (this does not include repayments on private loans)
- Any Supporting People charge paid by the Service User. This is not the cost of the Supporting People Service but the amount paid by the Service User. Nearly everyone will be exempt from this charge and not pay anything.
- Any rent paid (i.e. After Housing Benefit taken off)

NB – Any charges relating to Supporting People service are dealt with by the Supporting People Team

In most cases you need to verify rent paid. The only exceptions would be where a SU pays an amount to a relative they live with. In these cases accept the figure if it appears reasonable, and as long as you don't include an amount for food. It should also be a figure in proportion to the number of people in the household.

- Any Council Tax paid (i.e. after Council Tax Benefit taken off).
- Costs related to leasehold properties – e.g. service charges, ground rent (owner-occupied sheltered flats often come into this category)
- Any costs related to a mortgage (i.e. after any benefit paid for this has been taken off). Mortgage costs that can be allowed include:

interest on loans for home purchase and essential repairs/improvements; endowment premiums, buildings insurance (if a condition of the mortgage); Capital repayments

- Standard Disability Related Expenditure Disregard of £20. This should be given to every service user regardless of which benefits they are on.

Those service users who are in receipt of a disability benefit may opt for an individual assessment. See Section 5.

After all the above deductions you will be left with a figure that is income available for charging. You then need to work out 85% of this figure and insert it in Box F.

3.10 Working out the cost of services

This section needs to be filled in for all service users (including those with over £21,500 as it may affect the charge). The amount should be provided by Care Management or obtained from Swift.

If the service is provided on different days each week you will not be able to fill in which days service is received. Instead record the total number of hours received each week. If this also varies give an average figure worked out over an appropriate period.

3.11 What to do if Service User receives less than usual service

Service users who pay the full cost of their service should have their charge reduced for each half hour less service they receive in any week (Monday-Friday). Service users whose charge is based on 85% of their income should only see a reduction in their charge if the cost of their service falls below their usual charge. In this case their charge should reduce to the cost of their service.

Care Management are responsible for informing Finance of missed service in any one week (either using the Service Confirmation Sheet or by email). Finance will then work out whether an adjustment to the charge needs to be made.

3.12 Determining the charge

3.12.1 The charge for single people and one of a couple (half-couple): The service user will be charged either 85% of the income they have available for charging (Box F) or the cost of their service (Box G) whichever is the lesser figure.

3.12.2 The Couples Assessment: If the service user's partner is willing to disclose their income and capital a joint assessment can be carried out to determine whether they would be better off assessed as a couple.

Follow the step 7 of the CM10 to see if the service user's charge can be reduced. A service user is most likely to benefit from this if their spouse has a much lower income than they have.

4. DISABILITY RELATED EXPENDITURE ASSESSMENT

Service users with less than £21,500 are already allowed a standard disability-related disregard of £20. If a service user who is on a disability benefit believes they have higher disability related expenditure they can request an individual assessment. If the figure arrived at is higher than the £20 standard disregard then use this figure instead. If lower use the £20 standard figure.

Disability-Related expenditure is expenditure incurred as a **direct result** of a person's disability or illness. It is expenditure **over and above** what a non-disabled person of the same age would spend.

Disability benefits for the above purpose are:

- Attendance Allowance
- DLA Care Component (middle or higher rates only)
- Constant Attendance Allowance
- Exceptionally Severe Disablement Allowance.

The additional expenditure should be a direct result of an issue identified in the Care Plan.

The FACS criteria should also be applied to determine if the service user was not granted additional expenditure would this place service user at risk.

When undertaking a Disability Related Expenditure Assessment it should be explained to the service user that they will need to provide comprehensive information and documentation to evidence their additional expenditure.

It is important to note that unless the assessment results in a figure higher than the standard £20 disregard, the charge will **not** be reduced.

DISABILITY RELATED EXPENDITURE ASSESSMENT FORM – CM10 (i)

Title:	Name:	KCC ID:	
Care Manager:			
Date Completed			
Please list below all items of additional expenditure linked to individual’s disability/health problem. These items should be related to the care plan.			
Item	Average/Threshold (if applicable)	Client’s Expenditure	Difference

Add the extra expenditure for each item to find the total DREA for the service user. Then put to the total figure in the appropriate place in Step 4 of the CM10

Disability Related Expenditure – some helpful guidelines from the National Association of Financial Assessment Officers

NB – updated figures for 2007 are not yet available

Heating Allowances

2006/7 Figures

	Standard	N East/ EMidlands	N.West/ W/Midlands
Single person - Flat/Terrace	£567	£584	£607
Couple – Flat/Terrace	£747	£769	£799
Single person – Semi Detached	£602	£621	£644
Couples – Semi Detached	£792	£815	£846
Single – Detached	£731	£753	£783
Couples – Detached	£964	£981	£1020

Only allow expenditure that is over and above these figures and only if it is directly related to the person's disability or health problem (not for example because there are extra people in the household).

Other Costs of Disability

The following are recommended allowances for possible identified items and examples of reasonable evidence requirements prepared by NAFAO.

ITEM	AMOUNT	EVIDENCE
Community Alarm System	Actual cost unless included in Housing Benefit or Supporting People Grant	Bills from provider
Privately arranged care	Actual cost if Social Worker confirms requirement as part of the Care Plan and Council supported care is reduced accordingly	Signed receipts for at least 4 weeks using a proper receipt book
Private Domestic help	Actual cost if Social Worker confirms requirement as part of the Care Plan and Council supported care is reduced accordingly	As privately arranged care

Laundry/Washing Powder	£2.74 per week	Care Plan will have identified an incontinence problem. Identify more than 4 loads per week
Dietary	Discretionary as special dietary needs may not be more expensive than normal	Details of special purchases
Gardening	Discretionary based on individual costs of garden maintenance	As privately arranged care
Wheelchair	£2.85 per week manual £6.94 per week powered	Evidence of purchase. No allowance if equipment provided free of charge
Powered bed	Actual cost divided by 500 (10 yr life) up to a maximum of £3.18 per week	Evidence of purchase if available
Turning bed	Actual cost divided by 500 up to a maximum of £5.54 per week	Evidence of purchase if available
Powered reclining chair	Actual cost divided by 500 up to a maximum of £2.52 per week	Evidence of purchase if available
Stair-lift	Actual cost divided by 500 up to a maximum of £4.47 per week	Evidence of purchase without DFG input
Hoist	Actual cost divided by 500 up to a maximum of £2.20 per week	Evidence of purchase without DFG input

5. EXCEPTIONAL DISCRETIONARY DISREGARDS

In addition to disability related expenditure a service user may have other exceptional expenditure, which makes it difficult for them to pay the assessed charge. For example – debt repayments, cost of transport, expenses not fully covered by the disability related expenditure disregard.

Where you have used your discretion and identified an Exceptional Discretionary Disregard you will need to:

- Record the circumstances on the CM19 form
- Seek approval from the appropriate delegated authority before completing the calculation. These are

Up to £50.00 Team Leaders
£50.01 - £75.00 District Managers
£75.01 and above Heads of Adult Services

6. RETROSPECTIVE CHARGING FOR DOMICILIARY CARE SERVICES

When a domiciliary care service is in place there are two situations when the need for retrospective charging may arise.

6.1 Following benefits maximisations the client's income is increased

Typically this involves the receipt of Attendance Allowance or DLA Care but it could involve any benefit including Income Support and Pension Credit. This will be backdated to the date it was applied for and logically so should an increased charge if this applies.

Example to illustrate benefit maximisation and retrospective charging

1 January - domiciliary care packages starts; service user is assessed as being nil charge because of their income - they are not on Attendance Allowance. On same day an application is logged with DWP for AA (they send out forms and as long as returned within 6 weeks, the award will run from 1 January).

7 April – service user informed that awarded AA which she starts being paid. She also receives a cheque for arrears of AA going back to 1 January. She may now have a charge as her income is higher. This should be backdated to 1 January.

In order for the above policy to work service users must be informed in writing that this will happen and what their new charge will be if/when their benefit is awarded.

6.2 A reduction in charge

If the Service User is assessed as needing a reduction in their charge and this should have applied from an earlier date, then the reduction will be backdated to the date of the change.

7. CHARGING FOR INTERMEDIATE CARE SERVICES

According to the Local Authority Circular (2001)(1) Intermediate Care Services should be regarded as describing services that meet **all** of the following criteria:

- a. are targeted at people who would otherwise face unnecessarily prolonged hospital stays or inappropriate admission to acute in-patient care, long term residential care, or continuing NHS in-patient care.
- b. are provided on the basis of a comprehensive assessment, resulting in a structured individual care plan that involves active therapy, treatment or opportunity for recovery.
- c. have planned outcome of maximising independence and typically enabling patient/users to resume living at home.
- d. are time-limited, normally no longer than six weeks and frequently as little as 1-2 weeks or less; and
- e. involve cross-professional working, with a single assessment framework, single professional records and shared protocols.

Therefore any services which form part of a domiciliary care package must be provided free of charge where they are:-

- a. an integral part of time-limited intermediate care package, lasting up to six weeks or exceptionally, a slightly longer period following review.
- b. distinct from existing home care support being arranged for the individual (see above criteria)

N.B.

1. Intermediate Care services are time-limited and usually last no longer than 6 weeks, although in exceptional circumstances the period of stay may have to be briefly extended. Exceptional extensions beyond six weeks should be subject to a full re-assessment and should be authorised by line managers.
2. Service users in this category should still have their benefits maximised

8. OPTIONAL EXTRAS

Some service users may wish to purchase services in addition to their care packages e.g. extra time to polish brasses, shine windows etc. This additional help may well be purchased from the same agency and may well be provided by the same home carer who visits for Adult Social Services– this is often at the customer's express wish.

In these cases it is important to give the service user something in writing that states clearly what is provided by KCC at the subsidised rate and what is **purchased PRIVATELY AT FULL COST**. It should also state that service arranged privately will not be invoiced or paid through KCC COLLECT. The

PRIVATE element will **NOT** appear anywhere on the **CM10** and will **NOT** be included in the calculation of the charge for domiciliary services.

9. VOLUNTARY CONTRIBUTIONS

A small number of service users insist, on principle, on paying more than the assessed charge, perhaps even **as a condition of accepting services**.

It remains the case to allow voluntary contributions in excess of the assessed charge in these instances. Such agreements should be confirmed in writing with an explanation of the voluntary nature of the additional contribution and a reminder of the opportunity for the service user to request reassessment and review the arrangement at any time.