



Financial Assessment Appeals Process

Oldham Council

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This policy has been developed by adult social care to enable a transparent approach to our appeals process for care and support charges. If you would like to speak to someone the process you can contact the Income and Assessment Team on 0161 770 6877 or email fairer.charging@oldham.gov.uk

1 Introduction

- 1.1 Oldham Council's *Review, Appeals and Complaints* procedure exists to protect the rights of all persons by encouraging a fair and open resolution of individual issues.
- 1.2 This process provides a safeguard to those people who have been assessed to pay a charge but cannot reasonably afford to pay the assessed charge (or part of it) or where the person feels that the charge has been incorrectly assessed.
- 1.3 Under the Care and Support (Charging and Assessment of Resources) Regulations 2014 a person has the right to ask the council to review their charge at any time if they receive a service from the council, for which they are being charged and they believe their charge is too much.
- 1.4 The person can request a review, and if they can demonstrate that their means are insufficient for them to reasonably pay the assessed charge the Council may reduce the amount of the charge accordingly.
- 1.5 In some case the Council may waive the charge. However, it is for the person, with help if necessary from an adviser, friend or advocate to demonstrate to the Council that their means are insufficient to reasonably meet their assessed charge.
- 1.6 This policy sets out the Council's approach to appeals for financial assessments for adult social care.
- 1.7 The policy applies equally to a person receiving care and support either at home, in a community based setting or within a care home.

2 Legal context

- 2.1 The Care Act provides a single legal framework for charging for care and support under sections 14 and 17. It enables the Council to decide whether or not to charge a person when it is arranging to meet a person's care and support needs or carers' support needs.
- 2.2 In all cases, the Council has the discretion to choose whether or not to charge under section 14 of the Care Act, following a person's needs assessment. In deciding to charge, the Care and Support (Charging and Assessment of Resources) regulations must be applied.
- 2.3 Section 14 of the Act (The power of local authorities to charge) provides that a charge may be applied for meeting needs under sections 18 to 20 of the Act.
- 2.4 The duty within section 17 of the Act to carry out a financial assessment applies where the Council thinks that if it were to meet an adults needs for

care and support, or a carers needs for support, it would charge the adult or carer under section 14(1) of the Act.

- 2.5 Regulation 3 (services to be provided free of charge) and Regulation 4 (Adults to whom services should be provided free of charge) identifies exemptions within the Charging and Assessment of Regulations where charges must not be made for services provided (see section 3).
- 2.6 Section 17 of the Act places a duty on local authorities to provide the person with a written record of their financial assessment.
- 2.7 The Care Act 2014 and subsequent regulations apply from 1 April 2015.
- 2.8 Any appeals relating to charges prior to 1 April 2015 will be considered in line with Fairer Charging for non-residential assessments and CRAG for residential assessments.

3 Oldham's appeal process

- 3.1 If a person is concerned about their charge, they should contact the Client Finance Team as soon as possible to resolve the issue.
- 3.2 If a person is dissatisfied with the outcome of their discussion, they can make a request to the council to investigate their circumstances and resolve the matter.
- 3.3 The council will consider reviews or appeals within 28 days of the date of charge notification and only accept at its discretion those received outside this timescale.
- 3.4 Where a person makes an appeal against their care and support charges there are 3 stages to the process.

Stage One: Informal review

- 3.5 Where the person, or a representative acting on their behalf, wishes to make an appeal they should first contact:

Client Finance
Level 4
Civic Centre
West Street
Oldham
OL1 1UL

Phone: 0161 770 1520 or email: courtofprotection@oldham.gov.uk

Stage Two: Formal Review

- 3.6 The person can request a review by completing a simple review form. This can be completed by post, telephone or email.
- 3.7 Once the form and information to support the review is received, the case will be reviewed within 20 working days. The review will be considered by a senior reviewing officer.
- 3.8 The Officer will review the information from the Financial Assessment, ensuring the information is accurate and complete.
- 3.9 As part of the process it will be established whether the person has additional factors or information which should be taken into consideration as part of the financial assessment process.
- 3.10 The Reviewing Officer will consider their findings and write to the person informing them of the outcome. Where the appeal is upheld the outcome will confirm any charges and the effective date the changes will be implemented.
- 3.11 The Reviewing Officer will advise the person of their right to access the next stage of the process if they are still dissatisfied with the outcome and explanation provided.

Stage Three: Charges review panel

- 3.12 If person is still unhappy after being reassessed they should contact the Head of Service for Business Management and Transformation within 14 days who will arrange for a Charges Review Panel to be convened.
- 3.13 All parties will be invited to give their views at the panel hearing.
- 3.14 The panel will be made up of the Head of Service for Business Management and Transformation, Team Manager for Client Finance and a social care professional.
- 3.15 The panel will make appropriate recommendations and the person will be informed of the outcome and any effect on their contribution towards the service charge within 14 days of the panel meeting.

4 Charging review panel

- 4.1 The Charging Review Panel will be convened where a person is still dissatisfied with their assessed contribution to their care and support charges after stage 1 and stage 2 of the appeals process have been fully concluded.

- 4.2 The purpose of the charging review panel is to consider evidence presented by the person, or their legal representative, which they feel should be taken into account as part of the financial assessment process.
- 4.3 The evidence presented to the panel will be considered in line with the current regulations and charging framework relating to adult social care.
- 4.4 The panel will consider whether other factors should be considered, these can include, but are not limited to:
 - 4.4.1 The person's individual circumstances, including hardship and other debts
 - 4.4.2 The person's social care need and wellbeing and how this may relate to any assessed contribution
 - 4.4.3 Whether the financial assessment took account of all permitted allowances
 - 4.4.3 Whether additional discretion could be applied to take account of other costs and expenses incurred by the person
 - 4.4.4 Whether some costs related to Disability Related Expenditure (DRE)
- 4.5 The Panel will consider the evidence presented to them alongside the current charging framework and local charging policies for adult social care.
- 4.6 The outcome of the Charging Appeals Panel will be confirmed in writing to the person or their representative within 14 days of the date of the panel meeting.
- 4.6 Where the appeal is either partially or fully upheld the outcome will confirm the details of any changes to a person's assessed contribution and the date from which this became payable.

5. Lack of mental capacity

- 5.1 For the Council to consider appeals and in cases where the person lacks capacity, they must have an attorney or deputy who can act on their behalf.
- 5.2 Where the person has an attorney for property and financial affairs or a deputy, the Council will work with the appointed person as part of the appeals process.
- 5.2 Where the person lacks capacity and does not have an attorney or deputy, then an application for a deputy is required to the Court of Protection.
- 5.3 Where there are family involved with the person, they may make the application to become a deputy but no appeals process can be heard until this is received.

- 5.4 Where there are no family who wish to act as deputy, or the family do not wish to take on this role, the Council's Client Finance Team will make the application.
- 5.5 Whilst either the family or the Council seek deputyship for the client, the service will place the appeal on hold. During this period, charges will continue to be invoiced and payable by the person.

6. Complaints and feedback

- 6.1 If the person is still dissatisfied with the outcome of the appeals process they can contact the Council's complaints team:

Complaints Team
Level 12
Civic Centre
West Street
Oldham
OL1 1UT

Tel: 0161 770 8122