

Interim Funding Arrangement Policy

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1.0 Summary

1.1 Middlesbrough Council has a duty of care to residents who move into residential accommodation through Statutory Guidance issued in 2014. Section 18 (4) of the Care Act 2014 confirms that a Local Authority must meet the adults needs for care and support if the adult lacks capacity to arrange this themselves, and there is no person authorised to do so under the Mental Capacity Act 2005 or otherwise in a position to do so on their behalf.

1.2 This policy sets out the legal and regulatory context, how the Interim Funding Arrangements will be administered until a Deferred Payment Agreement (DPA) can be considered or alternative funding arrangements put in place to pay for care. The Policy provides a fair and transparent framework consistent with the Council's wider fees and charges and debt management protocols.

1.3. Where there is conflict between Policy and legislation, the legislation will be applied.

2.0 Overview

2.1 The Care Act 2014 provides a legal framework for charging for care and support under Sections 14 and 17. The framework is intended to make charging fairer and more clearly understood by everyone.

2.2 The Statutory Guidance is in place to ensure that all charges are fair and service users incomes are not reduced below defined limits which would mean service users were unable to pay for their care.

2.3 In some situations, residents may be unable to pay the required amount for their care fees straight away. Should this occur, residents would routinely enter into a DPA which would mean that any fees due, would be payable at a later date (for example upon sale of the house, or capital becoming available to meet the costs).

2.4 If someone was unable to pay for their care straight away, and could not enter into a DPA as they did not have the mental capacity to do so, the Council has an obligation to pay for the cost of the care home under the Act.

2.5 In such situations, an Interim Funding Arrangement can be put in place in the short term. By doing so, this allows time for a person to become a legally appointed financial representative for the resident who is in care. Once this is in place, a DPA could then be agreed, however if the property has since been sold and the debt is paid in full then the interim arrangement will end.

2.6 Any applicants who enter into an Interim Funding Arrangement will be assessed and determined on a case-by-case basis.

3.0 Purpose

3.1 This is a new policy for Middlesbrough Council which clarifies the options open to residents who require residential care and are unable to pay for this straight away and are unable to enter into a DPA at this time. Currently special arrangements are in place for residents, care home fees are met through these arrangements. Following approval of the Policy the special arrangements will end, and the Policy will form the basis of how funding will be provided. There is no consequential impact on residents following the change from special arrangements to Policy.

3.2 The policy promotes wellbeing, social inclusion and supports the Council's vision to allow choice when deciding where to reside for their care and support needs, having regard to the principles provided in the Statutory Guidance.

4.0 Scope

4.1 The policy provides clear guidance for all Council officers, partners and Middlesbrough residents on the Council's approach to Interim Funding Arrangements by ensuring consistency and transparency.

5.0 Legislative and Regulatory Framework

The key elements of the legislative and regulatory framework are set out below:

The Care and Support (Charging and Assessment of Resources) Regulations 2014	Provides the Local Authority with the legal authority to set local social care charges.
Care and Support Statutory Guidance, Department of Health, 2014	Provides Local Authorities with a framework to ensure that care charging policies are fair, reasonable, transparent and consistent.
Care Act 2014	Provides a single legal framework for charging for care. Where a local authority arranges care and support to meet a person's needs, it may charge the adult, except where the local authority is required to arrange care and support free of charge (for example Section 117 or CHC funded cases) This framework is intended to make charging fairer and more clearly understood by everyone.
Equality Act 2010.	The 2010 Act is an amalgamation of previous anti-discrimination laws. It is a

	law which protects from discrimination of unfair treatment on the basis of certain personal characteristics such as age.
General Data Protection Regulation 2016 (GDPR) and Data Protection Act 2018 (DPA2018)	The GDPR / DPA2018 place a duty on Local Authorities to comply with the data protection principles relating to processing of personal data: (1)(a) Lawfulness, fairness, and transparency; (1)(b) Purpose limitation; (1)(c) Data minimisation; (1)(d) Accuracy; (1)(e) Storage limitation; (1)(f) Integrity and confidentiality (security); (2) Accountability (including the rights of data subjects).
Freedom of Information Act (FOIA) 2000	Under the FOIA, a Local Authority has a duty to make information available to the public upon request, unless specific exemptions apply. It is also obliged to proactively and routinely publish information that has been frequently requested in the past in its Publication Scheme.
Local Government Acts 1972, 1985, 1988 and 1992, Lord Chancellor's Code of Practice on Records Management (S46 Freedom of Information Act)	The Acts establish requirements for the management of records and information and gives implied authority to share certain kinds of information with partners.
Care Act 2014 and Statutory Guidance Annex D	The Act by which the Local Authority is authorised to charge for social care support; and the rules imposed on the local authority regarding recovery of such debt.
Family Law Act 1996	An Act of Parliament governing divorce and marriage.
Tribunal Courts and Enforcement Act 2007	An act which makes provision for tribunals and inquiries, particularly relating to the enforcement of judgments and debts.
Regulation of Investigatory Powers Act 2000 (RIPA)	RIPA governs the use of covert surveillance by public bodies.

This policy provides assurances to residents that the Council is complying with all elements of the Care Act 2014 and provide a formal document for reference should the need for residential care occur in the future.

This policy should be read in conjunction with other policies and is not intended to replace any.

Residential Charging Policy	This sets out the legal and regulatory context, the financial assessment process and the review and appeals process for residential charging.
Data Protection Policy	This summarises the Data Protection Policy position of Middlesbrough Council and how it will comply with legislation, and associated codes of practice and official guidance in relation to the processing of personal data.
Records Retention Schedule	This defines how long different records should be retained to comply with legal, regulatory or other requirements and the proper arrangements for archiving and destruction.
Records Management Policy and supporting procedures	This provides a framework for ensuring that the Council's records are well kept and that the systems used to hold them are fit-for-purpose.
Information Security and Infrastructure Security Technical Policies	These set out policies and standards for the management and maintenance of the security of Council infrastructure and applications.
Vital Records Standards	This sets out how vital records will be identified and the steps to be taken to ensure their protection and preservation.

6.0 What is an Interim Funding Arrangement

6.1 An Interim Funding Arrangement is an agreement between either:

- Someone who is applying to become a residents legally appointed representative as the resident lacks the mental capacity to deal with their own financial affairs; OR
- A resident, who temporarily cannot enter into a DPA (for example if a property is jointly owned but the other owner is unable to agree to a legal charge because, for example, they have lost mental capacity and someone is applying to become a court appointed representative for this person or a property is unregistered, but steps are being taken to arrange the registration);

AND

- Middlesbrough Council.

6.2 Middlesbrough Council will pay a residents care home fees – see paragraph 6.5 until someone has been appointed by the Court of Protection who has the legal authority to:

- Access a resident's funds to repay the Council; and
- Make financial decisions about how to fund the residents on-going care home costs.

6.3 In order to be considered for an Interim Funding Arrangement, a nominated person must enter into a written agreement to:

- apply to the Court of Protection to become a legally appointed representative for the resident lacking mental capacity to manage their financial affairs; AND
- apply to the Department for Work and Pensions to become their appointee for benefits; AND
- repay Middlesbrough Council in full for the care home fees due including any interest and administration charges from when a deputy was appointed or the DPA entered into.

6.4 All care home fees will be paid by the Council directly to the care home provider under an Agreement.

6.5 Once an Interim Funding Arrangement is in place, an invoice for the weekly contribution will be sent to the representative every 4 weeks for the care home fees due. The amount payable will be determined by the outcome of a financial assessment, based on financial information available at that time.

6.6 An invoice will also be sent for the difference between the weekly contribution from income and the weekly care home costs, but the Council will allow that cost to build up as an accrued debt under the Interim Funding Arrangement where payment cannot be made.

6.7 If a resident does have care home charges which are deferred and not paid straight away, interest will be charged on all debts owed on a daily basis. The rate charged will be reviewed in January and July each year by the Department for Health and Social Care. The current rate charged is 4.25%, this can be subject to change.

6.8 In addition to the daily interest, an initial one-off administration fee is due upon entering into the agreement, this fee is published on the Councils website – see paragraph 11.2. These charges cover the ongoing costs associated with the management and monitoring of the Interim Funding Arrangement. These charges will be added to the debts owed by the resident. <https://www.middlesbrough.gov.uk/adult-social-care/getting-social-care-support/paying-for-social-care-support/the-deferred-payment-scheme/things-to-know-before-signing-the-agreement/>

6.9 Following approval by the Court of Protection for a person to become a residents financial deputy, which means they have management the financial affairs and decisions on behalf of the resident, the representative must either:

- pay off the accrued debt in full and make arrangements to pay the on-going weekly fees directly to the care home provider; or
- within 6 weeks of being appointed as a representative, contact the Council to apply for a Deferred Payment Agreement on behalf of the resident.

7.0 Who is Eligible for an Interim Funding Arrangement

7.1 An Interim Funding Arrangement will be considered for a representative if all of the details below in relation to the resident being represented apply:

- Their social care assessment evidences care needs and the person requires support over a 24 hour period which would be best met by residing in a care home on a permanent basis;
- Their financial circumstances indicate that they are liable to pay the full cost of their care home fees under the Council's Residential Charging Policy. Information can be obtained through family members or by accessing information available to the Council by the Department for Work and Pensions;
- They lack the mental capacity to understand their finances and how they should be managed;
- They do not have a legally appointed financial representative to manage their financial affairs;
- No agreement is in place with their care home to defer their care fees until a financial deputy has been appointed;
- There are no alternative funding arrangements which can be accessed until the Court of Protection appoints a financial deputy;
- The representative has completed an Interim Funding Arrangement Application Form and signed the declaration. In some instances, this may be the Adult Social Care States Team. The declaration confirms that:
 - They have applied / will immediately (within 6 weeks) apply to the Court of Protection to become the resident's financial deputy for property and financial affairs and will keep the Council informed of the progress of the application; and
 - They will pay off the accrued debt in full or enter into a Deferred Payment Agreement with the Council (where eligible) once the Court of Protection appoints them as a financial deputy.

7.2 The Council may consider Interim Funding for a resident where a DPA is temporarily not available, for example:

- The property is in the process of being registered.
- The joint owner of the property can't consent to a legal charge being placed

7.3 Applications will be considered on a case by case basis.

7.4 The Council will provide information around the Interim Funding Arrangement and care home costs. It is strongly advised that independent financial and legal advice is sought to allow an informed decision to be made.

8.0 The Application Process

8.1 The Council will provide the following information to the representative:

- Details of care home charges via the social worker;
- The financial assessment process;
- Deferred Payment Agreements (DPAs) (if there is property);
- Details of Interim Funding Arrangements, including interest charged on accrued care home costs and how to obtain Interim Funding;

- How to access independent financial and legal advice.

8.2 The Council will conduct a Land Registry search where relevant.

8.3 In order to prevent any potential arrears accruing, applications for an Interim Funding Arrangement should be made as soon as possible or within 6 weeks.

8.4 The Council will require evidence to confirm steps are being taken for someone to become legally appointed to deal with the finances of the resident who is in care. Evidence could be confirmation of an application to the Court of Protection (COP3, COP1 and COP1A forms) or confirmation that a conveyancing Solicitor has been instructed to undertake first registration of the property.

8.5 In cases where property is owned relevant to a financial assessment, the Council will need to know what the intended plans are for the property and it's long term funding arrangements (i.e. is the property to be sold / rented out or remain unoccupied).

8.6 The representative must keep the Council informed of the process to either settle outstanding charges (for example, through sale of property) or agree to a Deferred Payment Agreement, or a combination of these if appropriate, once they are appointed as financial deputy.

9.0 Considering the Request and Making a Decision

9.1 Once all information has been received, the Council will carry out an assessment of the proposed arrangements and decide whether they are acceptable, sustainable, and provide sufficient guarantee to protect the Council's financial position.

9.2 The Council will consider the following:

- How long the Interim Funding Arrangement will be required;
- Any other relevant funding arrangements;
- Any contributions which could be made from the resident's state benefits;
- The plans to fund the residents long-term care once the financial deputy is appointed;
- Evidence that independent financial and legal advice about long-term care funding options for the resident has been undertaken.

9.3 The Council will decide whether the legally appointed financial deputy or a resident's request for Interim Funding meets the criteria set out in this policy, making sure the Council is not put at undue financial risk, while taking account of the Council's responsibility to safeguard the individual in need of care.

9.4 A decision will be made within 10 working days of all information being received and will be confirmed in writing.

9.5 If the Council agree to enter into an Interim Funding Arrangement the letter will confirm:

- The start date of the Arrangement

- The financial contribution the person applying / resident will need to pay from the resident's income during the Arrangement
- When invoices will be issued and details of how to pay
- Any weekly care costs agreed to accrue as debt during the Arrangement
- The current interest rate that will be applied to the accruing debt
- The current annual administration fees for Interim Funding Arrangements
- Any state benefits which may need to be claimed by or on behalf of the resident

9.6 If the application is refused the Council will write to the resident or person applying to confirm the decision, explaining:

- The reason(s) for refusing the application
- The date from which the arrangements will need to be made with the care home to make payments directly to them
- How to appeal against the Council's decision
- The Council will advise the care provider of the date which the Council will stop funding care costs

10.0 During the Interim Funding Arrangement

10.1 The Council must be updated with the progress of the application to become the resident's legally appointed financial deputy and confirm as soon as this is known.

10.2 The Council will undertake periodic checks. If there is no update after 3 months, contact will be made to ask for an update.

10.3 Evidence will need to be provided to confirm the legal authority to act on behalf of the resident.

10.4 The Interim Funding Arrangement will commence on the date notified. Invoices will be issued every 4 weeks asking for payment of the contributions required to pay towards the resident's care home fees.

10.5 Invoices must be paid promptly. If this does not happen, the Interim Funding Arrangement may be terminated.

10.6 An invoice will also be sent every four weeks for the amount of deferred care charges which will accrue under the Interim Funding Arrangement for information.

11.0 Interest charges and Fees

11.1 The Council charge interest on all accrued debt in the same way as for Deferred Payment Agreements. Interest is:

- Calculated on and added to the person's care fees from the start date of the Interim Funding Arrangement
- Calculated on and added to any annual administration costs that are deferred under the Interim Funding Arrangement from the date the costs are charged
- Charged at the maximum rate of interest set in the Care and Support (Deferred Payment) Regulations 2014

- Compounded daily – this means that interest is calculated on the accrued debt each day and added to the total debt each day (including previous interest charges)
- Calculated on and added to the accrued care home fees until the total outstanding debt is settled

11.2 The Council charge an annual administration fee to cover the costs of setting up, managing and monitoring the Interim Funding Arrangement. Current fee rates can be found on the Middlesbrough Council website [Paying for social care support | Middlesbrough Council](#).

11.3 A statement will be issued confirming the accrued debt balance every 6 months from the start date of the Arrangement. The statements will show:

- The start date of the Interim Funding Arrangement
- The statement date
- Total care charges to the statement date
- Total interest on care charges to statement date
- Total administration fees to statement date
- Total interest on deferred administration fees to statement date
- Total accrued debt to statement date
- The equity in the residents property which could be used to pay towards care home fees (the equity limit) both at the start of the Arrangement and after deducting the amount of deferred debt
- Current weekly care cost amounts
- Any administration costs added to the debt since the last statement
- Interest charges accrued since the last statement
- Any payments received towards the cost of care since the last statement.
- Details of historical statement periods

11.4 If the details included in the statement appear to be incorrect, contact should be made with the Council within 4 weeks of receiving the statement.

11.5 If the equity in the property is no longer sufficient to meet the residents full care costs the Council will stop accruing their on-going care home costs and reconsider the weekly contribution due in line with the Council's Residential Charging Policy.

11.6 Interest and annual administration charges will continue to be added to the accrued debt until the debt is settled in full.

11.7 If a person who is seeking to become the resident's legally appointed representative disagrees with the amount due, they can appeal. Should they wish to do so, full rights of appeal and how to do so can be found on the Council's website. [Paying for residential and nursing care | Middlesbrough Council](#)

12.0 Once Legal Authority to Act is Received

12.1 Confirmation must be given to the Council straight away once legal authority to manage the financial affairs on behalf of the resident is obtained.

12.2 As soon as this is granted the following actions need to be taken:

- Settle the accrued debt (deferred care home fees, administrative costs and interest) in full; OR
- Convert the Interim Funding Arrangement into a Deferred Payment Agreement

12.3 If the resident has sufficient funds available to settle the outstanding debt the Council will confirm:

- The date from which fees must be paid directly to the care home
- The total outstanding amount of debt accrued under the Interim Funding Arrangement to that date (including interest) which must be paid straight away
- How to pay the outstanding amount to the Council
- That interest will continue to be charged until the debt is settled in full

12.4 If the majority of a resident's capital is linked to their property, the Council will provide information to assist in applying for a Deferred Payment Agreement.

13.0 Applying to the Court for an urgent interim order

13.1 There may be instances when the Court of Protection can issue an urgent interim order to access someone's finances. In such circumstances, the following will apply:

13.2 An urgent interim order can be made if someone is applying to become financial deputy but the application has not been approved yet.

- If the application is approved, this person can make a financial decision on the other person's behalf.
- The order must be for a specific one-off decision that needs to be made without delay, for example to get money from the person's bank account to pay outstanding nursing home fees.
- There's no fee for an urgent interim order application.

13.3 If the person applying to become a legally appointed representative requires funds urgently, an application to the Court of Protection must be completed together with an explanation of why the decision is urgent and cannot wait until the relevant person has been legally appointed. The original and one copy of the form must be sent to the court together with copies of any evidence, for example accounts or an invoice from a nursing home, together with the application. Applications must be sent to:

Court of Protection
PO Box 70185
First Avenue House
42-49 High Holburn
London
WC1A 9JA

14.0 Appeals

14.1 If a person who is seeking to become the resident's legally appointed representative disagrees with the amount due, they can appeal. Should they wish to do so, full rights of appeal and how to do so can be found on the Council's website.

[Paying for residential and nursing care | Middlesbrough Council](#)

15.0 Fraud and misrepresentation

15.1 Middlesbrough Council reserves the right to verify any application or associated evidence. Where fraud is alleged, or the authority suspects that such a fraud may have been committed, the matter will be investigated in accordance with the Fraud Act 2006.

15.2 If fraud is found to have occurred, action will be taken including the recovery of overpaid monies and, if appropriate, criminal proceedings.

16.0 Roles and Responsibilities

Head of Service – Resident and Business Support.	Overall responsibility for the delivery of Adult Social Care Finance and the Policy Owner.
Records Manager	Responsible for the development and implementation of the corporate Records Management Policy and Retention Schedule, and for this email policy, which underpins them. Will liaise with the Data Protection Officer.
Service Delivery Manager/All Managers	Responsible for overseeing day-to-day compliance with this policy and the standards set out within it by their staff and other personnel they manage or commission.
All staff, contractors, consultants, interns and any other interim or third parties	Responsible for compliance with this policy.

17.0 Communications

17.1 Information regarding this policy will be available on the Council's website. Further communication will be provided from Adult Social Care Finance together with front line social work staff through appropriate channels.

18.0 Monitoring and Review

18.1 Any alterations to the policy will be subject to approval by Executive. This policy will be reviewed every three years unless there is a significant development that would require a more urgent review, such as a change in legislation.

18.2 For the first 12 months the policy will be subject to quarterly review, followed by a full review every 3 years to ensure processes remain fair and in line with legislation and best practice.

19.0 Information Sharing

19.1 The Welfare Reform Act 2012 and the Social Security Regulations 2012 (information sharing in relation to welfare services etc) enable the Council to access Department for Work and Pensions data directly.

19.2 The purpose of this access is to support the financial assessment process and to assist in identifying unclaimed benefits to which the service user may be entitled.

20.0 Data Protection

20.1 The collation and use of personal data will be managed in accordance with the Council's Data Protection policy and the Adult Social Care Privacy Notice [Privacy notice - Adult Social Care | Middlesbrough Council](#)

21.0 Delivering the Policy

21.1 This policy will be incorporated into Middlesbrough Council's working practices to ensure every client is treated fairly, with transparency and consistency throughout.

22.0 Evaluation

22.1 The policy will be evaluated annually by officers within Resident & Business Support. Should findings indicate that revisions to the policy are required a detailed analysis will be provided to the Head of Resident and Business Support. Any proposed changes will be fully documented and passed through to Executive for consideration.

22.2 The policy provides clear guidance for all Council officers, partners and Middlesbrough residents on the Council's approach to ensure consistency, fairness and transparency.

22.3 It also promotes wellbeing, social inclusion, and supports the Council's vision for social care of personalisation, independence, choice and control having regard to the principles provided in the statutory guidance.