

# Charging for Adult Social in West Sussex

Looking at the process, getting support  
and information

Public Webinar – 11 November 2021



# Questions and Responses

## Introduction

Thank you to everyone who asked questions and to our Panelists for their responses.

Below are the questions from the webinar and the replies provided by West Sussex County Council (WSCC) after the event. Questions have been grouped for ease of understanding.

Please note that we are seeking support to produce an easy-read version of this information.

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## **The Needs Assessment and Care and Support Planning Process**

**Question: How quickly would a needs assessment and support plan be completed? (As some people have said they have waited nearly a year to be assessed.)**

**Response from West Sussex County Council:** Once a care needs assessment has been determined as the appropriate way forward, it should be undertaken as soon as practical. During periods such as the COVID pandemic, or exceptionally high demand waits for assessment may be longer than average however it would be extremely unusual for an assessment not to be started for nearly a year. There will be certain situations where due to the nature and complexity of a person's circumstances an assessment may take longer to complete.

If you are aware of people waiting nearly a year for an assessment, please could you provide more detail in order that these can be looked into.

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**Question: Where does the new three conversational model fit into the process?**

**Response from West Sussex County Council:** Adults' Services implemented a strengths-based approach to the way we work with people from 2018. There are different strengths-based models used nationally of which the '3 Conversation Approach' is one. Adults' Services do not currently follow this approach. All of these models provide a similar strength-based framework for working with people through assessment, support planning and review to maximise independence and prevent, reduce or delay needs arising in line with the principles of the Care Act 2014.





**Question: How often does West Sussex County Council update needs assessments, support plans and financial assessments?**

**Response from West Sussex County Council:** Assessments and support plans are reviewed on a regular basis and/or when circumstances change. If an individual or carer is aware of a change in circumstances, the sooner that this can be advised to WSCC the better, regardless of whether this is a change in personal circumstances or financial circumstances.

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**Question: How does a carry-over approach facilitate appropriate and fair contributions?**

**Context:** The needs assessments and support planning, and then the financial assessments are carried out separately. As a support service, it appears the Local Authority is currently operating a 'carry over' approach to needs assessments and disability related expenses. In some cases, some that are 7 years old.

**Response from West Sussex County Council:** WSCC doesn't wish to impose upon the privacy and time of an individual more than is absolutely necessary, therefore if it is able to update financial circumstances without imposing upon an individual, for example where an individual's income is solely from welfare benefits and the changes to these are known nationally, it will not necessarily make contact with an individual. However, it is good practice to review each financial assessment on a regular basis to ensure all the information held is up to date and relevant. WSCC would always encourage individuals or their representatives to contact them if they feel that circumstances have changed, hopefully the financial assessment flow diagram and contact details will assist with this.



**Question: How can West Sussex County Council base contributions on an outdated needs assessments and Financial Assessment?**

**Response from West Sussex County Council:** If an individual or their carer/ representative are aware of a change in circumstance that they feel affects their needs assessment or their financial assessment, they should contact WSCC as soon as possible.

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**Question: Is there a duty on Local Authority to arrange a replacement service if day care is closed?**

**Response from West Sussex County Council:** In general terms, the duty for the local authority is to put in place a care package that ensures assessed eligible care needs of an individual are met. This may include care provided by family or friend carers, community-based networks and resources and/or funded social care. During the pandemic the provision of care has been challenged like never before, in relation to the provision of day services it has been important to recognise the public health risks that would have been encountered if services had continued, but this has also created a further challenge in terms of the availability of suitable and appropriate alternatives. Steps were put in place during the pandemic to ensure regular contact with priority customers where services were not possible to be provided due to public health and social distancing reasons.

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## The Financial Assessment Process

**Question:** Can West Sussex County Council explain below?

**Context:** There was a lot of reference in the webinar to contact and consultation with families. With the latest round of financial reassessment, many people were not contacted and did not have a financial assessment carried out.

**Response from West Sussex County Council:** A full financial assessment is always required when an individual first accesses social care arranged by WSCC. Once that financial assessment has been undertaken it is important that it is kept up to date, reflecting changes in financial circumstances. However, for many people their circumstances will not change other than as a consequence of changes in welfare benefit rates, in such instances their financial assessment can be updated without the need for face to face contact or a full review of their financial assessment. This does not affect an individual's right to notify WSCC if they feel that the financial assessment doesn't accurately reflect their financial circumstances, in which case WSCC would work directly with the individual and/or their representative to update the financial assessment appropriately, including the possibility of a full review.

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**Question:** How are the costs relating to the non- PA needs established (and shared within care and support plans) and made available to the financial assessments team? Or connected to the financial assessment?

**Context:** It is clear the care and support assessment and plans are focused on the **paid for** element of, for example, a PA and not the necessary living costs for essential living, life skills, transport, and social activities.

(Cont/d)

**Response from West Sussex County Council:** (See recording 44:37 – 47:35)

Fundamentally, that goes back to the understanding of the individual's circumstances. If, [the Council] can identify there is a direct link to their care and support package to meet their needs, that gives a strong steer towards understanding the additional costs they may be incurring.

An example. Traditionally, care tended to be either residential or a domiciliary worker coming to see you or day-care, where you went to a particular centre. Increasingly now, it is as it should be about promoting your independence, your own choice, and being able to remain within your community. Care and support has shifted from somebody doing something to you, to supporting you to do the things you want to do.

So, in that context if you compare day-care as an example, you would get on a bus that the Council had already provided that would take you to the day centre and bring you home. You may now have a Personal Assistant and you are then looking at being engaged within your community, may be going to a museum, exercise – a whole host of thing. If that is coming through in terms of the care package, then you can start to evidence 'here where the costs incurred, that meant I could go to the museum, do this, do that'. Then that can be recognised as a clear part of the cost of delivering that care and support.

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**Question: Is there a time limit for challenging a financial assessment?**

**Response from West Sussex County Council:** (See recording 42:13 – 44:37)

No. Obviously, it is in everybody's interest to challenge as early as possible because everybody wants to get that circumstance sorted in order to make sure they money is where it should be.

If there is a mistake [and] it can be shown, evidenced, supported, and understood, then we would be more than willing to rectify that.

We would encourage anyone to come forward as early as they possibly can and to disclose their circumstances as fully as they can....this would give us the best chance to get the outcome correct first time. (Cont/d)

Added to that, [the Council] would not dispute [Citizen Advice's] comment on casework but would suggest that it is beneficial to both parties if you approach the Council and talk about your concerns and issues. It maybe we can actually resolve that for you without the need for a third party to be involved. We may be able to effectively do the casework for you.

Hand on heart, [the Council] is not here to try and create a situation where people are disadvantaged. We know what our responsibilities are under the Equalities Act, and in terms of financial contributions. We do make mistakes and we hold our hands up for that. We can potentially resolve those issues more effectively than if you end up going to a third party and we get into a more adversarial relationship.

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**Question: In the event that there is a 6 month delay between assessment or reassessment and a revised invoice being issued, what claim does the individual have for any write-off of the 'arrears'?**

**Response from West Sussex County Council:** (See recording 47:35 – 39:52)

Key here, is the point at which we notified, usually by letter, the individual of the contribution they have been assessed to make and the date that will become effective. Once we have done that, there is a presumption that the appropriate amount is put aside, regardless of whether the invoice falls immediately, or at a later date.



[The Council] agree, that if it's a six month gap, that's a very long gap, but there are sometimes good reasons, as well as bad reasons, that can occur.

The fundamental bit, for the Council will be the point at which the contribution was notified to the individual because it does make a significant contribution towards the resources the Council has to meet all the care needs of everybody who is in need, throughout the County. If [the Council] did not have that income it would be between a rock and hard place to meet all the statutory duties to deliver against the care needs of individuals.

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**Question: How come West Sussex County Council do not provide easy read versions of Financial Assessment Process as per the Equality Act?**

**Response from West Sussex County Council:** The design and accessibility of documentation related to the financial assessment process is at the heart of the improvement plan being implemented by WSCC. As we develop new documentation, we will be seeking feedback from stakeholders, including Healthwatch.

**Note from Equalities and Human Rights Commission:** How local councils provide information and advice in accessible formats, such as Easy-read, is in the scope of the Equalities and Human Rights Inquiry. The Commission's Inquiry will be looking at accessibility and reasonable adjustments, both where there are problems but also where accessible information and advice is done well.

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**Question: Why is it decided that a client contribution is backdated to January 2021, when the assessment was not done until November 2021?**

**Response from West Sussex County Council:** The implementation of the change in the policy was communicated with effect from January 2021.

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**Question:** In the webinar, it was repeatedly said that things are “complicated”. How will West Sussex simplify processes to ensure it is easier to understand for both the financial assessors and those being assessed?

**Response from West Sussex County Council:** Our intention is to develop, in collaboration with organisations like Healthwatch, improved guidance and information to support people in understanding the complexities of the financial charging system, the flow chart and contact information shared within the webinar was a first iteration of some of these developments. We will be seeking to ensure that information and guidance is accessible in whatever format people use it, whether that be printed or online.

**Question:** The financial assessment isn't crystal clear or easy read and we are not told about the Disability related expenses. Other councils give much more information about this. It is not explained at the financial assessment. How will West Sussex address this?

**Response from West Sussex County Council:** As per the previous answer, we are implementing a review of documentation and guidance with a view to updating it, using plain English wherever possible and ensuring that the presentation and formatting of the information is accessible and comprehensive.

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**Combined Questions:** People are currently being charged for support they did not receive e.g., when COVID restrictions closed / stopped support (in the backdated payments). How can this be justified?

**We hear frequently from carers that they are being charged for services not received due to COVID – i.e., day services closed. How will West Sussex address this?**

**Response from West Sussex County Council:** Where this has occurred WSCC will be very happy to apologise and to rectify the matter unless the personal budget was used more flexibly to meet needs in another way. Please get in contact with WSCC to provide details of where this has occurred, and we will investigate and make the appropriate corrections.

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**Question:** How can West Sussex be sure people can afford to pay a care charge related debt when the assessment has been completed by post?

**Response from West Sussex County Council:** There is always the opportunity for an individual to raise any concerns they may have about the accuracy of the financial assessment. If that necessitates a full review of the financial assessment that will be put in place and if necessary, any increase in contributions can be paused until the financial assessment has been fully reviewed.

In the event that the review then indicates that the level of contribution should remain the same or decrease, the appropriate actions will be taken to effect that change. As indicated in response to a previous question, we seek to minimise the intrusion into an individual's life if it is possible to update their financial circumstances without a face to face meeting however, a face to face meeting or telephone discussion is always an option and can be requested by the individual or their representative.

## **Income consideration**

**Question: Is there discretion on the higher rate of Attendance Allowance being counted?**

**Response from West Sussex County Council:** The treatment of Attendance Allowance is set out within the national statutory guidance on contributions for adult social care [Care and support statutory guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/care-and-support-statutory-guidance)

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**Question: What proportion of benefits (detailed below) is taken into account in the assessment.**

**Context:** The mobility component of Disability Living Allowance (DLA) and/or Personal Independent Payment (PIP) cannot be taken into account as income in a financial assessment.

**Response from West Sussex County Council:** WSCC follows the national statutory guidance on the level of benefits to take into account or exclude from a financial assessment [Care and support statutory guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/care-and-support-statutory-guidance)

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## Savings

**Question:** How is joint-owned (unoccupied) property valued – 50% or nominal?

**Response from West Sussex County Council:** It depends upon the nature of the property concerned, e.g. whether it is the prime residence of the individual concerned or a separate asset. An assumption may be made that an asset, if owned by two people would have a 50% value assigned to it, but this can be amended if the reality is different, subject to the consideration of any deprivation of assets considerations, in accordance with the national statutory guidance [Care and support statutory guidance – GOV.UK](https://www.gov.uk/government/guidance/care-and-support-statutory-guidance) ([www.gov.uk](https://www.gov.uk))

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**Question:** Can people split joint accounts and pay for care from one to protect the other's capital (as happens in residential care)?

**Response from West Sussex County Council:** There is no restriction upon how people manage their own financial affairs however, there are provisions against an individual being deprived of their assets, which are reflected within the national statutory guidance as followed by WSCC [Care and support statutory guidance – GOV.UK](https://www.gov.uk/government/guidance/care-and-support-statutory-guidance) ([www.gov.uk](https://www.gov.uk))

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**Question:** Does the savings have to be a split or can a nominal account/proof suffice?

**Response from West Sussex County Council:** The key matter is being able to provide evidence that savings have been split appropriately, i.e. that the individual being assessed has deprived themselves of assets that would have

otherwise been considered theirs. [Care and support statutory guidance - GOV.UK \(www.gov.uk\)](#)

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**Question:** Given that current accounts fluctuate, how is a figure arrived at?

**Response from West Sussex County Council:** The financial assessment is concerned with income and assets at the point in time the assessment takes place, i.e. it is a means tested calculation of the contribution an individual can make towards the cost of their care. The national statutory guidance sets the thresholds at which an individual will be solely responsible, jointly responsible or the local authority will be wholly responsible for the costs of care. The statutory guidance makes assumptions about how an individual will prioritise funding their care needs, recognising that there is a wider responsibility to Council Tax payers to also take into account. [Care and support statutory guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/care-and-support-statutory-guidance)

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## Housing costs

**Question:** Why are parents expected to pay certain costs for an adult when these would be met if they did not live at home?

**Response from West Sussex County Council:** (See recording 39:12 - 41:05)

This varies depending upon what we are talking about in specific terms of costs.

[Generally] if someone is living independently, they have a tenancy, and housing/utility costs as a consequence, that would be discounted from their financial assessment. If they were living at home with their parents and they did not have those costs, then all of their income would be taken into account, as part of the financial assessment.

If there was additional costs in terms of a contribution that the individual made, they could potentially do that from what is remaining but again you are

in that grey area, that if you were able to demonstrate that you had additional costs, over and above the norm, that were directly related to the disability or care needs of that individual that were linked back into their care assessment then you would again have a potential way of looking at whether that was a DRE.

Please note Healthwatch West Sussex has asked West Sussex County Council to clarify this point: A comment in the webinar stated that all utility bills are discounted. This is not correct in our experience.

WSCC responded to say the team would need to understand better what the comment is referring to before commenting further.

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**Question: If there was a tenancy agreement between an individual and their parents, how would that effect the assessment?**

**Response from West Sussex County Council:** (See recording 41:05 – 42:13)

As a starting point, if someone is a tenant in their own right then yes, we would recognise that those are costs that they have to bare.

Before, anybody looks to that as a means of addressing their concerns, that in and of itself, can involve a lot of complexity and maybe Citizen Advice can offer further advice. [The Council] would suggest it is not something to just do without thinking through all of the implications.

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## **Disability related expenses**

Disability Related Expenditure or 'DRE' is **the extra expenses you face because of your disability** or illness. These can be anything from heating to clothing, specialist food to basic domestic or gardening services.

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**Question: What is the difference between a DRE and a cost for something to help manage the disability? How are the costs of “managing” the disability met if they are not accepted as a DRE?**

**Response from West Sussex County Council:** (See recording 36:14 – 39.08)

It is a complex area, and we can sympathise with the difficulty of this. We would encourage people to ask questions of the Financial Assessment Officer when they are speaking to them about this, because they [costs] do change depending on the circumstances of the individual. (Cont/d)

There is no prescription of what a DRE is per say. It could be anything. It could be nothing. It relates to the individual’s care assessment.

If within the care assessment, if there is specific reference to a particular need or service/support they [the individual] require that is not addressed as part of the care package, that would be a strong indicator that it was a DRE.

Again, [the Council] would emphasise the importance of sharing as much as possible with the social worker at the point of the care assessment.

You then end up, in a circumstance where [the Council], as part of the financial assessment, follow a series of regulations that the Government issues to guide us about how to undertake a financial assessment. Then there is effectively a judgment to be made about whether something is a specific DRE or whether it is effectively a cost of living that someone has made a conscious choice about how they want to do something, rather than it being a direct outcome of their care needs. [If the latter] it would be the judgment that they could use the remaining income after they made their contribution towards their care package.

**Question: Is there a limit on 'other care' costs being allowed as DREs and how should variable costs be handled e.g., multiple, varied medical costs? And can they be backdated ever?**

**Response from West Sussex County Council:** (See recording 49:52 – 52:36)

For medical costs, its always with the caveat that it dependents on the individual's circumstances... the starting point is whether this is an NHS cost and whether the NHS should be providing that prescription-free or whatever it may be.

If it's another type of cost, it's about giving as much information as possible about what your costs are.

(Cont/d)

If you have variable costs, can you give [the Council] some history to show that, because we may then be able to take an average over a period of time and balance it out that way. We may be able to say, what was the total cost over the last 12 months and use that as a proxy.

In terms of what can be included as a DRE, there is no limit to that, other than being able to make that direct connection between the expenditure being a necessary expenditure in relation to the person's disability or illness. The expenditure will also need to be considered reasonable.

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## Minimum Income Guarantee

People receiving local authority-arranged care and support other than in a care home need to retain a certain level of income to cover their living costs. Under the Care Act 2014, charges must not reduce people's income below a certain amount. Local authorities can allow people to keep more of their income if they wish. This is a weekly amount and is known as the MIG.

<https://www.gov.uk/government/publications/social-care-charging-for-local-authorities-2021-to-2022/social-care-charging-for-care-and-support-local-authority-circular-lacdhsc2021>

**Question: How can West Sussex County Council justify imposing a Real Terms cut of one third to the most vulnerable members of our society (as set in context below)?**

**Context:** The Minimum Income Guarantee (MIG) was set in 2015 at £151.45. There has been NO increase since 2015. In 2015 the National minimum/Living wage was £6.50 an hour. In the recent Budget it was increased to £9.50 an hour from April 2022. This is an increase of 46%. If the MIG had been increased in line with the National Living Wage, it would be £225.73 per week (from April

2022). Local Authorities have discretion over how much to charge disabled people towards their care package.

**Response from West Sussex County Council:** (See recording 52:36 – 54:42)

The decision was taken to remove the discretionary element of the Minimum Income Guarantee a couple of years back and that is in the public domain. We published the report the Council considered before making that decision, part of that was about us understanding how it had been applied across different disabilities and care needs because there was a difference between those who were a working age, as opposite to those who were a pensionable age.

The Minimum Income Guarantee is set by Government and that is in the Regulations.[The Council] is following what the Government has told us is the Minimum Income Guarantee, in that context. It is possible that may be reviewed further as part of the planned social care reforms that the Government has in mind.

**Response from Healthwatch:** For more information on the Council's 2019 decision click [here](#). The Council also published an [Equality Impact Assessment](#) with mitigations measure for potential equality risk.

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## Other Questions

**Question:** I've had many clients who have been discharged from hospital to a care/nursing home under the Covid bed clearance fund and the home usually charges at a higher rate than the social care rate meaning that clients need to either find a third party top up or to move when they've just got settled. Is there any scope for providing a higher rate for these clients in these extenuating circumstances?

**Response from West Sussex County Council:** I'm afraid not. The current circumstances mean that it is a provider market, the funds provided by Government to support hospital discharge are limited to what they can be used for, are not allocated directly to local authorities and will not be maintained in the longer term. On this basis, local authorities have to work on the basis of the longer-term affordability, recognising their responsibilities to maximise the value and volume of care that can be purchased to meet the needs of their communities and Council Tax payers. (Cont/d)

The cost of longer term care and any short-fall (or third party top up required) will be based on the cost of available options at that point in time.

**Question: How does the West Sussex financial assessment process compare to approaches from neighbouring authorities e.g., Hants, East Sussex, Kent?**

Could there be an equalities issue in this charging policy?

**Response from Equality and Human Rights Commission:** (See recording 54:42 – 56:03)

Not sure that the Equality and Human Rights Commission are able to offer advice on the technical elements of the process. As part of the inquiry, we are not able to provide legal advice, but we will share a link to the Inquiry page.

Below is the link to the Equality and Human Rights Commission's Inquiry page - <https://www.equalityhumanrights.com/en/inquiries-and-investigations/inquiry-challenging-decisions-about-adult-social-care>

If anyone is concerned about potential discrimination, the commission has included the following information and links to support on the same webpage:

**Help and advice** – We cannot give legal advice. Providing assistance to challenge a decision is not part of this inquiry.

If you require further support, please contact one of the organisations below.

the [Equality Advisory and Support Service](#) is aimed at individuals who need information, advice and support on discrimination and human rights issues and the applicable law.

[Citizens Advice England](#)      [Citizens Advice Wales](#)

**Legal aid:** Find out about [legal aid on GOV.UK](#)

[Mind](#) helplines provide mental health information and support by phone and email. This includes support on coronavirus and legal rights

**Response from Healthwatch West Sussex:** Shall be asking its volunteer team to carry out research on the publicly available information about financial assessments processes and information about costs that is available across the Southeast of England, to support West Sussex County Council's improvement plan.

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**Question: What is changing as a result of the Improvement Plan?**

**Response from West Sussex County Council:** We are seeking to improve information and guidance to the public, to improve the service and quality of interaction with the public, improve the internal efficiency of WSCC processes so that assessments and outcomes can be more readily understood, and decisions (including any appeals) can be dealt with as quickly as possible, to support people to take advantage of the independence that can be derived from direct payments where appropriate.

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**Question: How are you including service users in designing the Improvement Plan to make sure it works for us as well as you?**

**Response from West Sussex County Council:** We will be seeking to engage with organisations acting on behalf of individuals, such as Healthwatch or

Independent Lives for example, that will support us to reach as many people as possible and subsequently potentially lead to the creation of some focus groups and/or mystery shoppers that can continue to inform improvements going forward.

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(V1.0 7 December 2021)