

Capital Depletion Policy




Hampshire
County Council

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Capital Depletion Policy



 Hampshire County Council	
Adults' Health and Care Directorate Policy	04/24 V1
Capital Depletion Policy	
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Summary	<p>This policy outlines the approach that Adults' Health and Care will adopt when working with self-funding individuals who approach the County Council for financial support when their finances have depleted or are close to depleting.</p> <p>This policy can also be used if an individual seeks support from the County Council in situations where they no longer qualify for NHS funding or non-local authority funding.</p>
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YOU SHOULD ENSURE THAT:	
<ul style="list-style-type: none"> ▪ You read, understand and, where appropriate, act on this information ▪ All people in your workplace who need to know see this procedure ▪ This document is properly filed in a place to which all staff members in your workplace have access 	

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1. Purpose

This policy outlines the approach that Hampshire County Council will adopt when working with individuals who approach the County Council for financial support when their finances have depleted or are close to depleting.

The County Council will always offer cost-effective care, which means choosing the option that will meet the individual's assessed eligible needs in a sustainable way.

This policy is supported by publicly available information to allow residents and their families to make informed decisions about care and support in advance of reaching the capital depletion threshold.

2. Scope

All staff who work with individuals who have depleted their capital at any stage of their care pathway, including frontline staff, brokers who source care and staff in support functions, as well as managers who authorise the expenditure on care packages.

Anybody who is linked to an individual who has, or may soon deplete their capital, this could include relatives, friends and carers, independent providers, Voluntary Community and Social Enterprise (VCSE) sector and solicitors.

This policy can also be used if an individual's ability to fund their care is reduced because they no longer qualify for financial support towards their care from NHS funding or non-local authority funding.

3. Legal context and references

This policy is based on appropriate legislation and government guidance, including:

- The Care Act 2014, associated regulations and statutory guidance
- The Mental Capacity Act 2005
- Equality Act 2010
- Human Rights Act 1998

The County Council has written this policy to be read and understood alongside:

- Paying for care policy
- Residential Charging Policy Information (sharepoint.com)
- Choice of Accommodation Policy

4. Introduction and key principles

Currently, unlike NHS services, social care is not free at the point of use for everyone, and people will have to contribute something towards the cost of their care. Some people will have to pay the full cost of their care. There are three ways that social care services may be paid for:

- the person being cared for pays the full cost of their care. This is called 'self-funding'

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- the Local Authority pays for some, or all, of the care costs
- the NHS may sometimes also contribute to the cost of all or some of the care

Individuals funded by the Local Authority will be assessed to pay a client contribution in most situations.

The County Council has a strong track record of successfully managing Hampshire residents Care Act eligible needs, alongside managing its finances. In the context of growing demand for local services such as social care, it must make every financial decision carefully to ensure the best use of public money. The County Council therefore adheres to several important principles in its approach:

- The County Council will comply with its duties, as set out in the Care Act 2014
- The County Council will act in a financially responsible way and spend public money appropriately, ensuring equal and fair care for people who are eligible for care and support
- people should not be charged more than is in line with Regulations and statutory guidance [Care and Statutory Support Guidance](#)
- The County Council will communicate information on care options and paying for care in a clear and transparent way to allow individuals and families to make informed decisions
- The County Council will promote wellbeing, social inclusion, and independence through working in a way which is person centred, resilient, accountable, and joined up

5. Eligibility and arrangements

People who are 'self-funding' their care, are considered to face capital depletion when their capital (savings and assets) falls to the capital limit, which is currently set at £23,250.

Note that the equivalent future capital limit may change under any national reform. At the point of reaching the capital limit, an assessment of the individual's care and support needs must be undertaken by the County Council. It is recommended that individuals contact the County Council's Customer Financial Management Team when their capital reaches £40,000 (£40K). This is defined in the County Council's [Paying for care policy](#). More information is available on the County Council's website on [financial assessments](#).

Currently, if an individual has:

- **£23,250 or more** in assessable savings, they will have to pay the full cost of care. If they have less than £23,250 in capital, but a weekly income that is considered high enough to cover the cost of care, they will have to pay all fees
- **between £14,250 and £23,250 in assessable savings**, the County Council will look at savings and assessable income to work out what contribution they may have to pay towards care costs. Savings between £14,250 and £23,250 are assessed as if an individual has an assumed (or 'tariff') income

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- **less than £14,250** in assessable savings, the County Council will work out if the individual needs to contribute (and how much) from their assessable income

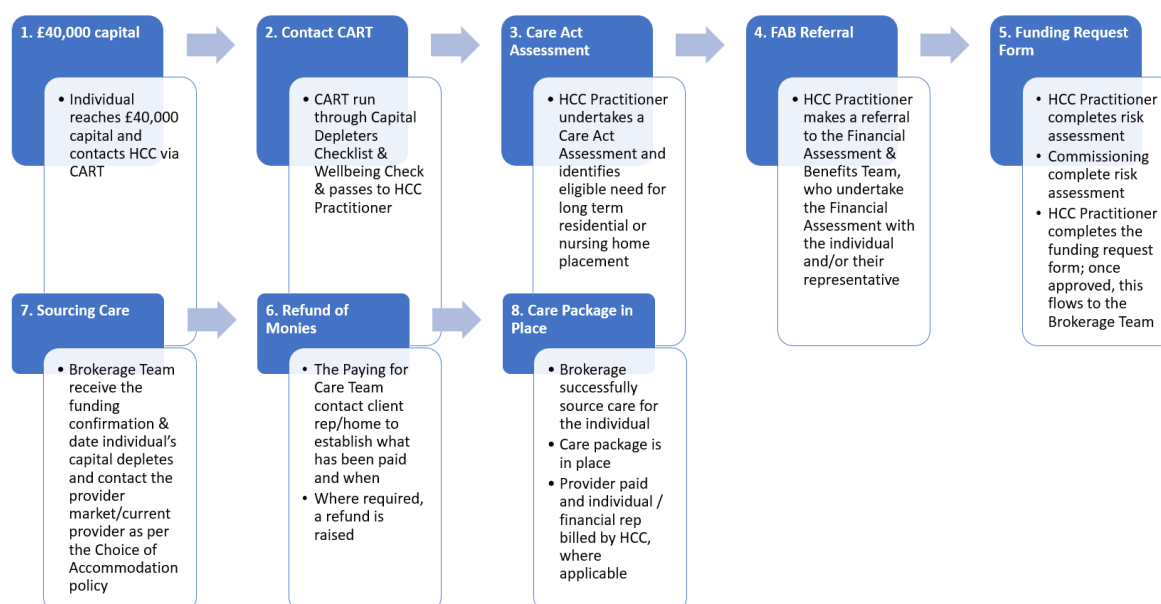
Non-residential care

The County Council has a duty to meet the eligible, un-met care and support needs of people who require non-residential care. This includes people who are self-funders and who ask the County Council to commission their care. Non-residential care is called care at home, also known as domiciliary care, and includes other services that an individual receives whilst they remain in their own home, such as day care.

Care Homes

The County Council has a duty to meet the eligible care and support needs of people who require residential care or nursing care and who have less than £23,250 in savings and assets.

6. Policy summary/flowchart



7. Applying the Personal Budget Policy

Everyone whose needs are met by the County Council, whether those needs are eligible or if the County Council has chosen to meet other needs, will receive a Personal Budget. A Personal Budget is defined in the Care Act 2014, and in summary is the amount of money allocated to an individual to provide the support they require, based on an assessment of needs. For more information about Personal Budgets, please see the [Paying for care policy](#).

The County Council will always offer cost-effective care, which means choosing the option that will meet the individual's assessed eligible needs in a sustainable way. The personal budget set must be sufficient to ensure that the individual's needs can be met by their plan. The personal budget must support their individual wellbeing.

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This means that an alternative care package or placement that is less expensive than the individual's previous or currently privately funded care could be put in place if it meets the individual's eligible needs and if an appropriate risk assessment has taken place.

The individual's preferences, circumstances, health and wellbeing must be considered as part of the care planning, risk assessment and decision-making process, however their current or preferred choice of placement cannot be guaranteed. An individual may therefore need to change rooms for a more cost-effective option within their current care home, move to an alternative placement or change provider.

We recognise that it may sometimes be challenging to convey the message that Hampshire County Council will not necessarily be able to fund the care package the individual or their representative established privately. It is, however, important to emphasise the fact that local authorities are not sufficiently well funded that they can always afford the rates that self-funders have previously agreed to pay. The County Council's duty is to meet eligible needs, and this has to be achieved in a cost-effective way for all eligible residents.

Each situation will be judged on a case-by-case basis and decisions will be made and reviewed by Senior Social Care representatives from the Directorate.

8. Needs Assessment

Where it appears to the County Council that an adult may have needs for care and support, it has a duty under the Care Act 2014 to undertake a needs assessment to identify whether an individual does indeed have needs for care and support and what those needs are.

The duty to carry out the needs assessment applies regardless of the level of need and the level of the individual's financial resources.

When completing a needs assessment, and thereafter creating a support plan where appropriate, for an individual who has depleted their capital, a strengths-based approach to meeting eligible needs applies in the same way as for any other individual being assessed. A strengths-based approach focuses on what people can do, rather than what they cannot do, and empowers people to find the best solutions for themselves by supporting them to make independent decisions about how they live and manage their health and care needs.

No eligible needs

If, when assessed, the individual is found not to have eligible care and support needs under the Care Act, then the County Council is not required to take on responsibility for funding the individual's care.

Eligible Needs – different service level identified

If an individual is assessed as having eligible needs under the Care Act, however is receiving a service above the level they are assessed as requiring when they deplete their capital, then alternatives are likely to be sought. For example, an individual is placed in a Nursing Home but does not have Nursing needs or is in a Residential

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Home and their needs could be met in Supported Living or Extra Care Housing. In this situation:

- support and guidance would be given to seek suitable alternative care provision – this may include support from our Brokerage team, advice and information
- liaising with local district/borough housing authority who can assist with finding alternative accommodation, such as Extra Care Housing, if required

Individuals in this situation will also be encouraged to seek independent financial advice.

Eligible Needs – similar service level identified

After identifying that the individual does have eligible care needs, the practitioner will always seek to support the individual to remain within their current service if it is appropriate to need. In some situations, however, the practitioner may propose moving the individual to an alternative service provision which is more appropriate to meet their eligible needs or the financial requirements of the Authority/Personal Budget.

- if there is objection to a proposed move/change, either from the individual or from relatives, partners, friends or informal carers, then the County Council will seek to resolve the situation, whilst also maintaining its legal duties
- The County Council does not have a legal duty to meet needs that are not eligible needs under the Care Act (2014) and therefore does not have a legal duty to fund services that an individual is not eligible for
- if an individual does meet eligibility under the Care Act (2014), but the service cost is significantly more than the personal budget, then the County Council will seek a more cost-effective outcome with the current provider or an alternative provider and will make an alternative offer of accommodation – only after this point will a consideration be given to a Third Party Top up for preferred accommodation.
- any decisions made relating to a change in service provision or a service decision that may involve financial, reputation or business risk to the County Council will require a risk assessment to be completed by the practitioner and will be reviewed by Senior Social Care representatives from the Directorate

Individuals who have depleted their capital living in a care home

If an individual is already living in a care home when their resources become depleted, and they refer themselves, or are referred to the Council for consideration for financial support, Hampshire County Council will follow due process to assess an individual's needs and eligibility for support under the Care Act (2014). More information on financial assessments is [published on the County Council's website](#). The following steps will be followed:

- a robust risk assessment will be undertaken as part of the individual's assessment of need
- where there is a doubt as to a person's mental capacity to make relevant decisions, an assessment of the individual's mental capacity will be carried

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out. More information on Mental Capacity Act is [published on the County Council's website](#)

- this risk assessment will be used to help support the decision-making regarding options available to the individual as outlined below

Where an individual is residing in a care home that is signed up to the Hampshire County Council Care Home Framework, and the individual's level of need is suitable for, and can continue to be met, within the setting, it is likely that the individual will be able to continue to reside within this home.

However, where an individual is residing in a care home:

- that has not signed up to the Hampshire County Council Care Home Framework
- if the current providers rates are significantly above what the Council is able to source to meet need

Hampshire County Council will seek to then:

- negotiate the rate with the current provider to a rate that is acceptable to the Council. If this is not possible, then the Council will:
 - source an alternative, appropriate provider through our brokerage team and Frameworks
 - offer said alternative placement, that can meet the individuals need. If the individual wishes to remain in their existing service, then a third party top can be considered to enable the individual to remain in their current service provision – there is required to be a third party able to support this option

Where an individual has eligible needs but does not require a care home placement or does not require the level of existing provision to meet their eligible needs or their current care home is not suitable, Hampshire County Council will seek to make an alternative offer to meet eligible needs using the Care Home Framework or other service provision (for example Extra Care Housing) as appropriate

In cases where an individual is offered an alternative placement, it should not be automatically assumed that any move would be detrimental. Any consideration for a move requires a risk assessment to be completed, taking account of all aspects of risk, not just for the individual.

If the individual has mental capacity to make decisions in relation to the above, then the County Council will look to support the identified eligible needs under the individual personal budget but not beyond this.

9. Individuals who lack mental capacity (for this/these specific decision(s))

The County Council works in a way that is equitable, therefore individuals will be treated in a fair and consistent manner regardless of whether they are assessed as having mental capacity or not to make a decision in relation to where they will live

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and the care and support, they will receive. The section below highlights the process for those who are assessed as lacking mental capacity to make said decisions.

A decision made in the best interest of the individual, whether made by a legally appointed representative or the County Council, will be made within the confines of the options available to meet the eligible care needs. A lack of mental capacity does not secure any further eligibility beyond that which would be available if the individual had mental capacity.

Where an individual is subject to an authorised detention under the Deprivation of Liberty Safeguards (DoLS) this does not preclude the consideration of alternative care arrangements. A DoLS authorisation determines best interests based on the options under consideration at the time authorisation was sought without prejudice regarding future care planning.

If, following a needs assessment, it is identified that the individual may not have mental capacity to make specific decisions about where they will live and/or what care they will receive then a Mental Capacity Assessment should be completed in relation to the specific decision (s) to be made.

- where mental capacity has already been determined under an active Deprivation of Liberty Safeguards (DoLS) authorisation, a separate assessment of mental capacity with regards choice of accommodation will not be necessary. Where a proposed change in accommodation will give rise to a new referral for DoLS authorisation, assessment of capacity will be undertaken under the DoLS statutory framework
- if an individual has a legally appointed representative with relevant authority, then they should make the required decision, if the individual is assessed as unable to do so. In determining whether the representative has the relevant authority, the County Council may need to seek further advice
- if the individual does not have a legally appointed representative relevant for the decision, then a Best Interests decision will be made
- this process should involve the individual, family/representative and other professionals, including the appointment of an Independent Mental Capacity Advocate (IMCA), if appropriate
- if the individual is objecting to a proposed arrangement or other interested parties are challenging the best interest's determination, and agreement cannot be reached, the matter should be referred to the Court of Protection

10. Option for top-ups

If an individual wants to move to or remain in their preferred accommodation that is more expensive than the service offered by the County Council, they can still move to their preferred placement or stay with their preferred provider if someone agrees to pay the difference between what the County Council will pay and the preferred care fee. This is known as a 'top-up payment'.

A top-up payment is usually made by a friend or relative of the person who receives the care. The person making the top-up payment is often called the 'third party' as they are not the Council and are not the person receiving the care. The third party

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must make the top-up payment from their own money. The County Council has published [more information on top-ups](#).

11. Managing risk

To assess and manage risk appropriately, the Adults' Health and Care risk assessment and escalation framework will be used to support practitioners and ensure safe decision-making around risk. The risk assessment will be appropriately recorded, and the risk escalation pathway followed as appropriate.

12. Performance monitoring

The effectiveness of this approach will be monitored overall through the Care Home Framework Programme management, local operational governance structures and financial monitoring.

13. Equality Impact Assessment

This policy impacts on Hampshire residents whose care in a care home is to be funded by Hampshire County Council as their capital has depleted and they have eligible needs, assessed under the Care Act (2014) that can only be met through care in a care home environment. The policy is therefore recognised as impacting older people and disabled people. It is also recognised that additional considerations such as rurality and poverty may contribute to further impacts.

Impacts on marriage and civil partnerships are recognised, however these are determined to be neutral. Should partners chose to live together, the County Council would not expect a financial situation to affect one and not the other, therefore their living arrangements and financial assessments will be considered both collectively and separately, as per Charging Regulations at that time, to ensure their wishes are taken into account and their wellbeing and right to family life are not detrimentally affected.