



Residential Care Charging Policy

October 2023



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1. Introduction

This policy sets out how Lancashire County Council is allowed to charge a contribution for care and support in a care home. The charges are calculated using the [Care Act 2014](#), the [Care and Support \(Charging and Assessment of Resources\) Regulations 2014](#) and the [Care and support statutory guidance](#) issued by the Department of Health. These form the basis of this policy.

2. Policy aim

This policy aims to provide a fair and consistent charging framework in accordance with guidelines set out by the Department of Health. The contribution will be calculated openly and transparently, and individuals will be treated in a fair and equitable manner.

3. The Legal Framework

Before charging, Lancashire County Council must carry out a financial assessment of what you can afford to pay and give you or your representative a written record of the completed assessment, explaining how the assessment has been carried out, what the charge will be and how often it will be made, and, if there is any fluctuation in charges, the reason.

Lancashire County Council should ensure that this information is provided in a manner that you can easily understand. We must regularly reassess your ability to pay and take account of any changes to your resources, particularly when there is a change in circumstance or at your request.

The Care Act 2014 also allows local authorities to develop and maintain a policy setting out how we will charge you in residential and nursing care settings and, we must ensure we do not charge more than is permitted under the regulations and corresponding guidance.

You are only required to pay what you can afford in accordance with the financial assessment process. You may be entitled to financial support based on a means-test while full cost charging will be applied if you can afford it. If you are assessed to pay you will only ever be charged the maximum assessed charge.

Lancashire County Council must not charge more than the cost incurred in meeting the assessed needs of the person.

You will be charged the full cost of your residential or nursing care if:

- You have capital above the upper capital threshold, currently £23,250 (2023/24) confirmed [Social care charging for local authorities](#)
- Your income has been assessed and your level of income is higher than the cost of your care.



- You do not provide enough information to complete a financial assessment and/or refuse to comply with Lancashire County Council's assessment process.

Lancashire County Council must also provide [information and advice](#) in a suitable format to ensure that you (or your representative) are able to understand any [financial contributions](#) you are asked to make. We should also make you or your representative aware of the availability of independent financial information and advice.

4. Principles

The key principles of this policy are:

- The full cost of services is recovered from you where you have the financial resources to pay in accordance with a financial assessment.
- Any contributions will be calculated by an individual financial assessment.
- Individual financial assessments will ensure you contribute/are charged based on your ability to pay.
- The appropriate contribution will be calculated fairly and promptly. In most cases this will mean that financial assessment will be completed within 28 days of the start of your care home placement.
- If you fail/refuse to complete a financial assessment, you will be treated by Lancashire County as a self-funder who is responsible for the full cost of their care.
- You will receive a benefit check as part of the financial assessment to maximise your full benefit entitlement.
- Any contribution/charge will not exceed the cost of providing the service.
- You have a right to decline a financial assessment and may instead choose to pay the actual cost of the service.
- Where assessed contributions are not made, debt recovery will be pursued for all outstanding contributions which may be through legal action and/or the use of external agents.
- You have a right to appeal if you feel the financial assessment has been completed incorrectly.
- All personal information will be treated in confidence in accordance with data protection legislation. However, as Lancashire County Council has a duty to protect the public funds it administers, information provided may be shared with other public bodies administering public funds and may also be used for the prevention and detection of fraud or financial abuse.

5. To whom does this policy apply?

The policy applies to all adults and younger people over 18 who have been assessed by the council as having an eligible need for residential and/or nursing care.

6. What services does this policy cover



Lancashire County Council will charge you for services under this policy that meet 24/7 care and support needs.

Depending on the circumstance of the offer of care the financial assessment process will consider whether the care is being provided on a short term or temporary basis with the intention to return home; or whether the care and support is being provided to meet long term needs. As a result, there are four consideration points for application of this policy:

- Short Term and returning home – not exceeding 8 weeks in accordance with our Short Breaks Policy.
- Temporary care and returning home within 12 months
- Residential reablement care which exceeds 6 weeks
- Long term care and support delivered to you in a residential or nursing home on a permanent basis.

Please note: Lancashire County Council charge for Non-Residential care and day time Short Breaks under our Non-Residential Charging Policy.

7. When charges do not apply

Lancashire County Council will not charge you for certain types of care and support. These are:

- Crisis and Intermediate Care, including reablement, for up to 6 weeks.
- Care and support provided to people with Creutzfeldt-Jacob Disease.
- After-care services provided under Section 117 of the Mental Health Act 1983.
- Day Time Support (Day care) when it forms part of an individual's residential care contract.
- Any service or part service which the NHS is under a duty to provide. This includes Continuing Health Care and the NHS contribution to Registered Nursing Care.

8. Establishing whether someone has mental capacity to make decisions about their finances

At the time of the assessment of needs, Lancashire County Council must establish whether you have the capacity to take part in the assessment. If you lack capacity, Lancashire County Council must find out if you have any of the following as the appropriate person will need to be involved in both the needs and financial assessment:

- enduring power of attorney (EPA).
- lasting power of attorney (LPA) for property and affairs.
- property and affairs deputyship under the Court of Protection.
- any other person dealing with that person's affairs (for example, someone who has been given appointeeship by the Department for Work and Pensions (DWP) for the purpose of benefits payment.

9. Former Self Funders/ full cost payers of social care



If your capital assets (not including the value of your main and only property) fall below the upper capital threshold (£23,250) to become eligible for council funding Lancashire County Council will require a minimum of 3 months' notice to undertake a care needs and financial assessment to establish if we have a liability to take on care costs at the point of depletion.

If you are assessed as having eligible care needs a financial assessment will be completed to determine the date the self-funder (you) became eligible for council funding.

The date Lancashire County Council will assume responsibility for payment will be the date you requested a care needs assessment, or the date at which the funds became depleted if it is after this.

Lancashire County Council will not be responsible for any debts incurred before you became eligible for funding.

10. The Financial Assessment

Once the care needs assessment has been completed and it has been established you have eligible care needs, the financial assessment team will contact you or your representative to arrange for a financial assessment officer to complete a financial assessment. The financial assessment officer will obtain information regarding your income and capital, which may be verified with the Department of Works and Pensions. This information is then used to calculate how much you will contribute towards the cost of your care.

It is your responsibility to provide all the relevant information requested in order to complete the assessment and failure to satisfy the financial assessment officer will result in the maximum contribution being applied.

10.1 Calculating the contribution you have to pay

The financial assessment process will be based on the definitions within the Care Act 2014

The basic principle of the financial assessment calculation:

Individual Income
Plus
Tariff Income
Less
Personal Expenses Allowance
Less
Savings Disregard
Equals
Assessed Contribution

10.2 Income

[The Care Act Annex C: Treatment of Income](#) provides guidance to local authorities on the treatment of income within the financial assessment.



10.3 Capital/ Property

[Care Act 2014 Annex B: Treatment of Capital](#) provides guidance to local authorities on the treatment of capital within the financial assessment which includes if you own your own property.

Where you have assets between the lower and upper capital limits Lancashire County Council must apply tariff income. This assumes that for every £250 of capital, or part thereof, you are able to afford to contribute £1 per week towards the cost of your eligible care needs.

10.4 Personal Expenses Allowance (PEA)

This is the minimum amount of income the council must leave you with once the financial assessment has been completed - £28.25 (2023/24).

The purpose of the PEA is to ensure you have money to spend as you wish. It must not be used to pay towards the cost of your care.

10.5 Savings Disregard

If you are aged 65 and over have made provisions for retirement above the basic state pension you may be entitled to an additional allowance on top of their personal expenses allowance - £6.50 (individual) (2023/24)

These figures are confirmed annually in the local authority circular on social care charging provided by the Department of Health & Social Care - [Social care charging for local authorities](#)

11. Change of Circumstances

You or your representatives must notify Lancashire County Council of any changes in your financial circumstances as these could affect your financial assessment.

If your total -capital/income increases above £23,250, you must notify the financial assessment team to arrange a reassessment.

Where you fail to provide information following requests, contributions will be calculated at the maximum cost from the date of the request.

Where appropriate we may automatically reassess, contributions based on changes that we become aware of through policy changes, Department of Work and Pensions or regulation changes (e.g., annual increases to standard benefit payments, State Retirement Pension or service cost increases). Where appropriate this might be a standard % increase to all your income.

12. 12-week property disregard

If you are assessed as needing to move into permanent residential care, you may be entitled to the 12-week property disregard. This means that the value of your property will not be taken into account as capital for the first twelve weeks of the moving into the residential care home.

In order to qualify:



- You need to own your own home (or have an interest in it valued at more than £23,250).
- Your home has no other dependent/partner living in it.
- You have capital resources of less than £23,250.

At the end of the 12-week period, you will be liable to meet the full cost of your care unless you have been assessed otherwise.

13. Deferred Payment Agreements (DPA)

The deferred payment scheme is designed to help you if you have been assessed as having to pay the full cost of your permanent residential care but cannot afford to pay the full weekly assessed charge because most of your capital is tied up in your property.

The deferred payment scheme means if you are ordinarily resident in Lancashire you will not be forced to sell your home in your lifetime to pay for your permanent residential care. By entering into a deferred payment agreement, you can 'defer' or delay paying the cost of your care and support until a later date.

There are two types of Deferred Payments Lancashire County Council can offer:

- **Traditional type:** Where Lancashire County Council enters into the contract with the care home and pays the care home directly.
- **Loan type:** Where you hold the contract with the care home or supported living accommodation, and Lancashire County Council loans you the money to pay the care home or supported living accommodation. (This could result in you paying higher costs as a care home is not subject to any restrictions when entering into a contract with an individual rather than Lancashire County Council).

If you lack capacity to request a deferred payment, a Deputy or Attorney (a person with a relevant Enduring Power of Attorney or Lasting Power of Attorney) may request a deferred payment on your behalf.

Where Lancashire County Council acts as a Deputy for a you, they may apply for a deferred payment where this is in your best interests.

A Deferred Payment Agreement will not be entered into with you if you are lacking the requisite mental capacity unless the proper arrangements are in place.

13.1. Qualifying for a Deferred Payment Agreement

To qualify for a Deferred Payment, you must meet **all three** of the following criteria:

- Receiving permanent care in a care home; and
- Have £23,250 or less in savings and assets, not including the value of your main home; and



- Your main home is not disregarded, for example it is not occupied by a spouse or dependent relative as defined in regulations on charging for care and support.

Even if you meet the criteria above, Lancashire County Council may refuse a deferred payment if:

- It cannot secure a first charge on the property, (a "first charge" is the first or the primary mortgage or loan availed against the property in question).
- Someone is seeking a top up (which may make a deferred payment agreement unsustainable over time), or
- You do not agree to the terms and conditions of the Deferred Payment Agreement (e.g. a requirement to insure and maintain the property).

If you do not want to sell your property and choose not to enter into a deferred payment agreement Lancashire County Council will ask you to make payments directly to the care home.

If Lancashire County Council refuses a request for deferred payment, the decision will be notified in writing to you. The decision will set out the grounds for refusal and provide information on how to appeal.

Information and advice will be provided so you can understand what will happen during the application process.

Lancashire County Council will need to consider if the amount to be deferred is possible which will depend on how much equity is in the asset. This will depend on:

- The amount of equity in the property
- The amount you are contributing to the cost of care from other sources, including income, savings, financial products or a third-party
- The total care costs including any top-ups.

The amount of equity available will be the value of the property minus 10%, minus a further £14,250 (the lower capital limit). A verified independent valuation of the property will be carried out on behalf of Lancashire County Council.

13.2 Top up fees

If you are considering a top-up, Lancashire County Council will consider whether the amount or size of the deferral requested is sustainable given the equity available from their property.

Once you have reached the equity limit, Lancashire County Council will not fund your top-up, and you will need to find other ways to pay for it or be prepared for a change in your care package.



To ensure sustainability of the deferral, Lancashire County Council has discretion over the amount you are permitted to top up. We will accept any top-up deemed to be reasonable given considerations of affordability, sustainability and available equity.

13.3 Sustainability

Lancashire County Council will need to be satisfied that the deferred payment agreement is sustainable considering a range of factors including;

- the likely period you would want a DPA for
- the equity available
- the sustainability of your contributions from their savings (if you are making one)
- the flexibility to meet future care needs
- the period of time you would be able to defer their care costs for

Lancashire County Council will calculate the sustainability of a deferred payment agreement until its termination.

13.4 Interest and administration charges

Interest and administration charges will be added to the total amount deferred as they are accrued, although you may request to pay these separately if you choose. The interest will accrue on a compound basis.

Lancashire County Council will charge an interest rate equalling its average borrowing rate over the preceding financial year. The interest rate charged will not however exceed the maximum amount specified in the Care Act Regulations on Deferred Payments.

Interest will accrue on the amount deferred until the point that the deferred amount is repaid. If Lancashire County Council cannot recover the debt and seeks to pursue this through the County Court system, we may charge the higher County Court rate of interest.

Lancashire County Council will levy an administration charge based on the actual costs incurred in providing the Deferred Payment Scheme which are subject to an annual review.

If you apply for a deferred payment, then subsequently decide not to continue with the application you will still be required to pay any administration charges already incurred.

13.5 Circumstances where Lancashire County Council may stop deferring care costs

Lancashire county council may stop deferring any more charges if:



- Your total assets fall below the level of the means test, and you become eligible for local authority support in paying for your care.
- You no longer have a need for or are no longer receiving care and support in a registered residential or nursing care home or supported living accommodation.
- You breach the terms of your agreement.
- Under the charging regulations, the property becomes disregarded for any reason and you consequently qualify for local authority support in paying for your care.
- You reach the equity limit that you are allowed to defer. Interest would continue to accrue on the amount deferred until the agreement was terminated and the amount deferred was repaid.

If a decision is made to stop deferring care costs, the repayment will be subject to the usual terms of termination. Lancashire County Council will provide a minimum of 30 days advance notice that further deferrals will cease.

13.6 Obtaining security

Lancashire County Council must have adequate security in place when entering into a Deferred Payment Agreement.

Lancashire County Council will accept a first legal mortgage charge against a property on the land register as adequate security. However, will consider a second legal charge or restriction as adequate security at its discretion.

In cases where an agreement is to be secured with a **jointly owned property**, Lancashire County Council **must** seek both owners' consent (and agreement) to a charge being placed on the property. Both owners will need to be signatories to the charge agreement, and the co-owner will need to agree not to object to the sale of the property for the purpose of repaying the debt due to Lancashire County Council. This is consistent with if you were the sole owner of a property.

Lancashire County Council will obtain similar consent to a charge being created against the property from any other person who has a beneficial interest in the property. Lancashire County Council has full discretion in individual cases to refuse a deferred payment agreement if it is not satisfied that adequate security is in place.

13.7 Terminating the Agreement

A Deferred Payment Agreement will be terminated when:

- You or your representative repays the deferred debt in full. This can happen during your lifetime or when the agreement is terminated through the deferred payment agreement holder's death; or
- The property is sold and Lancashire County Council is repaid in full; or
- You die and the amount is repaid in full from your estate.

On termination, the full amount due includes all interest accrued and any administration fees charged.



Responsibility for arranging for repayment of the amount due in the case of payment from the estate falls to the Executor of your will/administrator of your estate. Interest will continue to accrue on the amount owed to Lancashire County Council after your death and until the amount due is repaid in full.

If terminated through your death, the amount owed to Lancashire County Council falls due 90 days after you have died. After this 90-day period, if Lancashire County Council concludes active steps to repay the debt are not being taken, for example if the property is not for sale, on the property market or we conclude the executor is wilfully obstructing the sale of the property, then Lancashire County Council may enter into legal proceedings to reclaim the amount due to it.

14. Deprivation of Capital and Assets

Deprivation as described in the Care Act 2014 is where a person has intentionally deprived or decreased their overall assets – either capital or income, in order to avoid or reduce the amount, they are charged towards their care.

There is no time limit that is applied to this, it is based on whether there was reasonable expectation that you may need to pay towards your care and support at the time of the disposal.

If we suspect that you have deliberately deprived yourself of assets in order to avoid or reduce the amount you are asked to pay towards any care charges, Lancashire County Council will refer to the detailed guidance contained in [Care Act 2014 Annex E: Deprivation of Assets](#)

Lancashire County Council has an information sheet (IS 5) [Deprivation of Capital and Assets Policy and Appeals Process](#).

Lancashire County Council will consider if a deprivation of capital or income has occurred if:

- The individual ceases to possess capital or income which would otherwise have been taken into account for the purpose of assessing their contribution towards their care services, i.e., an individual transfers a sum of money to another individual as a gift or the beneficiary of an insurance policy is changed so that the monies are not available to the individual.

When a decision has been made that deprivation has occurred the Lancashire County Council will treat you as still possessing the capital or income, this is called notional capital/income.

15. Your choice of care provision and Top Ups

Lancashire County Council utilises a range of methods in order to give you choice over the care you receive. Choice of care services are largely defined by the type of care offering being provided and the methods of purchasing used by Lancashire County Council to achieve the most cost-effective services.



If you or your carer/family members etc. chooses not to accept the option the Council has negotiated on your behalf, you will be made aware that any subsequent placements sourced will incur a top-up fee if that home is more expensive than the choice offered. This top-up fee is usually paid by a third-party, such as a spouse, family member or carer, and is in addition to the client contribution which is identified in the financial assessment.

You are not allowed to make a top-up payment yourself, except in the following circumstances:

- You are subject to a 12-week property disregard.
- You have a deferred payment agreement in place with the Council and the terms of the deferred payment agreement reflect this arrangement.
- You are receiving accommodation provided under S117 for mental health aftercare.

16. If you are no longer able to pay your top up fee

If your third party are unable to continue paying the top-up fee, Lancashire County Council must be provided with a minimum of 8 weeks' notice and, in any event, as soon as you or your third party is aware of this situation arising.

Lancashire County Council will then make contact to discuss your care options which may include moving to another category of room or to another care home, unless the care home is able to accommodate you at the same cost as an alternative suitable location identified by the Council.

17. Payment of assessed contributions and third/first party top ups

The preferred method of payment for assessed charges is by Direct Debit. The Direct Debit will be collected on a four-weekly basis in arrears.

18. Non-Payment of outstanding fees, charges, interest, deferred payment agreement, and/or client contributions

It is the responsibility of Lancashire County Council to collect monies due, and to ensure debts do not accrue. Where you fail to make a payment for the assessed contribution, action will be taken in accordance with Lancashire County Council's debt policy. Recovery of all outstanding contributions will be pursued by the Receivables Team.

Initially the collector will contact you or your representative to establish reason for non-payment. Where there is a justifiable reason, the collector will work with you or your representative to ensure payment is received.

Refusal to pay debts or to co-operate with the collector may result in the debt being pursued through legal action or through the use of external agencies.



19. Residential Placements outside of Lancashire

As stated in the previous section (Your choice of care provision) Lancashire County Council are able to provide care choices in different locations.

To ensure that Lancashire County Council is able to provide a range of cost-effective options to its residents, we may arrange placements outside of the County's geographical boundary. In doing so, the cost of the placement will be bench marked against how the Council could meet your eligible care needs inside Lancashire. Assessed contributions and top up fees would apply as previously stated.

Placements outside of the County's geographical boundary may be offered in exceptional circumstances, for example:

- The care and support required is particularly specialist and therefore opportunity to make an appropriate placement in Lancashire is extremely limited.
- You have no ties to the County, i.e. no relatives or family/friends' network within the County, and has no preference for where they are placed.
- A placement within Lancashire would be deemed unreasonable because it denies family/carers access to you and diminishes the chance to experience family life and support.
- Further to this, your particular situation will be considered in extraordinary circumstances on a case-to-case basis.

During the assessment and planning process Lancashire County Council will take reasonable steps to ensure your circumstances and care act eligible needs are considered when sourcing a placement for you. Value for money of a placement outside of Lancashire will be considered alongside the option of meeting your care and support needs within the county as part of top up and choice.

20. What to do if you do not agree with our decision

Where you feel that you cannot afford to pay the assessed charge, or the financial assessment has been completed incorrectly, or that the assessment has not taken all relevant regards fully into account and will cause you financial hardship, you can appeal and request a review of the charge.

The appeals procedure is not intended for you to express your dissatisfaction with any aspect of the Charging Policy. Only those cases, which are supported by relevant documentary evidence, will be dealt with under the Appeals Procedure.

The Appeals Procedure is designed to:



- Consider exceptional circumstances not acknowledged in the standard assessment process.
- Ensure correction of omissions or calculation errors made in the original assessment.

If you wish to appeal, you must do so in the first instance to:

The Senior Care Finance Assessment Manager, Care Finance Assessment Team, Exchequer Services, Lancashire County Council, PO Box 100, County Hall, Preston. PR1 0LD.

Or via Email to: Fin.assessment@lancashire.gov.uk

21. Policy, Legislation and Regulations

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| <p>POLICY DOCUMENTS</p> | <p>Additional information and guidance regarding charging for Adult Social Care is available in a series of regularly updated Information Sheets as follows:</p> <p>Information Sheet 1 – Adult Social Care Fees – 2023/24</p> <p>Information Sheet 2 – Financial Implication for Non-Residential Care Services</p> <p>Information Sheet 3 – Financial Implications of Moving into a Residential or Nursing Home</p> <p>Information Sheet 4 – What is the Deferred Payments Scheme?</p> <p>Information Sheet 5 – Deprivation of Capital and Assets, policy and appeals process</p> <p>Information Sheet 6 – Funding your care and support needs, Independent Financial Advice</p> <p>Further information is available in Policies, Procedures and Guidance documents, including:</p> <ul style="list-style-type: none"> • Eligibility Criteria PPG • Ordinary Residence PPG • Care Act Independent Advocacy PPG • Advocacy (IMCA and IMHA) PPG |
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| | <ul style="list-style-type: none"> • Assessment of Needs PPG • Care and Support Planning PPG • Review of Care and Support Plans PPG |
| LEGISLATION AND REGULATIONS | <p>Care and support statutory guidance</p> <p>Annex B: Treatment of capital</p> <p>Annex C: Treatment of income</p> <p>Annex D: Recovery of debts</p> <p>Annex E: Deprivation of assets</p> |



22. Equalities

The Equality Act, 2010 requires Lancashire County Council to have "due regard" to the needs of groups with protected characteristics when carrying out all its functions, as a service provider and an employer. The protected characteristics are age, disability, gender identity/gender reassignment, sex/gender, race/ethnicity/nationality, religion or belief, pregnancy or maternity, sexual orientation and marriage or civil partnership status.

The main aims of the Public Sector Equality Duty are:

- To eliminate discrimination, harassment, or victimisation of a person because of protected characteristics.
- To advance equality of opportunity between groups who share protected characteristics and those who do not share them. This includes encouraging participation in public life of those with protected characteristics and taking steps to ensure that disabled people can participate in activities/processes.
- Fostering good relations between groups who share protected characteristics and those who do not share them/community cohesion.

It is anticipated that the Residential Charging Policy will support the County Council in meeting the above aims when applied in a person-centred, objective and fair way which includes, where appropriate, ensuring that relevant factors relating to a person's protected characteristics are included as part of the process.

Where/if any adjustments are needed for you/your representative to participate in or understand the assessment process or other communications arising from this Policy, please let us know so that these can be considered and, wherever possible, made.

More information can be found on the Equality and Cohesion intranet site on <http://lccintranet2/corporate/web/?siteid=5580&pageid=30516>



POLICY VERSION CONTROL

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| POLICY NAME | Residential Care Charging Policy | | |
| Document Description | This policy sets out how Lancashire County Council is allowed to charge a contribution for care and support in a care home. The charges are calculated using the Care Act 2014 , the Care and Support (Charging and Assessment of Resources) Regulations 2014 and the Care and support statutory guidance issued by the Department of Health. These form the basis of this policy. | | |
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