

**Lancashire County Council  
Adult and Community Services Directorate**

**Charging policy for Social Care Services Received by Adults Whilst Living at Home  
(Non Residential Care Charging Policy)**

- 1 Introduction**
- 2 Legal Basis**
- 3 Policy Aims and Principles**
- 4 Definition of Non-Residential Care Services**
- 5 A Brief Guide to Charging adults for Non residential care services**
  - 5.1 Service users with more than £23,250 savings and investments**
  - 5.2 Service users with less than £23,250 savings and investments**
- 6 Financial Assessment Process**
- 7 Benefit maximisation**
- 8 Calculation of Charges and description of the components of the calculation**
  - 8.1 Income**
  - 8.2 Tariff Income**
  - 8.3 Protected Minimum Income**
  - 8.4 Household Expenses**
  - 8.5 Disability Related Expenses**
  - 8.6 Net Disposable Income**
  - 8.7 Assessed Weekly Charge**
  - 8.8 Maximum Weekly Charges**
- 9 Treatment of Independent Living Fund payments and contributions**
- 10 Procedures for the Notification of Charges**
- 11 Application of charges**
- 12 Payment and collection of Charges**
- 13 Assessment of Couples**
- 14 Deprivation of Capital**
- 15 Charging when some services are paid for by other statutory authorities**
- 16 Review and Reassessment of Service User's Charges**
- 17 Cancellation of, or Changes to, Services**
- 18 Non payment of charges and Debt Management**
- 19 Appeals procedure**

**Appendices**

Appendix A Appeals Procedure

Appendix B Notification of Charge Template

**1 Introduction**

Lancashire County Council's Adult and Community Services Directorate (ACSD) operates a charging scheme for its services – this document explains how charging for non-residential care services works. The non-residential charging policy relates to people who receive care services such as care at home, day care attendance, direct payments and other services provided or arranged by ACSD to the individual whilst they live at home. It does not apply to those living in residential or nursing homes or residential respite services which are covered by a separate charging scheme for residential care. The policy also applies to the assessment of charges for Supporting People services where service users are not claiming and receiving Housing Benefit.

Charges for Residential Care provision are assessed by Lancashire County Council in accordance with the Government's Charging for Residential Accommodation Guidance (CRAG) and do not form part of this policy.

This charging policy will be reviewed annually in accordance with Government guidance.

## **2 Legal Basis**

Lancashire County Council's non residential care charging policy operates in accordance with the Government's Fairer Charging legislation and guidance as provided by the Department of Health, and Section 17 of the Health and Social Services and Social Security Adjudication Act 1983.

Statutory Guidance on Councils' charging policies for non-residential social services has been issued under section 7 of the Local Authority Social Services Act 1970. This guidance is entitled "Fairer Charging Policies for Home Care and other non-residential Social Services" (November 2001).

Section 17 of the Health and Social Services and Social Security Adjudication Act 1983 gives local authorities discretionary power to charge adult recipients of day and domiciliary care services.

The Council's policy on deprivation of capital is in accordance with the Government's Charging for Residential Accommodation Guidance (CRAG) and the following legislation:

- Section 45 of the National Assistance Act 1948
- Section 423 of the Insolvency Act 1986
- HASSASSA (health and social services and social security adjudications act 1983)
- 1992 National Assistance (Assessment of Resources) Regulations

## **3 Policy Aims and Principles**

The policy's aim is to provide a reasonable and fair charging framework for all service users. The income generated from the charges helps maintain and develop services for vulnerable people in Lancashire.

The principles underpinning the charging policy are:

- Generating income from charges is essential to maintain and modernise the services provided.
- There is a reasonable balance of burden in meeting the costs of services between users of the service and council taxpayers
- The service user is at the centre of the policy and processes.
- Service users' assessed charges aim to be fair and reasonable. Due care will be taken when assessing the service user's finances, and their ability to contribute towards the cost of care provided according to their means.
- Integrating charges and the financial assessment process will each ensure a service user's income is not reduced below the appropriate minimum level set by Central Government.
- A financial assessment enables the identification of benefits and allowances to which a service user is, or may be, entitled. It also enables the service user to receive assistance with claiming any such eligible benefits and allowances.
- The County Council will strive to enable the provision of appropriate benefits advice utilising our partnerships with other agencies and providers as part of the County Council's commitment to social inclusion.
- The County Council will aim to maximise service users' incomes in order to improve quality of life and combat dependency.
- The costs of disability are recognised by this policy.
- To support independence, service users who work will not have their earnings regarded as assessable income in their financial assessment.
- Decisions about the provision of, and assessed need for, services by the Directorate will be taken independently of financial circumstances.

- Where service users have the ability to pay but refuse to do so, the County Council will recover arrears in a sensitive way, and through the courts and/or via the use of debt collection agencies as a last resort
- Essential services will not be withdrawn due to non payment of charges.
- Service users have the right to appeal against their charge if they consider the assessment has not been completed correctly, the assessment has not taken into account all relevant expenses or if they feel that they cannot afford to pay the charge.
- All service user and financial information (verbal and in writing) will be treated in confidence, and due care will be given to disclosing information that is in the interests of the service user only and in accordance with data protection legislation.
- The County Council has a duty to protect the public funds it administers, and to this end information provided may be used for the prevention and detection of fraud and or financial abuse. Information may be shared with other public bodies administering public funds, solely for the purpose of fraud prevention and in compliance with relevant legislation.

#### 4 Definition of Non-Residential Care Services

Non- residential care services are services provided to adults whilst they are living at home i.e. not living in a residential or nursing care home.

Examples of non-residential services for which a charge is made include:

- Day Care (Sessions at a Day Centre)
- Help at home
- Telecare
- Direct Payments/Individual Budgets/Self Directed Support
- Supporting People
- Outreach Services provided by day care centres.

Services which are not currently chargeable include:

- Transport provided by A&CS
- The first six weeks' use of reablement services
- Crisis care; Maximum of 3 day/72hour period after which charges will apply

Service users will not be charged if:

- They suffer from Creutzfeldt Jacob Disease
- Their services are provided under Section 117 of the Mental Health Act 1983.

#### Meals and Additional Day Care Costs:

There is a set charge for meals provided to service users at a day centre or delivered to them at home. **This is in addition to any assessed charge** for non residential care services.

Charges for other refreshments provided and any activities arranged as part of a service user's attendance at a day centre are also **in addition to any assessed charge**.

The charges for meals are currently:

Lunch	£3.25
Tea	£1.60
Frozen meal	£2.60
Day care main meal	£2.60
Day care snack meal	£1.30

## 5 A Brief Guide to Charging Adults for Non-Residential Care Services

### 5.1 Service users with more than £23,250 savings and investments

Those service users with more than **£23,250** savings and investments will be required to pay the 'maximum charge' for services provided. However this maximum charge will not exceed £595 per week. Please see detail in section 8.8 in respect of maximum charges when service users require two care staff to carry out a care task.

Currently the maximum charges are:

- Day Care                    £5.00 per day
- Social Care                £11.00 per hour

For example, a service user paying maximum charge for four hours social care per week would pay 4 x £11 per hour , i.e £44 per week.

When a service user's total savings and investments drops below £23,250 they should contact the financial assessment team and request a financial re-assessment, as they will be entitled to a financial assessment as detailed in section 5.2 below.

Examples of what types of capital are included in a service user's total savings and investments are given in section 8.2.

### 5.2 Service users with less than £23,250 savings and investments

All service users with less than **£23,250** savings and investments will be financially assessed, on the basis of their income, savings and investments, to contribute towards the cost of care services provided.

**Please note the value of a service user's home is not included in the calculation of savings and investments when assessing their ability to pay charges for non-residential services. However, service users should be aware of the possible future implications of giving away property. Please see the note about giving away assets at the end of section 6 and 'Deprivation of Capital' at section 14.**

The financial assessment makes allowances:

- To protect minimum income levels set by the Government
- For some household expenses
- For additional costs that arise due to a service user's disability.

Service users with income below minimum levels, which are set by Central Government, will not be required to contribute towards their care costs. These levels of income are known as 'protected minimum income' and are revised annually.

**If a service user refuses to disclose their financial circumstances in full they will be required to pay the maximum charge for the services provided.**

Where a service user feels that they cannot afford to pay the assessed charge, that the financial assessment has been completed incorrectly, or that the assessment has not taken all relevant expenses fully into account, they can appeal against the charge. Please see appeals procedure at

section 19 and in detail at Appendix A. This does not take away the service user's right to avail themselves of the County Council's 'Complaints and Representations Procedure'.

## **6 Financial Assessment Process**

When a potential service user is referred to Adult and Community Services, a Social Worker or Care Manager for the area in which they live will visit them to assess their care needs (if in hospital, this assessment may be carried out by a hospital based Social Worker or Care Manager).

The Social Worker or Care Manager will carry out an assessment of the potential service user's care needs or will verify the service user's own assessment of their potential care needs. If they arrange care services for them they will inform the service user that the services to be provided are subject to charging or the service user will be provided with charging information when completing their own assessment.

When chargeable services are arranged the County Council's Financial Assessment Team are automatically informed. The Financial Assessment Team will then contact the service user to arrange an appointment for a Financial Assessor to visit the service user at home. The assessor needs to obtain information regarding the service user's income, savings, investments and expenditure, from which they will calculate how much the service user should pay towards the cost of care services provided.

In preparation for the assessment visit, the financial assessor will read a service user's case notes and if necessary consult with social workers and other interested parties. The assessor will use this information to produce a risk assessment and to ensure any case-specific information is taken into account when carrying out the assessment.

During the financial assessment visit, the Financial Assessor will check that the service user is in receipt of all benefits to which they are entitled. Please see section 7 for full details of this benefit maximisation process.

The Financial Assessor will help the service user to identify additional costs they may have to meet due to their disabilities, (e.g. higher than average heating or laundry costs). This is to enable an allowance to be made when calculating how much the service user should pay towards the cost of care services provided. Evidence of these expenses will be required - please see section 8E below.

### **Please note:**

**It is not advisable for a service user to give away large sums of money or other assets (including property) in the hope of qualifying for a lower charge for social care services received now or in the future. In such circumstances the financial assessment will include the value of any money or asset given away (i.e. as if it still belonged to the service user). In some circumstances the County Council also has the power to claim against the person/s to whom any money or assets have been given. (see section 14 Deprivation of Capital)**

## **7 Benefit Maximisation Process**

During the financial assessment visit, the Financial Assessor will check that the service user is in receipt of all benefits and allowances to which they are, or may be, entitled.

The financial assessor will complete the appropriate benefit and allowance claim forms for the service user, and will pursue the benefit and allowance claims on the service user's behalf.

Service users will be asked to sign a consent form to enable the County Council's financial assessment team to follow up any benefit and/or allowance claims made, and enable the assessor to verify benefit income, with the Department of Work and Pensions and/or Local Council.

The financial assessor will liaise accordingly with the Department of Work and Pensions (DWP). The financial assessor is authorised by the DWP to verify benefit claims, meaning that the processing of any benefits can be carried out quickly, and with minimum inconvenience to the service user.

Where it is identified that a service user has benefit entitlement a reassessment of their finances will be completed once the benefit or allowance has been confirmed as being in payment. This reassessed charge will apply from the start date of the award including any period of backdated payments (but from no earlier than the effective date of the original financial assessment).

## 8 Calculation of Charges

In simple terms the calculation is weekly income less weekly expenses, with 60 percent of the difference applied as the weekly charge.

Basic Calculation Example:

(all amounts are weekly)

	<b>(8.1) Income</b>	
(including	<b>(8.2) Tariff income</b>	<u>£220.69</u>
Less	<b>(8.3) Protected Minimum Income</b> (& 25% buffer)	-£132.60 -£ 33.15
Less	<b>(8.4) Household Expenses</b>	-£ 19.50
Less	<b>(8.5) Disability Related Expenses</b>	<u>-£ 4.95</u>
Equals	<b>(8.6) Net Disposable Income</b>	<u>£ 30.49</u>
	<b>(8.7) Assessed Weekly Charge</b> (60% of Net Disposable Income)	<b>£ 18.30</b>

The assessed weekly charge must not exceed:

### **(8.8) Maximum charges for services received**

## **8A to 8G Description of the components of the calculation**

### **8.1 Income**

Not all types of income are included in the calculation.

### **Some examples of income types included in the calculation are:**

(This lists contains examples only and is not exhaustive)

Income Support  
Job Seekers Allowance  
State Retirement pension  
Guarantee Pension Credit  
Occupational and private pensions

War Disablement Pension (£10 per week of this is disregarded i.e. not included in the income figure)  
War Widows pension (£10 per week of this is disregarded i.e. not included in the income figure)  
Incapacity Benefit  
Invalid Care allowance/Carers Allowance  
\*\*Attendance Allowance  
\*\*Disability Living Allowance care (DLA care)  
Severe Disablement allowance  
Certain income from trust funds  
Payments of income from capital held in trust which is in consequence of personal injury are treated in line with the Government's Charging for Residential Accommodation Guidelines (CRAG).

*\*\* If either of these allowances are received at the higher rate*

*Only the lower rate of Attendance Allowance or the middle rate of DLA care will be included as income in the calculation unless care is received during both the day and night in which case the higher amount will be included as income.*

### **Some examples of income types not included in the calculation are:**

(This lists contains examples only and is not exhaustive)

- Employment earnings
- Disability Living Allowance Mobility component
- War Pensioners Mobility Supplement
- Widows Supplementary Pension/Special Payment
- Working Families Tax Credit
- Disabled Persons Tax Credit
- Child Tax Credit
- Savings Credit element of Pension Credit
- Christmas Bonus
- Winter fuel payments
- Social Fund Payments
- Housing and Council Tax Benefits
- Regular charitable or voluntary payments not intended to meet or be used for daily living expenses
- Volunteer expenses
- Payment in kind
- Training allowances
- Victoria Cross or George Cross payments
- Income paid outside the UK which cannot be transferred to the UK
- Cold weather payments

### **8.2 Tariff Income (Savings and investments)**

This is an amount of income assumed from savings and investments.

Examples of what is included in a service user's total savings and investments:

- Money in bank or building society accounts
- Investment bonds (depending on type and when purchased)
- Stocks and shares (less 10% selling cost)
- Premium Bonds
- National Savings Certificates
- Capital from personal injury compensation awards and trust funds will be taken into account in line with the Government's Charging for Residential Accommodation Guidelines (CRAG).

Please note the above list is not exhaustive.

If a service user has savings and investments with a total value in excess of £23,250 then they will be required to pay the maximum cost for the services received, please see Section 5.1 above.

If a service user has savings and investments with a total value between £14,250 and £23,250 a weekly notional income amount from this, called tariff income, will be included in the financial assessment. This amount is calculated at the rate of £1 for each £250 or part £250.

#### Example

Service user A has £17,170 total savings and investments, the calculation would be:

£17,170 less £14,250 = £2920

£2920 divided by £250 = 11.68

Therefore a tariff income of £12 per week would be included as income.

If savings or investments are held jointly, it is assumed that 50% belongs to the service user, unless proven otherwise.

### 8.3 Protected Minimum Income

**An amount of income is protected in the assessment of charges to ensure that this amount remains available to the service user to cover their basic living costs.**

This amount is the basic level of Income Support, or the Guarantee Credit element of Pension Credit, appropriate to the service user's circumstance, plus a 25% buffer.

This is equivalent to:

- £165.75 aged over 60 (\*£132.60 plus 25% £33.15)
- £81.81 aged 25-59 (\*£ 65.45 plus 25% £16.36)
- £64.81 aged 18-24 (\*£ 51.85 plus 25% £12.96)

*\*these are basis amounts which may be slightly higher if service users are entitled to certain additional premiums*

Although not exhaustive, basic living costs include items such as:

- Food
- Clothes
- Utility bills such as gas, electricity, telephone and water rates
- Transport costs
- Basic TV costs

### 8.4 Household Expenses

A further allowance is made to ensure service users can pay their essential household costs. The weekly costs of the following household expenses are included in this allowance:

- Council Tax (Less any rebate/council tax benefit entitlement)
- House insurance i.e. rebuilding and or contents
- Mortgage payments (Less any housing benefit entitlement)
- Mortgage protection insurance
- Rent (Less any housing benefit entitlement)
- Water rates or other water/sewage charges
- Chemical waste removal

No allowance will be made for insurance payments which are not specified in the list above.

If more than one adult lives in the service user's household, the weekly household expenses will be divided between the number of adults, to calculate the amount to be allowed.

Example

*Service user's household pays Council Tax of £20 per week, 4 adults (over 18) are living in the household.*

*The £20 would be divided between the 4 adults, and an allowance of £5 would be included for the service user's weekly share of that household expense.*

Please note: Any rental charged to service users must be reasonable and in line with guidance used by Housing Benefit authorities

## **8.5 Disability related expenses**

Many service users receive additional income in the form of allowances such as Disability Living Allowance (care element) and Attendance Allowance. These allowances are to help them pay for extra costs arising from their care needs, including charges for non-residential care services. For this reason these allowances are included as income in the financial assessment.

To ensure a fair assessment the financial assessor will include allowances for additional costs incurred by the service user which are due to their disability; these are known as Disability Related Expenses (DREs). These expenses must be directly and solely attributable to the service user's disability.

If a service user is not in receipt of any disability benefits or allowances the financial assessor will not include any allowances for disability related expenditure.

Examples of disability related benefits:

- Attendance Allowance
- Disability Living Allowance Care or Mobility
- Registered Blind
- Incapacity Benefit (long Term)
- Industrial injuries
- Working Tax Disability/Severe Disability Element
- Working tax Severe Disability element
- War Disablement Pension.
- Severe Disablement allowance
- Exceptional Severe Disablement Allowance

There are various costs that may be included as DREs and these will be explained to the service user in more detail by the Financial Assessor, who will visit the service user to complete an accurate financial assessment of how much they should pay towards their care.

Some examples of the type of disability related expenses that can be included are:

- Extra heating (calculated from actual fuel costs)
- Payment for privately arranged care that is included/acknowledged in the care assessment
- Excessive laundry costs
- Purchase, maintenance and repair of disability related equipment
- Costs of privately arranged domestic help, cleaning and garden maintenance,

Where a service user requests an allowance be made for Disability Related Expenditure evidence must be provided in the form of receipts/bills in order for the expense to be verified and an allowance made.

Where receipts are not available a period of 28 days will be allowed for these to be provided. If they are supplied during this period the financial assessment will be recalculated from the date of the original financial assessment. If they are received outside the 28 day period they will only be taken into account from the date of receipt. The assessment will be based on the information provided up to that time.

Claims for Disability Related Expenditure where the payment is made to family members will not be accepted other than in exceptional circumstances.

For certain categories of Disability Related Expenses a maximum allowance will be made e.g. Domestic Work, Gardening. This maximum allowance is currently £30 per week. If a larger allowance is requested by the service user the County Council's Care Manager will be consulted to determine whether the individual needs of the client are commensurate with the level of allowance being requested.

Every day living costs will not be allowable as Disability Related Expenses; these are considered to be covered by the basic living cost allowance and the additional allowances made for household expenses and are considered to be generally incurred irrespective of the individual being disabled (See 'C Protected Minimum Income' and 'D Household expenses' above).

Further costs for which an allowance **will not** be made include:

- Routine property maintenance
- External window cleaning
- Routine replacement of existing household fixtures and fittings
- Spectacles
- Dental expenses
- Privately purchased surgery

## **8.6 Net Disposable Income**

This is the figure arrived at once the protected income and allowances have been deducted from the total income included in the calculation.

## **8.7 Assessed Weekly Charge**

The weekly assessed charge is 60% of the weekly net disposable income.

## **8.8 Maximum Weekly Charges**

Please note – maximum weekly charges do not apply to service users who receive their funding in the form of Individual Budgets, Direct Payments or Self Directed Support and have less than £23,250 total savings and investments. These budgets allow flexibility in the amount, type and frequency of services purchased and therefore service users who receive this type of funding will be required to pay the lesser of their assessed weekly charge or the weekly budget value, into the bank account which is used to manage their care monies.

Service users will be charged the lesser of their assessed weekly charge or the maximum charge for the actual services received during the week to which the charge applies.

The following scale of charges will apply from 1st April 2010

£11.00 per hour of care received whilst living at home / direct payment unit  
 £ 5.00 per day for day care services received  
 £ 8.86 per week for the telecare service

Maximum charge rates and the percentage of net disposable income used as the assessed charge will be reviewed at least annually.

Maximum charge rates do not necessarily cover the full cost of the services provided, they are a contribution towards the cost of providing services. The average direct cost to the County Council in providing care to people whilst living at home is approximately £12.75 per hour for services provided by the hour, and £42.50 per day for day care services.

If service users require two care staff to carry out a care task, the charge will be based on the amount of time care is provided, not multiplied by the number of carers. For example, if a service user receives 10 hours of care per week provided by two carers at the same time (i.e. 20 hours total), the charge will be based on 10 hours service per week.

Service users who have more than £23,250 total savings and investments and are paying the maximum charge for their services, will not be charged more than £595 per week regardless of the level of service that they receive.

### **Examples of applying the lower of the weekly maximum charges and weekly assessed charge:**

#### Example 1

Service user A – assessed weekly charge **£43.65**

Service received during week commencing Monday 5<sup>th</sup> April 2010

Monday	2 hours home care	2 X £11,00	£22.00
Wednesday	1 day care attendance	1 X £ 5.00	£ 5.00
Telecare service		1 X £ 8.86	£ 8.86
Total maximum charge			<b>£35.86</b>

In this example Service user A would be charged **£35.86** for week commencing 5<sup>th</sup> April 2010 due to the maximum charge for the services received being less than their assessed weekly charge.

#### Example 2

Service user A – assessed weekly charge **£43.65**

Service received during week commencing Monday 5<sup>th</sup> April 2010

Monday	1 hour home care	1 X £11.00	£11.00
Tuesday	1 day care attendance	1 X £ 5.00	£ 5.00
Wednesday	2 hours home care	2 X £11,00	£22.00
Thursday	1 day care attendance	1 X £ 5.00	£ 5.00
Friday	2 hours home care	2 X £11,00	£22.00
Saturday	1 hour home care	1 X £11.00	£11.00
Sunday	1 hour home care	1 X £11.00	£11.00
Telecare service		1 X £ 8.86	£ 8.86

Total maximum charge

**£95.86**

In this example Service user A would be charged their assessed weekly charge of **£43.65** for week commencing 5<sup>th</sup> April 2010 due to this being less than the maximum charge for the services received.

## **9 Treatment of Independent Living Fund (ILF) payments and contributions**

If a service user receives funding from the Independent Living Fund they will have to pay a contribution to the Independent Living Fund.

The non residential assessment will acknowledge the ILF monies received by the service user as income, and will acknowledge the ILF monies and the service user's contribution to the ILF monies as disability related expenses.

Example

Service User B

Receives £300.00 per week from the Independent Living Fund and pays £80.00 per week contribution to the Independent Living Fund.

In relation to these monies the non residential assessment would include:

- Income £300.00 per week
- Disability related expense £380.00 per week

Therefore recognising a disability related expense to the service user of £80.00 per week, to be added to any other DREs identified.

## **10 Procedures for the Notification of Charges**

In most instances service users will be notified of their assessed charge at the time of the assessment visit. In some cases further supporting evidence/documentation is required following the home visit; in which case a full assessment will be calculated as soon as is practicable. Service users will be given a written notification of their charge when their assessment has been completed (example at Appendix B).

If a service user's income changes as a result of successful benefit claims their charge will be reviewed from the date the benefits became payable. The service user will be given a written notification of their reassessment example at Appendix B).

## **11 Application of charges**

For service users receiving a service for the first time, charges will generally be applied from the Monday following completion of the financial assessment. However, if the assessment is delayed or if a service user refuses to disclose their financial circumstances in full they will be required to pay the maximum charge for the services received from the date services started. Please see section 5 for details of the current maximum charges.

If a service user has received services previously, they will be charged the weekly assessed charge that applied previously. This charge will apply from the date services restart.

Example

Received services from January to March 2010 - assessed charge £32.80

- No services from April 2010 to August 2010 - no charge

- Receive services from September 2010 - assessed charge £32.80 (from start date of services in September)

## 12 Payment and collection of Charges

The County Council's policy is to collect charges using direct debit, and the County Council operates in line with the Direct Debit guarantee.

If a service user, or the person managing their finances, does not have the facility to pay by direct debit, and it is not feasible for them to make new or alternative banking arrangements to enable direct debit payments, the Income Management Team may, at their discretion, agree alternative collection arrangements.

Service users in receipt of Direct Payments, Individual Budgets or Self Directed Support will receive their payments from the County Council net of their assessed charge.

### Example

Service user's weekly funding amount £98.00

Service user's assessed weekly charge £37.50

The service user would receive £60.50 per week and they would be required to pay their weekly charge of £37.50 into their direct payment or individual budget bank account.

If a service users assessed weekly charge is greater than a service user's weekly individual budget no monies will be paid by Lancashire County Council.

### Example

Service user's weekly funding amount £50.00

Service user's assessed weekly charge £60.00

The service user would not receive individual budget monies.

## 13 Assessment of Couples

For the purpose of this policy a couple is defined as two people living together as spouses or as partners.

Fairer charging legislation requires Local Authorities to financially assess each service user as an individual, based on their own income, savings and investments. This is referred to as a 'single assessment'.

However, if a service user is considered to be part of a couple Local Authorities are also required to financially assess the couple's income, savings and investments to ensure the couple's minimum level of income is protected. This is referred to as a 'couple's assessment'.

To enable the couple's assessment to be completed the Financial Assessor will need to gather all financial information in relation to both the service user and their partner/spouse. The financial assessor will undertake a benefit maximisation check for the couple.

If a service user has savings or investments held jointly with another person, it is assumed that 50% belongs to the service user, unless proven otherwise. This amount will be included as appropriate in their individual assessment.

Savings and investments belonging to both partners/spouses will be included in full as appropriate in the couple's financial assessment.

Once the 'single' and 'couples' assessments have been completed the lower of these two assessed charges will apply. i.e. if the single assessed charge is £28 per week and the Couple's assessed charge is £23 per week the service user will be charged £23 per week.

Where both partners/spouses are service users they will each receive an individual and a couple's financial assessment.

#### **14 Deprivation of Capital**

It is not advisable for a service user to give away money or other assets (including property) in the hope of qualifying for a lower charge for social care services received now or in the future. In these circumstances the assessor will include in the financial assessment the value of any money or asset given away (i.e. as if it still belonged to the service user). Giving away money or other assets in this way is known as 'Deprivation of capital or assets'. In some circumstances the County Council also has the power to claim against the person/s to whom the money or asset has been given.

Whilst this policy covers non-residential charging only, determination of any deprivation of capital is made in accordance with guidelines set down in the Government's Charging for Residential Accommodation Guidelines (known as 'CRAG') as detailed in section 2 of this policy.

#### **15 Charging when some services are paid for by other statutory authorities**

If a service user's care package is partially funded by other authorities such as a Health Authority, the amount and cost of the services provided by the other Authority will not form part of this financial assessment.

#### **16 Review of Service User's Charges**

Financial assessments will be increased annually in line with the increase applied to state benefits. Additionally there will be a rolling programme of reassessments (including home visits where necessary) such that the maximum period between detailed reassessments is three years. If a service user's financial situation significantly changes within this period, a reassessment will be carried out either at the instigation of the service user or the County Council. Service users can request a reassessment at any time if their circumstances change, and are required to inform the County Council of any significant changes in their financial circumstances.

Maximum charge rates will be reviewed annually with a view to increasing them in line with the rate of inflation and to ensure consistency with the Directorate's charging strategy.

Savings and capital limits (total savings and investments levels which are currently £14,250 and £23,250), will be maintained in line with CRAG.

#### **17 Cancellation of, or Changes to, Services**

When the County Council arranges services on behalf of a service user, three days' notice of any change to that service must be given to the service provider, otherwise the service as originally specified has to be paid for. Because of this, service users are required to give three days' notice to the service provider or day centre if they do not want or need a service on specific dates in the future. For example if a service user goes on holiday or out for the day and will therefore not require their services, they must give three days' notice of the dates involved, to the service provider or day centre, otherwise they will be required to pay as if the service had been delivered.

## 18 Non payment of charges and Debt Management

It is the responsibility of officers of the County Council to collect monies due to it, and to ensure debts do not accrue.

Should a debt arise in relation to non residential social care charges, this will be managed in accordance with the County Council's debt management policy.

Non-payment of debt is enforced via the Court process and or by the use of debt collection agencies. Before any legal or other action is instigated, a financial assessor will contact or visit a service user, to ascertain reasons for non-payment of charges and to ensure the assessed charge is correct and affordable to the service user. Should the financial assessor uncover any evidence of financial abuse, procedures will be instigated under the County Council's Safeguarding Adults framework, which may involve liaison with the Department of Work and Pensions, the Police and other agencies.

All decisions to instigate debt recovery action through the courts will be taken by the Cabinet Member for Adult and Community services, and will only be taken after the completion of a risk assessment, which will consider all relevant facts.

The formal process is as follows:

**Stage 1** : Where payments are outstanding for more than four weeks after the invoice / direct debit date.

- Internal checks will be made to ascertain that the care services have been provided.
- The financial assessment will be checked by the assessment team to ensure it is accurate and based on all information provided.
- Verification that the financial assessment was confirmed in the form of a notification of assessed charge will be made (example at Appendix B).
- Checks will be undertaken to determine if the service user has notified the Council of any payment-related problems.
- Personal contact with the service user will be made to check that the weekly charge and outstanding debt recorded is correct and up to date. At the same time, reasons for non-payment will be explored, and mutually acceptable strategies to pay the debt will be discussed. A letter confirming any agreed payment strategy will be sent to the service user.
- Where the service user's financial circumstances have changed, a new financial assessment will be undertaken.

**Stage 2:** If the debt remains unpaid and no successful payment agreement is in place following Stage 1

This stage starts if there is a lack of, or insufficient, response to the first stage of action and a further period of three weeks has elapsed since Stage 1. Attempts to make personal contact with the service user will again be made to determine why any previous agreement or payment strategy has not been complied with.

Discussions will be held with the service user to explain possible recovery actions, and a new payment strategy will be agreed (e.g. by paying arrears in instalments). The County Council will write to the service user detailing the agreed payment strategy, and at this stage will formally inform the service user of possible recovery action if the debt remains unpaid.

**Stage 3:** This is the final stage prior to referral for formal debt recovery action.

This stage will be instigated after a further three weeks have elapsed since Stage 2 and where sufficient payments are not being made to the County Council.

Personal contact will be made with the service user to explore reasons for non-payment. If necessary a member of staff will visit the service user to produce a risk assessment and explore, in depth, the reasons for non-payment. The service user will also be reminded of the formal recovery actions that might be undertaken.

The reasons for non payment and the risk assessment will be considered by the Charging Panel; the Panel will consist of managers from operational social work, finance and where necessary, Legal Services.

Following discussion, or attempts to discuss the debt, at this stage with the service user, and consideration by the Charging Panel, the County Council will issue a formal final notice in writing to the service user, informing them that formal debt recovery action will be instigated if payment is not received within 15 calendar days.

Where court action is not deemed appropriate the service user will be advised in writing. The debt will however remain and the service user will be expected to agree to make future payments to prevent the debt being progressed to court action at a later date.

**Stage 4 :** Court Action.

If payment is still not received after a further 15 calendar days the debt will be referred to the Cabinet Member for Adult and Community services. If the Cabinet Member for Adult and Community services recommends court action, the County Council's debt recovery section will issue a written notice to the service user stating that court action will be taken if payment is not received within 10 calendar days. If after 10 days payment has still not been received, the case will be referred to the County Council's Legal Services Team, Department who will institute County Court proceedings.

## **19 Appeals procedure**

Any service user who feels that the payment of their assessed charge would cause them financial hardship, or thinks that there are omissions or errors in their financial assessment, may appeal and request a review of their charge.

There are four possible outcomes from an appeal which are

- The assessed charge is found to be incorrect and the assessment is amended accordingly
- The assessed charge is upheld
- A temporary reduction in charge (maximum period 6 months)
- A temporary waiver of charges (maximum period 6 months)

Charges cannot be reduced or waived indefinitely and will be reviewed prior to any agreed reduction or waiver period end date.

The full appeals procedure is attached at Appendix A.

This appeal procedure does not take away the service user's right to avail themselves of the County Council's 'Complaints and Representations Procedure'.

## **Appendix A Appeals Procedure**

Service users have the right to request a review of their charges by way of an appeal if they believe they cannot afford the charge or they believe there are errors in the assessment.

The appeals procedure is not intended for use as a vehicle for service users to express their 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.

This does not affect the service user's right to at any time utilise Lancashire County Council's complaints 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

At each stage of the Appeals process checks will be made to ensure that that the financial assessment information provided was accurate and complete, and that the calculation has been done correctly.

The stages of the process are as follows

Stage 1: Appeal verification: The service user must highlight the appeal to the assessment team to enable a review of the assessment.

Stage 2: Appeal in writing to the Finance Manager, Adult and Community Services, Financial Administration Unit, East Cliff County Offices, East Cliff, Preston PR1 3EA

Stage 3: Appeal in writing to the Charging Panel, Adult and Community Services, East Cliff County Offices, Preston, PR1 3EA

The Panel will consist of managers from operational social work, finance and where necessary, Legal Services.

Stage 4: Appeal in writing to the Cabinet Member for Adult & Community Services, County Hall, Preston PR1 8XJ.

### **Stage 1**

In making an appeal the service user must first contact the financial assessment team to explain why they are appealing against their charge.

The assessment team will check the accuracy and content of the assessment. If errors or omissions are identified they will correct the assessment and advise the service user of the amended charge.

If the appeal is in relation to the service user being unable to afford the charge the assessment team will undertake a review of the financial assessment and:

- If following the review the financial assessment team cannot verify the service user's inability to afford the charge the service user will be advised that if they wish to pursue the appeal they must present their case to the Finance Manager at stage two of the appeals procedure.

- If following the review the financial assessment team can verify that the assessment is correct but the service user is unable to pay, the assessment team will refer the service user's case to stage two of the appeals process on the service user's behalf.

## **Stage 2**

The appeal must be made in writing and addressed to the Finance Manager, Adult and Community Services, Financial Administration Unit, East Cliff County Offices, East Cliff, Preston PR1 3EA

Appeals cannot be considered unless they have previously been highlighted to the assessment team and a review of the charge undertaken.

There are three courses of action available to The Finance Manager at this stage:

- To reduce, temporarily, the charges (maximum period 6 months)
- To waive, temporarily, the charges (maximum period 6 months)
- To uphold the assessed charge

(This is in accordance with Section 17 (3) of the Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA Act 1983).

Any decision to waive or reduce a charge is based primarily on the service user's income and expenditure, and the finance manager will make their decision based on all the information and documentation provided.

Charges cannot be waived or reduced indefinitely and will therefore be reviewed prior to the agreed reduction or waiver period end date.

The service user will be informed of the Finance Manager's decision in writing.

## **Stage 3**

The service user may appeal against the Finance Manager's decision. Appeals must be made within 28 days in writing and addressed to the Director of Business Services, Adult and Community Services, East Cliff County Offices, Preston, PR1 3EA. The Director of Business Services will convene a meeting of the Charging Panel who will consider the findings of the Finance Manager under stage 2, and any further information provided by the service user.

There are three courses of action available to the Charging Panel at this stage:

- To reduce, temporarily, the charges (maximum period 6 months)
- To waive, temporarily, the charges (maximum period 6 months)
- To uphold the assessed charge

(This is in accordance with Section 17 (3) of the Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA Act 1983).

Any decision to waive or reduce a charge is based primarily on income and expenditure, and the Director of Business Services will make their decision based on all the information and documentation provided.

Charges cannot be waived or reduced indefinitely and will therefore be reviewed prior to the agreed reduction or waiver period end date.

The service user will be informed of the Director's decision in writing.

## **Stage 4**

The service user may appeal against the Director of Business Services' decision. Appeals must be made within 28 days in writing and addressed to the Cabinet Member for Adult and Community Services, County Hall, Preston PR1 8XJ.

The Cabinet Member will consider the findings of the Director of Business Services under stage 3, and any further information provided by the service user.

There are three courses of action available to the Cabinet Member:

- To reduce, temporarily, the charges (maximum period 6 months)
- To waive, temporarily, the charges (maximum period 6 months)
- To uphold the assessed charge

This is in accordance with Section 17 (3) of the Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA Act 1983).

Charges cannot be waived or reduced indefinitely and will therefore be reviewed prior to the agreed reduction or waiver period end date.

There is no provision for any further appeal within the County Council's protocols. If the service user is unhappy with the Cabinet Member's decision then any further action on behalf of the service user must take place outside of this mechanism.

## Appendix B

### Charges for Social Care Services for Adults Living at Home

<b>Name</b>	<b>Reference Number:</b>	<b>Carried out on:</b>
<b>Address</b>	<b>00000</b>	<b>00/00/0000</b>

#### **Step 1 - calculate Weekly Income**

Total Weekly Income	<i>What you receive</i> £200.00	<i>What we count</i> £165.00 (A)
---------------------	------------------------------------	-------------------------------------

#### **Step 2 - calculate Weekly Expenses**

Protected Income	£100.00
Household Expenses	£ 10.00
Disability Related Expenses	<u>£ 5.00</u>
	£115.00 (B)

#### **Step 3 - calculate Net Disposable Income (NDI)**

Total income (A) minus total expenses (B)	£ 50.00
---	---------

#### **Step 4 - calculate the charge for services**

Assessed Weekly Charge <i>(60% of net disposable income)</i>	<b>£ 30.00</b>
---	----------------

**Your assessed weekly charge is calculated to be £30.00**

**Your assessment is effective from Monday 00/00/0000 or the start date of your services if this is later.**