Leicestershire County Council

Charging Policy for Social Care and Support

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1. Definitions used in this policy:

Administration Fee	This is an additional amount the Council can charge to cover its costs of arranging non-residential care and support services for people with financial resources above the upper capital limit who require the Council to arrange their care and support on their behalf.
Attorney:	Enduring Power of Attorney or Lasting Power of Attorney. A legal process that lets the Person appoint one or more people (known as attorneys) to help them make decisions or make decisions on their behalf.
Capital Limits	This is the level of savings/capital when a person will be liable for the full cost of their care and support services, known as the Upper Capital Limit (£23,250) There is also a Lower Capital Limit (14,250) at which any savings/capital are not taken into account in the financial assessment.
Deferred Payment Scheme:	A national scheme whereby people can delay paying for their care and support, or part of it, until a later date (often after their death), provided they meet the eligibility for the scheme.
Deferred Payment Agreement:	The formal mechanism where the Council and the Person agree to them delaying paying part of the cost of their care and support services.
Deputy:	Deputy authorised by the Court of Protection to manage the affairs of someone who lacks the mental capacity to manage their own property and finances.

Eligible Needs:	When the Person's or Carer's needs meet the Council's criteria for council-funded care and support.
Extra Care:	The Person's own home, in a development with other older people, but with additional care and support available.
Guidance:	Care and Support Statutory Guidance issued under the Care Act 2014 by the Department of Health & Social Care.
Legal Charge:	A legal document held by the Land Registry showing that the Council has a claim on the Person's property.
Light touch assessment:	In some circumstances, the Council may choose to treat a person as if a financial assessment had been carried out. This might be where the Council is satisfied that the Person can afford, and will continue to be able to afford, any charges due and the Person agrees, or where a person refuses a financial assessment.
Main home:	A Person can have only one main home at any one time. This is the home where the Person normally lives.
Person:	Person receiving or eligible for care and support services provided under the Care Act 2014.
Personal Budget:	Money that is allocated to a Person or Carer by the Council to pay for care or support to meet their eligible needs.
Provider:	Organisation or person providing care services to the Person.
Representative:	Person nominated by the person to assist them with the financial assessment process.

Person	Person receiving or eligible for care and support services provided under the Care Act 2014.
Supported Living:	An alternative to residential care or living with family that enables adults with disabilities to live in their own home, with the help they need to be independent.
The Council:	Leicestershire County Council.
Tariff income	This is an amount added to the Person's actual income in their financial assessment based on savings/capital they have between £14,250 and £23,250.
Top-up fee:	The difference between the actual costs of the preferred Care Home Provider and the amount that the Council has set in a Personal Budget to meet the Person's eligible needs.
3rd Party Payor:	Someone who agrees to pay the top-up fee for the Person. This may be a relative, friend or charity.

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2. Introduction

1. In exercising its discretion to charge in Section 14 of the Care Act 2014, the Charging Policy for Social Care and Support sets out how the Council charges adults who receive care and support services.

2. This policy is based on the requirements of the Care Act 2014 and The Care and Support (Charging and Assessment of Resources) Regulations 2014, as amended and the Care and Support Statutory Guidance.

3. For the purposes of this policy, “residential services” refers to services in a care home. “Non-residential services” refers to services in the community, in a Person’s home, day services or in prison.

4. The policy is based on the legal framework for charging set out in the Care Act 2014. Should there be any confusion or dispute as to the application of this policy clarification will be sought from the primary and secondary legislation and associated statutory guidance.

5. Unlike the NHS, social care is usually not free of charge at the point of need. A Person should expect to pay towards the cost of care and support services. The contribution amount, that a person is required to contribute will depend on their financial and personal circumstances, and it is strongly recommended that the Person seeks independent financial advice.

6. This updated policy will be applied from 8 April 2024.

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3. Policy Scope

1. The policy covers charging arrangements for adults aged 18 or over, who receive care and support services that are arranged by the Council under the Care Act 2014.

2. This includes both care provided to people living in a residential setting and to people who live in their own home in the community or in prison. The majority of the charging policy applies to both settings but the detail of how to charge in each setting is different and is set out in the sections below.

3. Top up agreements are included in this policy.

4. Deferred Payment Agreements are included in this policy.

4. Core Principles of the Policy

1. The policy adopts the following principles for charging, which are set out by the Department of Health & Social Care in the Care and Support Statutory Guidance issued under the Care Act 2014. The policy will:

    a. Ensure that people are not charged more than it is reasonably practicable for them to pay;

    b. Establish who will be entitled to financial support based on a means-test and who will be entitled to free care;

    c. Be comprehensive, to reduce variation in the way people are assessed and charged;

    d. Be clear and transparent, so people know what they will be charged;

    e. Promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control;

    f. Support Carers to look after their own health and wellbeing and to care effectively and safely;

    g. Be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs;

    h. Apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings;

    i. Encourage and enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so; and

    j. Be sustainable for the Council in the long-term.

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5. Care and support for which the Council will not charge.

1. Intermediate care, including reablement, which will be provided free of charge for **up to** six weeks.
2. Non-chargeable assessment beds and interim beds.
3. Community equipment (aids and minor adaptations). Minor adaptations are those costing £1,000 or less.
4. Care and support provided to people with Creutzfeldt-Jacob Disease.
5. After care services / support provided under section 117 of the Mental Health Act 1983.
6. Any service or part of service which the NHS is under a duty to provide. This includes Continuing Healthcare and the NHS contribution to Registered Nursing Care.
7. Carers own eligible support needs in respect of their caring role, including Carers One-off Payments.

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6. Sharing financial information

1. Under the Welfare Reform Act 2012, and associated regulations, the Council will share financial information with the Department for Work and Pensions and with District Councils for the purposes of completing an accurate financial assessment calculation.

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7. Start date of care charges

1. The Council has the power to charge for meeting a person's care and support needs from the moment it starts to meet those needs.
2. The Council's On-line Care Contribution Estimator is available to obtain an indicative contribution amount prior to agreeing any care and support services, Financial Assessment (leics.gov.uk).
3. Where the financial assessment has not been completed at the time that care starts the Council will backdate any outstanding charges to the date when it started meeting the person's care and support needs.

4. There are no set timescales in law and guidance to complete a financial assessment, however, the Council will aim to complete an assessment as soon as reasonably practical after receiving all of the required information and proofs.

5. If a Person wishes to discuss a payment plan to address any backdated charges they can contact the Council's Finance Operations Team on 0116 305 3730 Email FinOpsDebts@leics.gov.uk

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8. Contribution towards the cost of care and support services

1. The Person's assessed contribution is always the first call to pay actual care and support charges. This means that the Person's contribution will always be used first to pay for the actual care received. If in a given week the actual care received is less than that provided for in the Person's support plan, but the cost of the actual care received is equal to or greater than the Person's assessed contribution the Person will still be required to pay their full contribution. The council's contribution towards the cost of the care and support service would be reduced. If the cost of the actual care received is less than the Person's assessed contribution, they will only be required to pay the actual cost.

2. Where a Person receives both short-term residential and non-residential care and support services in the same week (Monday to Sunday) the financial assessment will be undertaken on a non-residential basis to ensure their income is not reduced below their minimum income guarantee.

3. Where a person moves to a permanent residential placement during a week (Monday to Sunday) which they also received non-residential care and support services the financial contribution for that week will be based on a residential financial assessment. Any financial contribution paid in advance for non-residential services will generate a potential credit on the final account for non-residential care and support services.

4. Where a Person receives only residential care and support services but this is for less than a full week (Monday to Sunday) and no non-residential services they will be charged only a proportion of their full weekly contribution to residential services to ensure their income is not reduced to

a level that prevents them meeting their usual weekly costs of living independently. The charges will be 1/7th of the full weekly contribution for each night of a residential stay.

E.g. If a Person has a 3 nights residential stay, in the same week and their full weekly contribution is £140.00 per week the charge would be ££60.00 i.e. £140.00 divided by 7 days and multiplied by 3 nights. £140.00 / 7 = £20.00 * 3 = £60.00.

5. If a person is in receipt of a direct payment and care agency/individual chooses to provide the care and support services is more expensive than the amounts the council agrees, the person must pay the extra costs into the direct payment account from their own funds. This is in addition to the weekly assessed contribution.

6. Any top up amount payable in relation to a residential placement is also in addition to the weekly assessed contribution.

9. Financial Representatives & Mental Capacity

1. The Person can request that the Council liaise with another person who will act as their financial representative for the financial assessment and charging process.

2. Whilst the Council will consider any request to liaise with a financial representative the legal responsibility for any invoice payment and associated debt recovery will remain with the Person.

3. If a Person lacks capacity to consent to a financial assessment or to take part in the financial assessment process the Council will liaise with the person who has legal responsibility to make financial decisions on behalf of the Person. The Council will require proof that someone has the appropriate legal standing e.g. a registered power of attorney or deputyship for property and finances, to act on behalf of the Person.

4. The Mental Capacity Act 2005 Code of Practice states: If the person who lacks capacity has no property or savings and their only income is social security benefits there will usually be no need for a deputy to be appointed. If the person has assets or savings from other sources an attorney or deputy should be appointed.

5. If a person satisfies the Council that they have applied to register a power of attorney or applied for deputyship the Council will correspond with that

person regarding the financial assessment, pursuant to the Mental Capacity Act 2005.

6. If there is insufficient information to be able to complete a financial assessment until a deputy for property and finances is appointed, the subsequent assessed contribution will be backdated to the commencement of chargeable care and support services.

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10. Financial Assessment overview

1. A financial assessment will be undertaken for all adult Persons in receipt of chargeable services. See section 5 above for care and support services which are not charged for.

2. The financial assessment applies to the Person. It is the Person's income and savings/capital, including their share of any joint income or savings/capital that is taken into account. A Person can disclose their partner's income and savings/capital if they wish to do so as this may result in a lower assessed contribution for the Person, see section 48 below.

3. Persons can decide to have a light touch financial assessment rather than a full financial assessment if they agree that their savings and capital exceeds the upper capital limit. This will result in them being liable for the full cost (maximum charge) for their care and an administration fee, if the Council still arranges the care and support, see also section 11 & 12 below.

4. The financial assessment will usually be calculated on the basis that the Person is receiving all the means-tested benefits that they have been identified as being entitled to on application, i.e. if the Person is entitled to receive income support, income-related employment and support allowance, universal credit or pension credit, but is not claiming those benefits, the financial assessment will include those benefits at the correct amount, this is known as notional income. The amounts assumed will be those payable based on the known circumstances of the individual and will not take into account claims for Disability Living Allowance, Personal Independence Payment or Attendance Allowance which have not yet been approved.

5. Where a Person is receiving residential / nursing care services and has an existing award of a disability benefit the high rate of the care component of Disability Living Allowance, the enhanced rate of the daily living component of Personal Independence Payment or Attendance Allowance will be included (notional income) until the Person is no longer entitled to claim due to being in local authority funded residential care.

6. The collection of information for the financial assessment may be undertaken by phone, by post, by a visit, on-line or by any other reasonable means deemed appropriate or effective by Leicestershire County Council.

7. To enable a financial assessment to be completed supporting information \ evidence must be provided where it is reasonably required by the Council.

8. Financial assessments will be reviewed at regular intervals as directed by Leicestershire County Council or when significant variations arise in Person / 3rd Parties financial situations.

9. The Council also reviews its arrangements with care and support providers on an annual basis. If a Person is liable to pay the full cost of their care and support services this will affect the amount charged. If the provider payments are backdated the increase in the Person's charge will also be backdated.

10. For permanent Shared Lives all the charges relating to the placement are set out in the Shared Lives Licence Agreement, which is explained to the Person prior to signing the agreement and taking up the placement. The agreement sets out that a financial assessment will need to be undertaken and this amount is notified to the Person separately and is in addition to the amounts specified for food, heating, lighting, hot water and cleaning in the licence agreement.

11. A Person/Representative or a Top-up Payor should inform the Council as soon as reasonably practicable of any change in their financial circumstances and can request a review of the financial assessment at any time.

12. Following the death of a Person the Council is not required to retrospectively re-assess the person's financial assessment, but the Council will consider any request to re-assess from the personal representatives of the estate.

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11. Refusal to co-operate with a financial assessment

1. If a Person refuses to co-operate with a financial assessment they will be required to pay the full cost of their care and support services from the start date of their services unless information as to their capital and income is already available to the Council in which case those figures may be used to inform the assessment. If subsequently the Person does provide the required information the contribution payable will be reassessed and **may** be backdated.

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12. Non-Disclosure of Financial Details

1. Persons have the right to choose not to disclose their financial details for example where they can afford, and will continue to be able to afford, any charges due. If this right is exercised, they will be required to pay the full cost of their care and support services and the administration fee.

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13. Where a financial assessment would be detrimental to the Person's wellbeing

1. Although the financial assessment process aims to ensure that Persons are charged only what they can afford to pay, there may be cases when it is believed that undertaking a financial assessment would be detrimental to the Person's wellbeing.

2. In these circumstances the Council will attempt to complete a financial assessment from available information and/or the requirement to contribute towards the cost of care **may** be waived. Waiving of on-going charges will be reviewed periodically. See section 53 below.

14. Cancellation of service due to the charging policy

1. If a Person wishes to cancel their service due to the level of the contribution a social care worker will contact the Person to discuss the matter.

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15. Benefits Information

1. A benefits check will be offered to all Persons who are subject to a financial assessment. The benefits check may be undertaken during the financial assessment process, during a phone call, by post, by a visit or by any other reasonable means deemed appropriate and effective by Leicestershire County Council.

2. The benefits check will consider the Person's actual income and calculate whether the Person may be entitled to any means tested or non-means tested benefits based on their individual circumstances. The benefits check will only consider the Persons circumstances at the time of the benefits check; the accuracy of the advice given will be dependent on the information given by the Person.

3. Persons will be advised of their possible entitlement to benefits and encouraged to make appropriate claims and confirmed in writing. Information on how to make a claim will be given to the Person. In some cases, assistance to make appropriate claims may be offered.

4. Persons must notify the Council's Adult Social Care Finance Section of any changes in benefit income as soon as they occur. The Person's financial assessment will then be reviewed to take into account the changes in benefit income; the revised calculation will be backdated to the start of the change in benefit payment or the date of the first financial assessment, whichever is the later.

5. Where Person is entitled to means-tested benefits, on application, additional income will be included in the financial assessment from the date that chargeable care and support services start. This is known as notional income, see section 36.

6. If under-claiming of benefits is identified the Person will be notified in writing and advised of the benefit entitlement, based on financial information provided to the Council.

7. Where additional income from means-tested benefits is secured and backdated the contribution payable will be reassessed throughout the period of backdating where a chargeable service was in place.

8. If a benefit overpayment is identified the Person will be advised of the probable overpayment in writing. Information on organisations who may be able to assist with resolving the overpayment and agreeing any repayment figures will be offered and the Person will be advised to contact the relevant part of the DWP / District Council to correct the overpayment.

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16. Treatment of Capital

1. Capital can include property and land in the UK or abroad, savings in banks, building societies, national savings accounts, premium bonds, stocks and shares, ISAs, etc.

2. Only the capital of the Person, including their share of any joint savings/capital, will be taken into account in the financial assessment of what they can afford to contribute towards their care and support.

3. Where the Person has a beneficial interest in capital held in someone else's name, e.g. their partner, the Person's share will be included in the assessment of their capital. Where a person has joint beneficial ownership of capital, except where there is evidence that the person owns an unequal share, the total value will be divided equally between the joint owners and the person should be treated as owning an equal share

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17. Capital Limits

1. Capital limits are set nationally by central government. The current capital limits can be found on the Council's website.

2. The financial limit, known as the "**upper capital limit**" exists for the purposes of the financial assessment. If a person has capital at or below this limit, they may be entitled to financial assistance towards the cost of care and support services from the Council.

3. A person with more than the upper capital limit can ask the Council to arrange their care and support for them. However, they are not entitled to receive any financial assistance from the Council and must pay the full cost of their care and support, and the administration fee, until their capital falls below the upper capital limit or they complete a deferred payment agreement.

4. If a person clearly has capital in excess of the upper capital limit the Council will undertake a “light touch” financial assessment if the person agrees.

5. If a person has capital below the “**lower capital limit**” their capital is disregarded in their financial assessment and they will not need to contribute to the cost of their care and support from their capital.

6. Where a person has assets between the upper and lower capital limits the Council will apply **tariff income**. This assumes that for every £250 of capital, or part thereof, a person has £1 per week additional income.

7. In some circumstances a person may be treated as possessing a capital asset even where they do not actually possess it. This is called **notional capital**. Notional capital may be capital which:

    a. Would be available to the person if they applied for it (see section 28):

    b. Is paid by someone else to a 3rd Party in respect of the person.

    c. The person has deprived themselves of it in order to reduce the contribution they have to pay for their care (see section 37).

8. Where a person has been assessed as having notional capital the value of this will be reduced over time. The value of notional capital will be reduced weekly by the difference between the weekly rate the person is paying for their care and the weekly rate they would have paid if notional capital was not applied. This is known as the diminishing notional capital rule.

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18. Disregarded Capital

1. The following capital assets will be disregarded:

    a. Property in specified circumstances – see Disregarded Property section 19.

    b. The surrender value of any:

        i. Life insurance policy

        ii. Annuity

    c. Payments of training bonuses of up to £200

d. Payments in kind from a charity
e. Any personal possessions such as paintings or antiques most mobile homes, unless they were purchased with the intention of reducing capital in order to avoid care and support charges.
f. Any capital which is to be treated as income or student loans
g. Any payment that may be derived from:
    i. The Macfarlane Trust
    ii. The Macfarlane (Special Payments) Trust
    iii. The Macfarlane (Special Payment) (No 2) Trust
    iv. The Caxton Foundation
    v. The Fund (payments to non-haemophiliacs infected with HIV)
    vi. The Eileen Trust
    vii. The MFET Trust
    viii. The Independent Living Fund (2006)
    ix. The Skipton Fund
    x. The London Bombings Relief Charitable Fund
    xi. A Child abuse payment for the purpose of providing compensation in respect of historic institutional child abuse in the United Kingdom
    xii. A Windrush payment made under the Windrush Compensation Scheme (Expenditure) Act 2020
    xiii. Payment for compensation or support in respect of the Grenfell Tower fire
    xiv. Payment for compensation or support in relation to the failings of the Post Office Horizon computer system
    xv. Payment under the vaccine Damage Payments Act 1979

h. The value of funds held in trust or administered by a court which derive from a payment for personal injury to the person. For example, the vaccine damage and criminal injuries compensation funds.

i. The value of a right to receive
    i. Income under an annuity
    ii. Outstanding instalments under an agreement to repay a capital sum
    iii. Payment under a trust where the funds derive from a personal injury
    iv. Income under a life interest or a life-rent
    v. Income (including earnings) payable in a country outside the UK which cannot be transferred to the UK
    vi. An occupational pension
    vii. Any rent. Please note however that this does not necessarily mean the income is disregarded.

j. Capital derived from an award of damages for personal injury which is administered by a court or which can only be disposed of by a court order or direction.

k. The value of the right to receive any income under an annuity purchased pursuant to any agreement or court order to make payments in consequence of personal injury or from funds derived from a payment in consequence of a personal injury and any surrender value of such an annuity.

l. Periodic payments in consequence of personal injury pursuant to a court order or agreement to the extent that they are not a payment of income and are treated as income (and disregarded in the calculation of income).

m. Any Social Fund payment.

n. Refund of tax on interest on a loan which was obtained to acquire an interest in a home or for repairs or improvements to the home.

o. Any capital resources which the person has no rights to as yet, but which will come into his possession at a later date, for example on reaching a certain age.

p. Payments from the Department of Work and Pensions to compensate for the loss of entitlement to Housing Benefit or Housing Benefit Supplement.

q. The amount of any bank charges or commission paid to convert capital from foreign currency to sterling.

r. Payments to jurors or witnesses for court attendance (but not compensation for loss of earnings or benefit)

s. Community charge rebate / Council tax rebate / Council tax reduction.

t. Money deposited with a Housing Association as a condition of occupying a dwelling.

u. Any Child Support Maintenance Payment

v. The value of any ex-gratia payments made on or after 1st February 2001 by the Secretary of State in consequence of a person's, or person's spouse or civil partner's imprisonment or internment by the Japanese during the Second World War.

w. Any payment made by a local authority under the Adoption and Children Act 2002 (under section 2(b)(b) or 3 of this act)

x. The value of any ex-gratia payments from the Skipton Fund made by the Secretary of State for Health to people infected with Hepatitis C as a result of NHS treatment with blood or blood products.

y. Payments made under a trust established out of funds provided by the Secretary of State for Health in respect of persons suffering from variant Creutzfeldt-Jakob disease to the victim or their partner (at the time of death of the victim)

z. Any payments under Section 2,3 or 7 of the Age-Related Payments Act 2004 or Age-Related Payments Regulations 2005 (SI No 1983)

aa. Any payments made under section 62(6)(b) of the Health Services and Public Health Act 1968 to a person to meet childcare costs where he or she is undertaking instruction connected with the health service by virtue of arrangements made under that section

bb. Any payment made in accordance with regulations under Section 14F of the Children Act 1989 to a resident who is a prospective special guardian or special guardian, whether income or capital.

cc. Unsecured loans owed to 3rd parties are not disregarded in the financial assessment.

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19. Disregarded Property

1. In the following circumstances the value of the person's **main or only** home must be disregarded.
    a. Where the person is receiving care in a setting that **is not** a residential care home
    b. If the person's stay in a care home is temporary and they:
        i. Intend to return to that property and that property is still available to them; or
        ii. Are taking reasonable steps to dispose of the property in order to acquire another more suitable property to return to.
    c. Where the person no longer occupies the property but it is occupied in part or whole as their main or only home by any of the people listed below, the mandatory disregard only applies where the property has been continuously occupied since before the person went into a care home
        i. The person's partner, former partner or civil partner, except where they are estranged
        ii. A lone parent who is the person's estranged or divorced partner
        iii. A relative of the person or member of the person's family who is:
            - Aged 60 or over, or
            - Is a child of the resident aged under 18, or
            - Is incapacitated, see section 19. 3 below.
2. A member of the person's family is defined as someone who is living with the qualifying relative as part of an unmarried couple, married to or in a civil partnership.
3. For the purposes of the disregard the meaning of "incapacitated" is not closely defined. However, the Council will consider that a relative is incapacitated if either of the following conditions apply:
    a. The relative is receiving one (or more) of the following benefits: armed forces independence payment, attendance allowance,

constant attendance allowance, disability living allowance, employment and support allowance, incapacity benefit, personal independence payment, severe disablement allowance, Universal Credit on the grounds of limited capability for work, or a similar benefit; or

b. The relative does not receive any disability related benefit but their degree of incapacity is equivalent to that required to qualify for such a benefit. Medical or other evidence may be needed before a decision is reached.

c. If a person's incapacity is temporary and they subsequently recover the property disregard will no longer be applicable from the date they are no longer incapacitated.

4. In determining whether the property is occupied the Council will consider the following factors:

    a. Does the relative currently occupy another property?

    b. If the relative has somewhere else to live do they own or rent the property

    c. If the relative is not physically present is there evidence of a firm intention to return to or live in the property?

    d. Where does the relative pay Council tax?

    e. Where is the relative registered to vote?

    f. Where is the relative registered with a doctor?

    g. Are the relative's belongings located in the property?

    h. Is there evidence that the relative has a physical connection with the property?

5. A property will be disregarded where the relative meets the qualifying conditions and has occupied the property as their main or only home since before the resident entered the care home. The property disregard will no longer be applicable if the relative no longer occupies the property as their main or only home.

6. A property can also be disregarded where there are exceptional circumstances and the Council considers it reasonable to do so.

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20. 12-week property disregard

1. The Council will disregard the **value** of a person's **main or only** home when the value of their non-housing assets is below the upper capital limit for 12 weeks in the following circumstances:

    a. When they first enter a care home, Extra Care services or a supportive living scheme as a permanent resident; or

    b. When a property disregard other than the 12-week property disregard unexpectedly ends because the qualifying relative has died or moved into a care home.

    c. A 12-week property disregard **will not apply** where a person has been self-funding their placement for a period in excess of 12 weeks.

2. The 12-week property disregard can also be applied when there are exceptional circumstances and the Council considers it reasonable to do so.

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21. 26-week Capital disregard

1. The following capital assets will be disregarded for at least 26 weeks in a financial assessment.

    a. Assets of any business owned or part-owned by the person in which they were a self-employed worker and has stopped work due to some disease or disablement **but intends to take up work again when they are fit to do so.** Where the person is in a care home, this should apply from the date they first took up residence.

    b. Money acquired specifically for repairs to or replacement of the person's home or personal possessions provided it is used for that purpose. The 26-weeks will apply from the date the funds were received.

    c. Premises which the person intends to occupy as their home where they have started legal proceedings to obtain possession. This will be from the date legal advice was first sought or proceedings first commenced.

d. Premises which the person intends to occupy as their home where essential repairs or alterations are required. The 26-weeks will apply from the date the person takes action to effect the repairs.

e. Capital received from the sale of a former home where the capital is to be used by the person to buy another home. The 26-weeks will apply from the date of completion of the sale.

f. Money deposited with a Housing Association which is to be used by the person to purchase another home. The 26-weeks will apply from the date on which the money was deposited.

g. Grant made under a Housing Act which is to be used by the person to purchase a home or pay for repairs to make the home habitable. The 26-weeks will apply from the date the grant is received.

2. A longer disregard may be applied where the Council considers it reasonable to do so, i.e. where a person is taking legal steps to occupy premises as their home but the legal processes take more than 26 weeks to complete. Any extension of the disregard period will be reviewed periodically

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22. 52-week Capital disregard

1. The following payments of capital will be disregarded for a maximum of 52 weeks from the date they are received.

    a. The balance of any arrears of or any compensation due to non-payment of:

        i. Mobility supplement

        ii. Attendance Allowance

        iii. Constant Attendance Allowance

        iv. Disability Living Allowance / Personal Independence Payment

        v. Exceptionally Severe Disablement Allowance

        vi. Severe Disablement Occupational Allowance

        vii. Armed forces service pension based on need for attendance

viii. Pension under the Personal Injuries (Civilians) Scheme 1983, based on the need for attendance.

ix. Income Support / Income-related Employment and Support allowance / Income-based Jobseeker's Allowance / Pension Credit

x. Minimum Income Guarantee

xi. Working Tax Credit

xii. Child Tax Credit

xiii. Housing Benefit

xiv. Universal Credit

xv. Special payments to pre-1973 war widows

b. Payments or refunds for:

i. NHS glasses, dental treatment or patient's travelling expenses

ii. Cash equivalent of free milk and vitamins

iii. Expenses in connection with prison visits.

c. Personal Injury Payments

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23. 2-year Capital disregard

1. The Council will disregard payments made under a trust established out of funds by the Secretary of State for Health in respect of vCJD to:

   a. A member of the victim's family for 2 years from the date of death of the victim (or from the date of payment from the trust if later); or

   b. A dependent child or young person until they turn 18.

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24. Other Capital disregards

1. In some cases a person's assets may be tied up in a business that they own or part own. Where a person has ceased to be engaged as a self-employed earner and is taking steps to realise their share of the assets, these will be disregarded during the process. However, the person will be

required to show that it is their clear intention to realise the asset as soon as practicable. The Council will, therefore, request the following information:

a. A description of the nature of the business asset.

b. The person's estimate of the length of time necessary to realise the asset or their share of it.

c. A statement of what, if any, steps have been taken to realise the asset, what these were and what is intended in the near future, and

d. Any other relevant evidence, for example the person's health, receivership, liquidation, estate agent's confirmation of placing any property on the market.

2. Where the person has provided this information to show that steps are being taken to realise the value of the asset, the Council will disregard the value for a period that it considers to be reasonable. In deciding what is reasonable the Council will take into account the length of time of any legal processes that may be needed.

3. Where the person has no immediate intention of attempting to realise the business asset, its capital value will be taken into account in the financial assessment. Where a business is jointly owned, this will only apply to the person's share.

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25. Treatment of investment bonds

1. If a person has an investment bond which includes one or more element of life insurance policies that contain cashing-in rights by way of options for total or partial surrender, the value of those rights will be disregarded as a capital asset in the financial assessment.

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26. Capital treated as income

1. The following capital payments will be treated as income:

a. Any payment under an annuity.

b. Capital paid by instalment where the total of:

i. The instalments outstanding at the time the person first becomes liable to pay for their care, and

ii. The amount of other capital held by the person is over £16,000. If it is £16,000 or less, each instalment will be treated as capital.

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27. Income treated as capital

1. The following types of income will be treated as capital.

    a. Any refund of income tax charged on profits of a business or earnings of an employed earner; any holiday pay payable by an employer more than 4 weeks after the termination or interruption of employment.

    b. Income derived from a capital asset, for example, building society interest or dividends from shares. This will be treated as capital from the date it is normally due to be paid to the person.

    c. Any advance of earnings or loan made to an employed earner by the employer if the person is still in work. This is because the payment does not form part of the employee's regular income and would have to be repaid.

    d. Any bounty payment paid at intervals of at least one year from employment as:

        i. A part time fireman

        ii. An auxiliary coastguard

        iii. A part time lifeboat man

        iv. A member of the territorial or reserve forces

    e. Charitable and voluntary payments which are neither made regularly nor due to be made regularly, apart from certain exemptions such as payments from AIDS trusts. Payments will include those made by a 3rd Party to the person to support the clearing of charges for accommodation.

    f. Any payments of arrears of contributions by a local authority to a custodian towards the cost of accommodation and maintenance of a child.

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28. Capital available on application (Notional Capital)

1. In some instances a person may need to apply for access to capital assets but has not yet done so. In such circumstances this capital will be treated as already belonging to the person (notional capital) except in the following instances:
    a. Capital held in a discretionary trust
    b. Capital held in a trust derived from a payment in consequence of a personal injury
    c. Capital derived from an award of damages for personal injury which is administered by a court
    d. Any loan which could be raised against a capital asset which is disregarded, for example the home.
2. The Council will distinguish between
    a. Capital already owned by the person but which in order to access they must make an application for. For example:
        i. Money held by the persons' solicitor;
        ii. Premium Bonds;
        iii. National Savings Certificates;
        iv. Money held by the Registrar of a County Court which will be released on application; and
    b. Capital not owned by the person that will become theirs on application, for example and unclaimed Premium Bond win. This will be treated as notional capital.
3. Where the Council treats capital available on application as notional capital it will do so only from the date at which it could reasonably be acquired by the person.
4. When applying notional income to a defined contribution pension the Council will calculate this as the maximum income that would be available if the person had taken out an annuity.

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29. Treatment of Income

30. Common issues

1. Only the income of the Person will be taken into account in the financial assessment of what they can afford to contribute towards their care and support.
2. Where the Person receives means-tested benefit income as one of a couple the value will be divided equally.
3. Income is net of any tax or National Insurance contributions.
4. Employed and self-employed earnings are fully disregarded.
5. In order to protect the minimum income of a couple the council will apply a (non-statutory) ‘couples adjustment’ as set out in paragraph 61.

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31. Benefits Income

1. Any income from the following sources will be fully disregarded:
    a. Direct Payments
    b. Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme
    c. The mobility components of Disability Living Allowance and Personal Independence Payments and any Mobility Supplement.
    d. Armed Forces Independence Payments and Mobility Supplement
    e. Child Benefit, except where the accommodation is arranged under the Care Act in which the adult and child both live.
    f. Child Tax Credit
    g. Council Tax Reduction Schemes where this involves a payment to the person
    h. Mobility Supplement
    i. Christmas bonus
    j. Dependency increases paid with certain benefits
    k. Guardian’s Allowance

l. Social Fund payments (including winter fuel payments)
m. War Disablement Pension, with the exception of Constant Attendance Allowance from 10/04/2017 onwards.
n. War widows and widowers' special payments
o. Working Tax Credit, except where care is arranged in a care home.

2. Any income from the following benefits will be taken into account:

a. Attendance Allowance (for people receiving care and support other than in a care home the difference between the higher rate and lower rate is disregarded if LCC is not commissioning night-time care and support)
b. Bereavement Allowance
c. Carers Allowance
d. Constant Attendance Allowance
e. Disability Living Allowance care component (for people receiving care and support other than in a care home the difference between the higher rate and middle rate is disregarded if LCC is not commissioning night-time care and support)
f. Employment and Support Allowance and Incapacity Benefit
g. Exceptionally Severe Disablement Allowance where care and support is provided in a care home.
h. Income Support
i. Industrial injuries Disablement Benefit or equivalent benefits
j. Jobseeker's Allowance
k. Maternity Allowance
l. Pension Credit Guarantee Credit
m. Personal Independence Payment daily living component
n. Severe Disablement Allowance
o. State Pension
p. Universal Credit

3. Where any Social Security benefit payment has been reduced (other than a reduction because of voluntary unemployment), for example because of

an earlier overpayment, the amount taken into account will be the gross amount of the benefit before reduction.

4. Compulsory deductions from social security benefits for child maintenance will be disregarded as income.
5. The first £10 per week of War Widows and War Widowers pension is disregarded as income.

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32. Other income that will be fully disregarded

1. Any income from the following sources will be fully disregarded:
    a. Child Support Maintenance Payments, except where the accommodation is arranged under the Care Act in which the adult and child both live.
    b. Discretionary Trust
    c. Gallantry Awards
    d. Income frozen abroad
    e. Income in kind
    f. Personal injury trust, including those administered by a Court
    g. Resettlement benefit
    h. Pension Credit Savings credit disregard
    i. Pension Credit Savings credit for people receiving care and support other than in a care home
    j. Any payments received as a holder of the Victoria Cross, George Cross or equivalent
    k. Any grants or loans paid for the purposes of education; and
    l. Payments made in relation to training for employment
    m. Any payment from the:
        i. Macfarlane Trust
        ii. Macfarlane (Special Payments) Trust
        iii. Macfarlane (Special Payment) (No 2) Trust
        iv. Caxton Foundation

v. The Fund (payments to non-haemophiliacs infected with HIV)
vi. Eileen Trust
vii. MFET Limited
viii. Independent Living Fund (2006)
ix. Skipton Fund
x. London Bombings Relief Charitable Fund
xi. A Child abuse payment scheme for the purpose of providing compensation in respect of historic institutional child abuse in the United Kingdom
xii. A Windrush payment made under the Windrush Compensation Scheme (Expenditure) Act 2020
xiii. Payment for compensation or support in respect of the Grenfell Tower fire
xiv. Payment for compensation or support in relation to the failings of the Post Office Horizon computer system
xv. Payment under the vaccine Damage Payments Act 1979

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33. Annuity and pension income

1. The Council will take **fully** into account any income from an annuity except where it is:
    a. Purchased with a loan secured on the person's main or only home; or
    b. A gallantry award such as the Victoria Cross Annuity or George Cross Annuity.
2. Where the Person is in a care home and paying half of the value of their occupational pension, personal pension or retirement annuity to their spouse or civil partner the Council will disregard 50% of its value.
3. In order to qualify for this disregard one of the annuitants must still be occupying the property as their main or only home. This may happen where a couple has jointly purchased an annuity and only one of them has

moved into a care home. If this is not the case the disregard will not be applied.

4. Where the disregard is applied only the following aspects will be disregarded:

    a. The net weekly interest on the loan where income tax is deductible from the interest; or

    b. The gross weekly interest on the loan in any other case.

5. For the disregard to be applied the following conditions must be met:

    a. The loan must have been made as part of a scheme that required that at least 90% of that loan be used to purchase the annuity;

    b. The annuity ends with the life of the person who obtained the loan, or where there are two or more annuitants (including the person who obtained the loan), with the life of the last surviving annuitant;

    c. The person who obtained the loan or one of the other annuitants is liable to pay the interest on the loan;

    d. The person who obtained the loan (or each of the annuitant where there are more than one) must have reached the age of 65 at the time the loan was made;

    e. The loan was secured on a property in Great Britain and the person who obtained the loan (or one of the other annuitants) owns an estate or interest in that property; and

    f. The person who obtained the loan or one of the other annuitants occupies the property as their main or only home at the time the interest is paid.

6. Where the person is using part of the income to repay the loan, the amount paid as interest will be disregarded. If the payments the person makes on the loan are interest only and the person qualifies for tax relief on the interest they pay the net interest will be disregarded. Otherwise the gross interest will be disregarded.

7. The Council will assess pension income for the purposes of charging in the following way:

a. If a person has removed the funds and placed them in another product or savings account the funds will be treated according to the rules for that product.

b. If a person is only drawing a minimal income, then the Council will apply notional income according to the maximum income that could be drawn. When the maximum notional income is applied the actual income will be disregarded to avoid double counting. See section 36.

c. If a person is drawing an income that is higher than the maximum available under an annuity product the actual income will be taken into account.

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34. Mortgage protection insurance policies

1. Where the income from a mortgage protection policy is specifically intended to support the person to acquire or retain an interest in their main or only home or to support them to make repairs or improvements to their main or only home it will be disregarded. However, the income must be being used to meet the repayments on the loan.

2. The amount of income from a mortgage protection insurance policy that will be disregarded is the weekly sum of:

    a. The amount which covers the interest on the loan; plus

    b. The amount of the repayment which reduced the capital outstanding; plus

    c. The amount of the premium due on the policy.

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35. Charitable and voluntary payments

1. A charitable or voluntary payment which is not made regularly is treated as capital.

2. Charitable and voluntary payments that are made regularly will be fully disregarded as income.

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36. Notional income

1. In some circumstances a person may be treated as having income that they do not actually have. This is known as notional income. This may include, for example, income that would be available on application but has not been applied for, income that is due but has not been received or income that the person has deliberately deprived themselves of for the purpose of reducing the amount they are liable to pay for their care.
2. In all cases the Council will satisfy itself that the income would or should have been available to the person.
3. Notional income will also be applied where a person who has reached retirement age and has a personal pension plan but has not purchased an annuity or arranged to draw down the equivalent maximum annuity income that would be available from the plan.
4. Notional income will be calculated from the date it could reasonably be expected to be acquired if an application had been made.
5. The following are exemptions and will not be treated as notional income:
    a. Income payable under a discretionary trust;
    b. Income payable under a trust derived from a payment made as a result of a personal injury where the income would be available but has not yet been applied for;
    c. Income from capital resulting from an award of damages for personal injury that is administered by a court;
    d. Occupational pension which is not being paid because:
        i. The trustees or managers of the scheme have suspended or ceased payments due to an insufficiency of resources; or
        ii. The trustees or managers of the scheme have insufficient resources available to them to meet the scheme's liabilities in full.
    e. Working Tax Credit.
6. When the Council determines whether deliberate deprivation of income has occurred it will consider:
    a. Whether it was the person's income?

   b. What was the purpose of the disposal of the income?
   c. The timing of the disposal of the income? At the point the income was disposed of could the person have a reasonable expectation of the need for care and support.

7. If the income has been converted into capital the Council will consider what tariff income may be applied to the capital and whether the subsequent contribution is less or more than the person would have paid without the change.

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37. Deprivation of Assets

1. The Council may identify circumstances that suggest that a person may have deliberately and intentionally deprived themselves of, or decreased, their assets in order to avoid or reduce the level of their contribution towards their care.
2. The Council will consider deprivation where the person ceases to possess assets that would have otherwise been taken into account for the purposes of the financial assessment or has turned the asset into one that is now disregarded.
3. In deciding whether deprivation or the purpose of avoiding care and support charges has occurred the Council will consider:
   a. Whether avoiding the care and support charge was a significant motivation.
   b. The timing of the disposal of the asset. At the point the capital was disposed of could the person have a reasonable expectation of the need for care and support.
   c. Whether the person had a reasonable expectation of needing to contribute to the cost of their eligible care needs?
4. Where the council has reasonable grounds to suspect someone has deprived themselves of an asset in order to avoid or reduce the level of their contribution towards their care the Council will require proof of the reasons why they no longer have the asset. If the reasons are not acceptable, the Council will assess the person as if they still had the asset.
5. For capital assets, acceptable evidence of their disposal would be:

a. A trust deed
b. Deed of gift
c. Receipts for expenditure
d. Proof that debts have been repaid
e. A person can deprive themselves of capital in many ways, but common approaches may be:
f. A lump-sum payment to someone else, for example as a gift.
g. Substantial expenditure has been incurred suddenly and is out of character with previous spending.
h. The title deeds of a property have been transferred to someone else.
i. Assets have been put into a trust that cannot be revoked.
j. Assets have been converted into another form that would be subject to a disregard under the financial assessment, for example personal possessions.
k. Assets have been reduced by living extravagantly, for example gambling.
l. Assets have been used to purchase an investment bond with life insurance.

6. The Council may decide to conduct its own investigations into whether deprivation of assets has occurred rather than relying solely on the declaration of the person. If this is the case the Council will have regard to the Regulation of Investigatory Powers Act 2000 and associated guidance and legislation.

7. The Person or their legal representative will be informed of the information that the Council is relying on in writing and be given the opportunity to explain the circumstances and the motivation at the time of the disposal(s).

8. If the Council decides that a person has deliberately deprived themselves of assets in order to avoid or reduce a charge for care and support, the Council may seek to charge the person as if the deprivation had not occurred, i.e. assume that the person still owns the asset and treat it as notional capital.

9. Where a resource has been converted into another of lesser value the Council will treat the person has notionally possessing the difference between the value of the new resources and the one which it replaced.

10. Where a person has transferred the asset to a third party to avoid the charge, the third party is liable to pay the local authority the difference between what it would have charged and did charge the person receiving care. As with any other debt, the Council will use the County Court process to recover debts when other avenues have been exhausted.

11. For more information please also see the Council's Care Home Funding Booklet and the Capital and Gifting factsheet.

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38. Residential Care financial assessment

39. Personal expenses allowance (PEA)

1. The Council will always allow a Person to retain a minimum amount of income. This is known as the Personal Expenses Allowance and is specified by central government in the Care and Support (Charging and Assessment of Resources) Regulations

2. A person may retain more of their income, above their personal expenses allowance, if this is necessary given their particular circumstances, for example:

    a. Where a person has a dependent child.

    b. Where a person is paying half their occupational or personal pension or retirement annuity to a spouse or civil partner who is not living in the same care home.

    c. Where a person is temporarily in a care home and is a member of a couple any social security benefit awarded to pay for home commitments.

    d. Where a person's property has been disregarded a person's share of the related costs. For example; mortgages, rent, Council Tax, building insurance, utility costs and reasonable property maintenance costs.

3. If the Person has no income the Council is not responsible for providing funding for personal expenses but will support the Person to access any relevant social security benefits.

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40. Temporary or respite care in care home financial assessment

1. A temporary resident is defined as a person whose need to stay in a care home is intended to last for a limited period of time and where there is a plan to return home. The person's stay should be unlikely to exceed 52 weeks, or in exceptional circumstances, unlikely to substantially exceed 52 weeks.

2. If a temporary stay becomes permanent the "temporary care financial assessment" will apply until the date that the care plan is amended and agreed with the person or their representative at which time the "permanent care financial assessment" will apply.

3. This allowance will be increased by any additional amounts the person may need so that they can maintain their home during their temporary stay so that it is in a fit condition for them to return to. These may include but are not limited to, ground rent, service charges, water rates or insurance premiums.

4. A temporary or respite stay in a week where non-residential care and support services are also utilised will be charged on a non-residential financial assessment basis to ensure the person's income is not reduced below their minimum income guarantee.

5. A temporary stay which covers a whole week (Monday – Sunday) will be charged on a residential financial basis.

6. The person's main or only home will be disregarded where the person:

    a. Intends to return to that property as their main or only home and it remains available to them.

    b. Has taken steps to dispose of the home in order to acquire one that is more suitable and intends to return to that property.

7. Any other capital assets will be treated in the same way as for permanent residents.

8. Where Attendance Allowance, the care component of Disability Living Allowance or the daily living component of Personal Independence Payment is being received it will be completely disregarded. However, any additional amounts included in means-tested benefits associated to these payments will be taken into account whilst they remain in payment.

9. Other income and earnings will be treated in the same way as for permanent residents.

10. Where one member of a couple enters a care home and one remains in the main home the Council will ensure that the partner remaining at home is left with at least a weekly income equal to basic Income Support/Pension Credit for a single person and any premiums/additions to which they may be entitled in their own right. This may involve a voluntary agreement by the partner to disclose the required information to achieve this.

11. The Council will also disregard any other payment the person receives in order to meet the cost of their housing and / or to support independent living. This may include payments to provide warden support, emergency alarms or the meeting of cleaning costs where the person or someone in the household is unable to do this themselves.

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41. Allowable household expenses for residential care placements

1. Short stays/respite - Allowable household expenses will be included in the financial assessment for the duration of the stay but will be subject to review.

2. If the person does not usually live alone the following will apply:

    a. lives in someone else's household and pays board – no expenses allowed

    b. lives with spouse/partner only – expenses usually divided equally

    c. non-dependants live with SU – expenses divided equally as there is a reasonable assumption that they contribute towards the household costs

    d. a spouse/partner remaining at home can access information from agencies such as Age UK, please see a link to their Fact Sheet No: 39 – Paying for care in a care home if you have a partner (PDF)

3. The Council will also disregard any other payment the person receives in order to meet the cost of their housing and / or to support independent living. This may include payments to provide warden support, emergency alarms or cleaning.

Allowable household expenses for residential care placements	Short stays/respite	Permanent Care – Property (main home) taken in to account – weeks 1 – 12	Permanent – Rented property – weeks 1-4 only (Exceptions for Shorthold tenancy agreements and disregarded properties)
Water Rates	✓	✓	✓
Council Tax	✓	× Council Tax Exemption available from district council	× Council Tax Exemption available from district council
Rent/Mortgage	✓	✓	✓

Ground Rent/Service Charge	✓	✓	✓
Home Buildings Insurance	✓	✓	✓
Gas/Electricity (see below)	✓	✓	✓
Lifeline Fees	✓	✓	✓
Court Orders (Maintenance)	✓	✓	✓

4. Standard amounts are allowed for gas and electricity usage depending on whether the property is occupied or empty and therefore only requires frost protection. The amounts are based on average consumption figures originally published by British Gas and uprated in line with inflation. Where a property is occupied the cost should usually be met by the occupants.

5. A standard amount is allowed for a contribution towards building maintenance costs where a property is disregarded. This figure is based on average costs and updated in line with inflation.

6. No expenses are allowed for a property taken into account as notional capital, see paragraph 37 above.

7. Exceptions or any requests for additional costs will be considered on their merits.

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42. Top-up payments:

43. Introduction:

1. Where care and support is provided in an accommodation setting, i.e. residential / nursing care, extra care or supportive living scheme, the Council must ensure that at least one option is available that is affordable within a person's Personal Budget.

2. Only when a person has chosen a more expensive accommodation alternative can a top-up payment be sought. The use of top-ups is optional and cannot be as a result of the Council being unable to commission suitable accommodation at a lower price.

3. Any top-up payment, first or third party, arrangement is payable in addition to the Person's assessed contribution.

4. The top-up payment or additional cost is the difference between the actual costs of the preferred Provider and the amount that LCC would have set in a Personal Budget.

5. For the purposes of agreeing a top-up the Council will consider what Personal Budget it would have set at the time care and support is needed. It will not automatically default to the cheapest rate or to any other arbitrary figure.

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44. Top-up agreement(s)

1. The Person may meet the additional costs of their care and support from contributions from themselves and/or one or more 3rd parties. A top-up arrangement can only be implemented with a written agreement between LCC and the top-up payors.

2. The Council will provide the top-up payors with sufficient information and advice to support them to understand the terms of the proposed written agreement before entering into it.

3. The top-up payors is/are also recommended to take appropriate independent advice, e.g. legal and or financial, prior to entering into the top-up agreement.

4. Where more than one party are responsible for the top-up payment an individual agreement will be completed for each Payor. By signing this agreement the Payor undertakes to continue the top-up payment for the likely duration of the residential placement, recognising that this may be for some time into the future.

5. The **Council can only enter into a top-up arrangement** if it is satisfied that the Payor(s) are able and willing to pay the additional cost of the preferred accommodation for the period during which the local authority

expects to meet the Person's needs by providing or arranging for the provision of that accommodation, recognising that this may be some time into the future. Each Payor will need to assure the local authority of this.

6. Where the Council determines that a person is unable to afford a top up, it may refuse the request.

7. The Council should not be at risk of having to meet the costs of any top ups in cases where the payor(s) becomes unable to pay. Therefore, a person may be considered unable to afford a top-up, based on financial information provided and budgeted care needs, if there is a reasonable expectation that the top-up will not be affordable for the duration of the Person's expected care journey.

8. Where a local authority has allowed a top up, it will review such evidence at least annually to ensure that any agreed top up remains affordable.

9. The Top-up Payor(s) must inform LCC of any change in their circumstances which will mean that they are unable to continue to meet the agreement as soon as they are aware of the change.

10. Where the Person has a change in circumstances that requires a new financial assessment and this results in a change in the level of assessed contribution the Person makes, this may not reduce the need for a 'top-up' payment.

11. The Council will consider increases in the cost of the residential accommodation commissioned for Social Care by way of the annual Fee Review process, details of which are published on the Council's website.

12. Where the Service Provider wishes to vary the amount of a Top-up amount then the Service Provider should apply in writing to the Council setting out the details surrounding the proposed variation and the Council will, following consultation with the Payor undertake to inform the Service Provider of the decision of the payor as to the proposed variation.

13. Where there is an agreed change to the top-up amount, a revised agreement will be completed

14. If there is a break down in the arrangement to meet the cost of the top-up the Council will undertake a new care and support assessment including identifying an alternative accommodation which would be suitable to meet their needs and affordable within the Personal Budget.

15. More information is available in the Council's factsheet – 'Top up Payments for care home residents'. See Appendix A.

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45. Deferred Payment Scheme

1. The Council operates a Deferred Payment Scheme (DPS); the DPS means that people who are eligible should not be forced to sell their home during their lifetime to pay for their care. By entering into a deferred payment agreement (DPA) a person can "defer" or delay paying the costs, or part of, of their care and support until a later date.

2. Before entering into a DPA the Council will provide information regarding the Council's DPS to the Person or their legal representative and will also recommend that Person or their representatives seek appropriate independent (e.g. legal and / or financial) advice.

3. Persons, who are eligible for, and receiving or going to receive, residential care services, extra care services or supportive living services can apply under the DPS.

4. In order to apply under the DPS the Person must be able to manage their own finances or someone else must have a legal power to act on their behalf.

5. The amount that can be deferred will depend on the amount the Person will be paying from the other sources. At a minimum the Person will be allowed to defer their "core care costs" (Personal Budget amount) net of the on-going assessed weekly contribution from their income.

6. If a Person also wishes to defer the cost of a top-up to meet the cost of more expensive accommodation the council can only agree to this if the agreement would be sustainable, taking into account when the 'equity limit' will be reached and that the top-up amount will need to be paid on an on-going basis in other ways for the same placement.

7. In order to offer a deferred payment agreement the Council must ensure that adequate security is in place for the amount being deferred so that it can be confident that the deferred debt will be repaid in the future. This is

usually by placing a first legal charge on the Person's property with HM Land Registry.

8. If it is not possible to secure the debt by way of a first legal charge on a property the Council will consider whether it is able to obtain any other type of adequate security based on the merits of each case such as; a second or subsequent legal charge, alternative assets or funds sufficient to secure the deferred costs, signed undertaking from a conveyancing solicitor instructed for a sale of a property security provided by a guarantor.

9. A deferred payment agreement is not completed until it is signed by all the applicants and the Council's Legal Services Team. Until then, following any 12-week property disregard period, the Person will be liable for the full cost of their care and support services.

10. Administration fees and interest are chargeable under the DPS, details of these are set out in the DPS Information sheet and on the Council's website

11. More information about the Deferred Payment Scheme is available in the Councils' Deferred Payment Scheme Information Sheet. See Appendix B.

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46. Non-residential care financial assessment

47. Minimum Income Guarantee (MIG)

1. The Council will ensure that a person's income is not reduced below the equivalent of the value specified by central government in the Care and Support (Charging and Assessment of Resources) Regulations.

2. The MIG is designed to cover a person's usual general living costs such as food, shopping, heating and lighting, pet care, hobbies, usual internet and phone costs, social activities and contributions towards household costs, for example from a non-dependent living in someone else's home.

3. The MIG applied for a financial assessment will be the one applicable at the start of the assessment week (Monday to Sunday). Any change of circumstance affecting the MIG during a week, such as a change in age, will be applicable to the financial assessment for the following week i.e. the Monday after the change occurs.

4. The MIG will be calculated after housing costs such as rent and Council Tax (net of any benefits provided to support these costs) and after any disability related expenditure, see section 49.

5. To include housing costs as an allowable expense the Person must have a legal liability to pay the costs, such as a mortgage, tenancy or licence agreement and also provide proof of payment.

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48. Partner's Adjustment

1. There is no obligation to disclose income and individual capital of the Person's partner. However, if these details are disclosed it may lead to a lower financial contribution for the Person. It will not lead to a higher contribution.

2. Where the information is disclosed, the Council will consider the implications of the financial assessment for the Person's partner for both residential and non-residential care and support services

3. In order to protect the minimum income of a couple the council will apply a (non-statutory) 'partner's adjustment'.

4. Couples include married, registered civil partners and co-habiting couples which would be treated as such by the DWP for benefit purposes. If two people maintain separate financial arrangements and would not be treated as a couple by the DWP then they will be treated as individuals for the purpose of the financial assessment.

5. The 'partner's adjustment' is calculated using the following guidelines:

    a. The partner should usually retain sufficient income equivalent to the standard / personal allowance of universal credit or pension credit for a single person per week.

    b. All housing costs such as rent and Council Tax will be allowable expenses in the 'partner's adjustment' and will be apportioned between the Person and partner. Proof of liability to pay and actual payment of rent will be required.

    c. Income of the partner from the following sources will be disregarded for the purposes of the couple's adjustment:

        i. Armed Forces Compensation Scheme

ii. Armed Forces Independence Payments

iii. Attendance Allowance, including Constant Attendance Allowance and Exceptionally Severe Disablement Allowance

iv. Disability Living Allowance

v. Personal Independence Payment

d. Where a partner has capital in their own right:

i. Up to £14,250 of capital will be disregarded.

ii. Above £14,250 and up to £23,250, 'tariff income' at a rate of £1.00 per week for each £250 or part thereof above £14,250 will be applied to the couple's adjustment.

iii. Above £23,250 no couple's adjustment will be applied.

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49. Disability-related Expenditure

1. Where Attendance Allowance, Disability Living Allowance or Personal Independence Payment is taken into account as income, the Council will allow the Person to keep enough of the benefit to meet the costs of necessary disability-related expenditure which is incurred to meet needs which are not being met by the local authority.

2. Disability-related expenditure can include any reasonable additional costs directly related to a person's age, medical condition or disability; examples will include:

a) Extra heating costs

b) Community alarm system

c) Special dietary needs

d) Costs of basic garden maintenance, cleaning, or domestic help

e) Additional costs of bedding, for example, because of incontinence

f) Extra laundry costs

g) Incontinence aids

h) Privately arranged care services

i) Prescription charges

j) Chiropody

k) Reasonable transport costs, only costs over and above the mobility component of DLA or PIP where one of these is in payment.

l) Special clothing or footwear

m) Purchase, hire, maintenance, and repair of disability-related equipment

n) Court of Protection Deputyship costs

o) Costs related to professional appointeeship services

3. The Council operates a ‘self-assessment’ approach to disability-related expenditure. A Person can specify which of three threshold bands the cost of their disability-related expenditure falls within, currently:

    a. No disability-related expenditure

    b. under £5.00 per week

    c. between £5.00 to £10.00 per week

    d. between £10.00 to £15.00 per week

4. If a Person has disability-related expenditure over £15.00 per week they can request a full assessment of their costs. The Council will require proof of the expenses incurred.

5. The lowest cost alternative should usually be utilised e.g. NHS prescription prepayment, Severn Trent’s ‘WaterSure Scheme’. All allowable costs will be divided by the number of adults in the household who receive a benefit from the purchased item or service. Exceptional circumstances will be considered on their merits.

6. The Council will have regard to the Person’s care and support assessment in for considering what is necessary disability-related expenditure but will also consider, or may require, additional medical or other evidence that the expenditure is linked to the Person’s disability.

7. If an item of expenditure could be considered as part of a person’s personal budget a referral will be made for this to be reviewed.

8. The outcome of the full assessment will be the amount of disability-related expenditure allowed per week whether this is more than or less than £15.00 per week.

9. If a review of disability-related expenditure leads to an increased allowance this will usually be backdated to the earliest date that there is evidence to support the need for the expenditure.

10. More information is available in the Council's Disability-related Expenditure Factsheet

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50. Calculation of Actual Charge for non-residential care services

1. The actual charge for each Person will be the lower of:

    a. The individual assessed weekly contribution calculated from the financial assessment and

    b. The agreed Personal Budget.

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51. Absence

1. Non-Residential Services -

If a Person does not receive all of the planned care and support in a week a credit may apply to the next possible invoice, if the cost of the care and support to the council is less than your maximum assessed contribution. See section 8 above.

For example:

a. If the care and support is cancelled in advance, this will not be counted as care and support received in that week.

b. If the care and support provider does not attend as planned, this will not be counted as care and support received in that week.

c. If the care and support provider does attend and you decline the service, this will still count as care and support received in that week as the council will be liable to pay the provider.

d. If the care and support cannot be provided due to an emergency hospital admission this will not be counted as care and support received in that week.

2. Permanent Shared Lives - If there is an absence from the Shared Lives Placement and no other chargeable service occurs a 100% remission of assessed charge will be applied for up to 21 days during a year (April – March) a 50% reduction will apply to any further absences, over 21 days, in the same year.

3. Permanent Residential Services -

a. Leave Remission, a 100% remission of assessed charge will be applied for up to 21 days during a year (April – March) a 50% reduction will apply to any further absences, over 21 days, in the same year.

b. Hospital Admissions, the full residential assessed contribution will continue to apply unless you are liable for the full cost of the placement or have a completed deferred payment agreement in place. In these cases the assessed contribution will reduce to the amount payable to the care home under the council's contract.

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52. Right to appeal

1. If the Person disagrees with the assessed contribution calculation because they feel the council has not applied its policy correctly or is not compliant with the Care Act Regulations and Guidance, they have the right to appeal against the amount of their assessed contribution.

2. An appeal may result in one of three outcomes:

    a) The maximum weekly contribution is increased; or

    b) The maximum weekly contribution remains the same; or

    c) The maximum weekly contribution is decreased.

3. The Person can request that the assessment is reviewed by the council. This review will be undertaken by an officer who wasn't involved in the original decision. The outcome of the review will be notified in writing.

4. The request to review should identify the element of the assessment that has not been calculated in accordance with the Council's Policy or legislation.

5. If the Person is still not satisfied with the outcome, they can lodge an appeal against the decision.

6. The appeal will be determined by the Council's Complex Case and Appeal Panel. This Panel consists of the Head of Service – Access and Digital, Adult & Communities and an Operational Service Manager. The panel can seek advice from other council officers and external sources. The Person can meet the panel to explain why they think the decision is incorrect if they wish to.

7. If the decision appealed against was previously referred to the Complex Case and Appeal Panel e.g. a discretionary disregard, the panel members will be replaced by the Assistant Director Integration, Access and Prevention & an Operational Head of Service.

8. The decision on the appeal will be sent in writing to the Person.

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53. Waivers

1. If a Person agrees that the assessment is correct but they feel it is unaffordable they can request that the charge, or part of it, is waived.

2. A waiver is usually only agreed where there are exceptional circumstances which mean that the charge would have a significant detrimental impact on the Person or their dependents.

3. A request for a waiver will be determined under the Council's Waiver Process. A request for a waiver must be supported by a Social Care Worker in the locality.

4. Any waiver decision will be evidenced and case recorded including the steps which need to be taken to remove the need for the waiver on an on-going basis.

5. If a waiver is agreed it can be for part or all of the assessed charge, for a specific period of time and subject to review as part of the social care annual review of needs for care and support.

6. All waivers will end on the expiry of the agreed waiver period.
7. Any extension to an existing waiver must be authorised by a Head of Service or an Assistant Director. Only one waiver can be authorised within a 52-week period unless there is a change of circumstances.
8. A waiver will not be applied as an alternative to a writing off a due debt.
9. The decision on the request for a waiver will be sent in writing to the Person or their representative including the steps which need to be taken to remove the need for the waiver on an on-going basis.

54. Complaints

1. If the Person wishes to complain about this policy this will be considered by the Council under the Council's statutory complaints procedure.
2. All disagreements and concerns about the assessed contributions will be dealt with through the appeals process.
3. Should the Payor wish to make a complaint about the top-up arrangement this will be considered by the Council under the Council's statutory complaints procedure.
4. If you wish to make a complaint please visit Complaints and comments.

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Appendix A: Top Up Factsheet

Third party top up payments factsheet J

https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2022/1/24/Third-party-top-up-payments-factsheet.pdf

Appendix B: Deferred Payment Scheme Information Sheet

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https://www.leicestershire.gov.uk/sites/default/files/2022-12/deferred-payment-scheme-information-sheet.pdf

Appendix C: List of all Financial Assessment Factsheets

- Care and Support at home or in the community - paying for your care
- Paying for social care at home or in the community – Disability-related expenditure
- Financial Assessments - Key Facts
- Capital and gifting of assets
- Funding care in a care home booklet
- Living permanently in a care home - Paying for your care
- Living permanently in a care home - Savings over the upper threshold
- Living permanently in a care home - Savings over the upper threshold but no access to funds
- Living permanently in a care home - Do you own a property?
- Living permanently in a care home - 12-week property disregard