



Section 20 Charging Policy

'SHARING THE COSTS'

CHARGING POLICY FOR CHILDREN LOOKED AFTER AND CARED FOR IN RESIDENTIAL PLACEMENTS (INCLUDING FOSTERING PLACEMENTS) UNDER S20 OF THE CHILDREN ACT 1989

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1. Background

The County Council previously had a charging policy for children accommodated under section 20 of the Children Act 1989 but charges have not been levied for a number of years.

Since 2013, there have been 12 S20 charging assessments recorded by the Care Finance Team.

In the period 2014/15, 1 S20 charging assessment has been agreed but was not enforced.

In the last 12 months, 259 Section 20s have been agreed.

It is now proposed to strengthen the enforcement of the S20 Charging Policy that was agreed in 2012, reflecting the current financial climate and consequent need for budget reductions, the need to protect vital service provision and the desire to improve outcomes for young people.

- Operates in partnership with parent(s) to reflect the sharing of responsibility between parents and the local authority and to ensure that the best outcomes for each child can be achieved;
- Supports the overall objectives of the Children Act 1989 and that the welfare of the child is paramount and promotes parental responsibility;
- Seeks to be reasonable and fair to all services users;
- Aims to ensure that families are claiming/receiving all benefits to which they are entitled.

Any reference to residential care within this policy includes fostering placements, but does not include any aspect of respite provision.

2. Legislative framework

Section 20(4) of the Children Act 1989 empowers local authorities to provide accommodation for any child within their area (even though a person with parental responsibility for him/her is able to provide him/her with accommodation) if they consider that to do so would safeguard or promote the child's welfare.

However, a key feature of this provision is that accommodation cannot be provided if any person with parental responsibility objects, therefore it is 'voluntary'. Where children are accommodated for more than 24 hours pursuant to functions under section 20 then they are deemed to be 'looked after'.

Where accommodation is provided under section 20 of the Children Act 1989 then Schedule 2 requires local authorities (subject to prescribed exceptions which are not relevant to the charges to which this policy relates) to consider whether they should recover contributions towards the child's maintenance from any person liable to

contribute ('a contributor'). The costs of a child's maintenance include the costs of accommodation.

A local authority may only recover contributions from a contributor if they consider it reasonable to do so and the persons liable to contribute are:

- Where the child is under 16
- Where he/she has reached the age of 16 the child him/herself

(Please note, whilst a parent has parental responsibility for their child until their 18th Birthday, the law allows a young person of 16 to reside on their own. Therefore to try and implement the S20 policy to a parent of a 16 year old would not be effective. An assessment and discussion should take place with the young person to determine whether the child was supported under s20 or s17).

- In considering such contributions the amount should not be more than would be paid for a local authority foster placement and the local authority should consider that the amount is practicable for the parent/carer to pay (having regard to his or her means).

3. Statutory Exemptions to charges

- A parent is not liable to contribute during any period when he/she is in receipt of:
 - Universal Credit;
 - Any element of child tax credit other than the family element;
 - Working Tax Credit, or
 - Income-based Jobseeker's Allowance;Income-related employment and support allowance;
- State pension or where they are a couple with one person receiving state pension credit.
- A parent is not liable for any contribution where the child or young person is being looked after by the local authority under an Interim Care Order (ICO) or an Emergency Protection Order (EPO)
- A parent is not liable for any contribution where:
 - Services are provided as 'After Care' under Section 117 of the Mental Health Act 1983;
 - The child or young person is being looked after under Section 21 of the Children Act 1989, which includes where they are:
 - In police protection;
 - Detained under Section 38 of the Police and Criminal Evidence Act (PACE) 1984;

- On remand under Section 23 of the Children and Young Persons Act 1969;
 - Subject to a supervision order imposing a residence requirement under Section 12AA of the Children and Young Persons Act 1969
- A person is not liable to contribute towards maintenance costs in respect of any period during which the child is allowed by the local authority (under section 23 (5)) to live with a parent of his/hers.

4. Non-statutory exemptions to charges

Charges will not be imposed for residential services provided or commissioned by Lancashire County Council where the child is subject to a Child Protection Plan and the service is part of the Protection Plan.

5. Scope of the policy

- The term 'residential placement' within this policy also includes fostering placements, but does not include any aspect of respite provision;
- Reference to 'legal parent' means birth parents, adoptive parents where a child has been adopted and those with Parental Responsibility (PR).
- This policy covers all children under the age of 16 years who are in a residential placement commissioned/provided by Lancashire County Council (apart from the exemptions as outlined in paragraphs 3 and 4 above);
- The policy also includes young people aged 16 and over in residential care, who will be financially assessed in their own right;

6. Financial Assessment

The financial assessment will be conducted by the Care Finance Team in Exchequer Services. The assessment will determine the ability to pay and the affordable weekly payment that the parent is able to contribute. There will be an automatic reassessment of all charges and/ or when there is a change of financial circumstance of those liable to contribute.

Social workers must advise carers that a financial assessment will be conducted by an experienced officer from the Care Finance Team. They must provide any relevant information to demonstrate the reason why they are exempt from charges. Otherwise, the Social Worker will contact the Care Finance Team to initiate the assessment process.

See Flowchart for process.

- Apart from those exceptions listed within paragraphs 3 and 4 above, both legal parents (whether or not currently caring for the child/living elsewhere) will be financially assessed when a child is to receive residential care (see the definition of legal parent at paragraph 5 above);
- Financial assessments will be completed jointly unless the couple request individual assessments, or the parent is a sole carer;
- Where both parents are liable to pay contributions but are living apart each parent will be liable to contribute in proportion to their means as outlined by the financial assessment process;
- Where one parent is in receipt of welfare benefits and would not normally contribute, the other parent will be liable for a contribution up to the maximum amount;
- Where the parents are living apart, or are divorced and remarried, or are cohabiting, the income of the partner(s) will not be taken into account;
- Where the main carer is receiving any allowances, benefit or maintenance via a Court Order, the Child Support Agency, or directly from the other parent this must be paid over to the County Council up to the maximum amount of the contribution rate;
- Where a parent has been required to pay a maintenance payment by the Child Support Agency or a court then that parent will not be financially assessed further. However, where informal arrangements have been made there will be a further financial assessment.
- Other than in an emergency, and where agreed with the County Council, the financial assessment will be completed prior to the arrangement of services;
- Young people aged 16 and over in receipt of residential care will be financially assessed in their own right;
- The maximum daily charge will be equivalent to the basic fostering allowance;
- Where more than one child from a family is looked after, charges may be varied by the County Council in consultation with the parents of the children;
- Parents have the right to choose not to be financially assessed but if so the maximum charge will be levied.

7. Guardians

Where both parents have died, a relative or friend may be receiving a guardian's allowance (*plus child benefit*). Unless the guardian receives any of the means tested benefits listed in paragraph 3 above, recipients will be expected to pay this allowance to the County Council towards the cost of maintaining the child but a guardian will not be required to make any further contribution.

8. Charging Formula

Residential placements

With the exception of parents receiving benefits as listed in paragraph 3 above, all parents are required to contribute, pro-rata, at least the amount of Child Benefit, for each child in care, for the initial eight weeks that the benefit is paid. If, after eight weeks, the child is still looked after, then the Child Benefit and any other benefits relating to that child will cease but charges will continue based upon the applicable rate determined by the outcome of the financial assessment.

Maximum Weekly/Daily Charges

Charges will be based upon the basic fostering rates paid by the County Council to foster carers. When fostering allowance rates change (usually annually on 1 April) these rates will also change. The rates for 2017/18 are:

Age	Weekly Rate (£)	Nightly Rate (£)
0-4	£128	£18.28
5-10	£141	£20.14
11-15	£161	£23
16+	£188	£26.85

Parents who have savings/capital in excess of £23,250 are liable for the full cost of the service. This figure has been taken from the Care Act 2014 which is used for assessing adults.

Charges will be based upon the number of nights multiplied by the nightly rate.

Sliding Scale for Charges

Charges will be on a 'sliding scale' depending upon the levels of contributions calculated with regard to

Net Disposable Income (NDI) Charge

NDI	% NDI charged (up to maximum charge)
Up to £100	15%

Up to £200	20%
Up to £300	25%
Up to £400	30%
£400+	Maximum charge

Example 1

Q: What is the weekly charge for a 10 year old whose parents have a net disposable income of £250?

A: £62.50 per week (i.e. £250 x 25%)

Example 2

Q: Parent has a net disposable income of £75 – what will they pay?

A: £11.25 per week (i.e. £75 x 15%)

Net Disposable Income is calculated in the following way:

Weekly Income – Total Weekly Expenditure = Net Disposable Income

For the purposes of this calculation:

Total weekly income takes account of: Salary, welfare benefits, private works pensions and **income that is assumed an individual receives from their capital (tariff income)**

Total weekly expenditure takes account of certain household expenses, any weekly disability related expenses and a protected income.

Protected income is the prescribed amount that a person needs to cover their basic living expenses. The total protected income is specific to each individual and is made up of an individual's personal allowance, personal allowances for a partner and/or dependent children, and premiums - for example, if the individual is disabled.

The table below describes the personal allowances and premiums along with current rates (these rates are subject to annual review and revision).

PROTECTED INCOME ...			
Personal allowance & premium is to be awarded.			
	Value	Number	Total
Personal Allowances:			
Single person <25 / Lone Parent <18	57.90		0.00
Single person 25+ / Lone Parent 18+	73.10		0.00
Dependent Child	66.90		0.00
Premiums:			
Pensioner Premium - single	86.90		
Family Premium	17.45		0.00
Disability Premium - single	33.55		0.00
Enhanced Disability - single/lone parent	16.40		0.00
Work Related Group	29.05		0.00
Support Group	37.65		0.00
Other			
			0.00
		Minimum level of inc support	
		Plus 25% buffer gives Subtotal of	

Means tested benefits are not backdated by the Department for Work and Pensions and therefore a financial assessment will be completed in cases where parents cannot demonstrate at the point of placement that they are in receipt of the benefits outlined in paragraph 3.

9. Notification of charges

Once the financial assessment has been completed and the charge calculated the County Council will notify the person(s) liable to contribute specifying:

- The date on which the charge begins (i.e. the start date for charging)
- The sum which is to be contributed;
- The arrangements for payment;

If the person(s) are not liable for any contributions, this will be confirmed in writing.

10. Compensation Packages

Where compensation packages (i.e. financial compensation in relation to personal injury claims) are available to cover needs provision these monies will be treated as capital unless the compensation package is held by the court of protection or otherwise if the compensation monies must be disregarded by the local authority.

11. Voluntary contributions

The amounts that parents contribute under this policy will not cover the full costs of looking after their child. This policy does not preclude further voluntary contributions from parents who wish to contribute more fully to the cost.

12. Waivers

The Head of Children's Services and/or the Head of Inclusion and Disability Support Services have the authority to amend or waive charges in exceptional circumstances, for example where a parent would be in severe financial difficulties or where enforcement of a charge would be detrimental to one or any of the children that are in the family home.

13. Change in circumstances

Changes in circumstances can be about the financial situation of those liable to contribute, or the frequency/ type of service identified for the child.

The onus is on the parent (or the child themselves if aged 16 and over) to advise the County Council of any changes in their financial circumstances, or their intention to change the frequency/ type of service identified for the child, unless this has been agreed at a review.

14. Financial Review

Review of Charges

Any person(s) who feels that their charges have been incorrectly calculated, or feels that all of their circumstances have not been considered can request a review.

A request for a review of charges should be made in writing to the Head of Children's Services or the Head of Inclusion and Disability Support Services detailing:

- Why the person(s) feels the assessed charge is wrong or unaffordable;
- Any additional information not taken into account when the charge was calculated.

The person(s) will be contacted for further discussion if required and/or notified of the outcome within 14 working days of receipt of the request.

This discussion must take within 5 days of receipt of query. Discussion must take place between social worker and Finance Officer from Care Services and a Senior Manager.

15. Non-completion of financial assessment

If a person(s) is not exempt from charges and they choose not to complete a financial assessment form, they will automatically be charged the full daily rate for each day's service provided.

Where appointments have been made to discuss the financial assessment and cancelled, a maximum of three appointments will be offered in total.

Where three appointments have been cancelled no further appointments will be made and there will automatically be a charge of the full daily rate for each day's service provided.

16. Backdated payments

Where a financial assessment takes place after the child becomes looked after, charges will be backdated to the date upon which the child became looked after.

17. Non-payment of assessed charges

Where charges are not paid, the county council may apply to the Magistrates Court for a Contribution Order.

18. Annual review and reassessment of charges

Charges will be re-assessed if there is a change in the financial circumstances of those liable to contribute – it is the responsibility of the parent to inform the local authority of a change in circumstance;

19. Absence from a service

If a child is not receiving a service for a period (this does not include situations where a child has 'run away' from a service) then there will be no charge so long as the service provider has been informed in advance.