



# Charging Policy for Residential Services

Adults and Health (AH)

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1 April 2022

Online version: <https://www.buckinghamshire.gov.uk/insert-link-to-policy>

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# 1. Introduction

This document sets out Buckinghamshire Council's ("The Council") policy for charging for residential social care services.

This policy aims to reflect the provisions relating to charging from April 2015 as detailed in the Care Act 2014, the Care and Support (Charging and Assessment of Resources) Regulations 2014 and chapters 8 and 9 of the [Care and Support Statutory Guidance](#) issued under the Care Act by the Department of Health. These form the basis of this policy, except where the Council exercises its discretion where permitted by the regulations.

In this policy, reference to "you" refers to the person receiving a service arranged or provided by Buckinghamshire Council.

This policy applies to all service users and carers who have been assessed by the Council as having an eligible need for residential and/or nursing care services.

## 1.1. How does the Council charge for care?

Following an assessment of your care and support needs, the Council agrees a support plan to address your eligible needs. The cost of care needed to meet your eligible needs in the support plan enables the Council to commission the service directly or informs the value of your direct payment.

A financial assessment undertaken by the Council will establish how much you may need to contribute towards the cost of your care.

If personal preferences of service users are for other, more expensive care options, including live-in care to meet a 24/7 care need that otherwise would be met in a residential setting, additional service user top up fees may be charged by a local authority. There is more information on this in section 3.6 of this policy.

The Council will source care to meet your eligible outcomes and will enter into a contract with the provider. You will be advised how to pay for your care contribution at the time you are notified of that contribution. This will be clarified in writing at the time of placement.

### 1.1.1. Principles

The principles and expectations underpinning this charging policy are:

#### **Principles and expectations for the Council**

- Contributions will be calculated openly and transparently, and you will be treated in a fair and equitable manner.
- Those needing care will be given an explanation for any decisions made so they know what they will be charged.
- A financial reassessment will be carried out annually.
- The Council is committed to ensuring that no one is treated less favourably because of age, race, ethnicity, religion, gender, sexual orientation, physical or mental impairment, caring responsibilities and political or other personal beliefs.
- If you choose to access a service that exceeds your budget allocated by the Council, irrespective of your contribution you may be asked to top this up.

#### **Principles and expectations for you**

- You will be required to complete a Statement of Financial Circumstances form.
- If you refuse to pay your assessed contribution, the Council may instigate recovery proceedings in line with its debt management policies, including court action to recover unpaid sums.

### 1.1.2. Capacity

When a Care Act care and needs assessment is carried out, the assessor will consider if you have capacity to consent to the care plan in accordance with the principles in the Mental Capacity Act 2005.

With your permission, we can discuss your requirements with your chosen representative.

All documentation, however, must be signed by you, unless you can provide evidence of the following:

- Authorised someone else to do so under a Lasting Power of Attorney (LPOA) which must be registered with the Office of the Public Guardian
- An appointee who has been accepted by the Department for Work and Pensions as authorised to deal with your social security benefits
- A Deputy who has been appointed by the Court of Protection to look after your financial affairs

If there is no one acting on your behalf, Council social work staff will take steps to find out if there is someone who can provide support.

## **1.2. Charges for Residential Care**

### **1.2.1. When will I be charged for residential care?**

You will be charged the full cost of services in the following circumstances:

- You have capital resources above the Upper Capital Limit, which is £23,250 for 2021/22. This figure is confirmed in the most up-to-date local authority circular on social care charging [provided by the Department of Health and Social Care](#).
- You are assessed as a self-funder because your income has been assessed and your level of contribution is higher than the cost of your care.
- You refuse to comply with the Council's financial assessment process.

All other service users will be charged the maximum contribution they are able to pay. This is known as an assessed charge. It is calculated by a financial assessment (see section 2 below).

### **1.2.2. Services included**

The Council will charge for care delivered in residential or nursing care settings.

The Council will charge for care and support delivered to you in a care home on a respite, temporary, or permanent basis. If you have a temporary stay that becomes permanent, you will be assessed for a permanent stay and the charging regulations in this policy applies.

If you are already paying a client contribution as part of a community care the charge under this policy will supersede that.

### **1.2.3. When charges do not apply**

This charging policy does not apply to service users aged under 18. The Council is not permitted to charge for the following services in accordance with section 14 of the Care Act, therefore they will be provided by the Council free from charges to service users who meet the criteria:

- Services relating to mental health after care commissioned under section 117 of the Mental Health Act 1983.
- Intermediate care, also known as home independence, step down or hospital discharge (up to 6 weeks of care)
- Care and support provided to adults living with variant Creutzfeldt-Jakob disease.
- Any service or part of service which the NHS is under a duty to provide

### **1.2.4. Former self funders**

Depleted funders are former self funders whose assets fall below the threshold to become eligible for council funding (below the £23,250 asset threshold). If this applies to you, the Council will require a minimum of 3 months' notice to undertake care act and financial assessments to ascertain if we have a liability for taking on care costs at the point of depletion.

The Council will have to make a determination following a Care Act assessment, to confirm that an individual has eligible care needs. Following this, a financial assessment will be undertaken to determine the date the former self funder became eligible for Council funding.

Buckinghamshire Council will not be responsible for debts incurred before the former self funder or their legal representative has completed a financial assessment. Buckinghamshire Council will become responsible for paying for care:

- If the Council assesses there that there are eligible care needs
- AND a financial assessment has been completed and confirmed the individual is below the financial limit

The date that Buckinghamshire Council will assume responsibility for payment will be the date of the submission of the financial assessment, or the date at which the funds become depleted if it is after this.

The financial assessment will identify the former self funders contribution towards the cost of meeting their eligible care needs. This may mean that they may be asked to explore such options as selling property (unless exempt) in order to generate assets to contribute to their care.

## 2. The financial assessment

Once you have received a care and support needs assessment, the Council will calculate how much it will cost to meet your care, often called an “eligible care need.” Your **personal budget** is the total value of the cost to provide the care and support services that you need.

The Council will undertake a **financial assessment** to determine whether you can afford to contribute to your personal budget. Your financial assessment takes into account:

- Your capital
- Income
- Household expenditure

This is also detailed further below. The financial assessment may take into account the value of any property you may have an interest in, with some exceptions. See section 2.2 below.

Where funds are held in a Trust, the financial assessment will seek to determine whether income received or capital held in a Trust should be disregarded or included in the assessment.

If you have joint capital/savings with another person, half of the balance will be taken into account.

The lower and upper capital savings limits for residential packages of care will apply in line with Government guidelines. See [Appendix 1](#) for more detail.

If you do not complete your financial assessment within 4 weeks, the Council will assume you are over the £23,250 threshold until evidence is provided to the contrary.

### 2.1. Property

If you own or have an interest in more than one property, it is very likely that your capital assets are more than £23,250 and therefore you would be expected to pay the full cost of your care and would not be entitled to financial assistance from the Council.

If you only own the home you live in, this is normally regarded as an asset but can be disregarded in the following circumstances if it is occupied by any of the following people and the property has been continuously occupied by you since before you first went into residential care:

- Your partner, former partner, or civil partner, except where you are estranged
- A lone parent who is your estranged or divorced partner
- A relative who is:
  - Aged 60 or over
  - A child of the resident aged under 18
  - Incapacitated
- A discretionary disregard may be applied in some other circumstances – you or your financial agent can discuss this with your social worker.

In some circumstances, such as respite care and in the first four weeks of permanent care, expenditure to maintain your home, such as rent, water rates, and insurance premiums, may be offset against your income to reduce your contribution.

## **2.2. 12-week property disregard**

If you are assessed as needing to permanently move into a residential care home, you may be entitled to the 12-week property disregard. This means that the value of your property may be disregarded for the first 12 weeks of care.

In order to qualify:

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

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

*You will need to ensure that any application for the 12-week property disregard is requested to Buckinghamshire Council prior to moving into residential care.*

## 2.3. Income

Your income is included in a financial assessment in accordance with the charging regulations to determine the contribution you will be asked to make towards your care home fees.

Your earnings from your employment or self-employment will be disregarded from your financial assessment.

The Council will take into account most state benefits and any private income you have, with exceptions that are disregarded. For more detail on which benefits and types of private income are disregarded, see the [Annex C section on 'Treatment of Income'](#) from the Department of Health and Social Care's Care and support statutory guidance (2020).

You will be expected to claim all benefits to which you are entitled.

The Council will disregard half of your occupational pension if you are living with a partner.

## 2.4. Deprivation of assets

Deprivation of assets is the disposal of income and capital for the purpose of avoiding or to reduce care charges.

The Council has the authority to conduct an investigation to determine whether deprivation of assets has occurred.

## 2.5. Allowances

The Personal Expense Allowance (PEA) is the weekly amount that you are assumed to need as a minimum for your personal expenses while receiving Council-arranged care and support in a care home.

After your financial assessment, you will be left with the full value of the PEA. It is up to you to determine how you spend it.

As of 2021/22, the PEA is set to £24.90 per week. This figure is confirmed annually in the local authority circular on social care charging [provided by the Department of Health and Social Care](#).

## **2.6. Preventative services**

The Care and Support (Preventing Needs for Care and Support) Regulations 2014 allows the Council to charge for the provision of certain preventative services, facilities, or resources. The Regulations also provide that some other specified services must be provided free of charge.

If the Council charges for preventative services, it will ensure that you are able to afford any charges made.

The Council will not charge for the following:

- Preventative services to an adult living with Creutzfeldt-Jakob disease
- Intermediate care, known as Home Independence/Step Down care, for up to the first 6 weeks

## **3. After the financial assessment**

### **3.1. Your assessed contribution**

The cost of your care will be based on rates that are in line with the prices the Council is charged by providers and will not be more than those prices. Where the Council directly provides the service, the Council will calculate the cost of delivering those services.

Your assessed contribution will be equivalent to your net available income or the actual costs of your care and support, whichever is the lower amount. Your net available income is identified in your financial assessment.

If your financial assessment finds that you do not have any available income, you will not be required to contribute to your personal budget and will not be charged for your care and support services.

### **3.2. What if I don't agree?**

You have the right to appeal against your assessment if one of the following applies:

- If you think that the charge has been incorrectly worked out
- If you think you have expenses which we have not taken into account
- If you feel that you cannot afford the charge as it would cause you financial hardship

If you think one of the above applies you should contact:

Finance Assessments Team  
Resources - Buckinghamshire Council  
Walton Street Offices  
Walton Street  
Aylesbury  
HP20 1UD  
Telephone: 01296 674612  
Email: [financeassessment@buckinghamshire.gov.uk](mailto:financeassessment@buckinghamshire.gov.uk)

### **3.3. Debt recovery**

The Care Act introduces a framework for local authorities to recover debts. The Council has the power to recover money for arranging and providing care and support services. This power may be exercised when a person refuses to pay the amount they were assessed as being able to pay. This power extends to the person receiving care and support and their representatives.

The Council actively pursues debts and seeks to prevent debts escalating and for the person to make affordable repayments. Legal action to recover debt through the County Court will only be taken by the Council as a last resort when all other alternatives have been pursued without success.

### **3.4. Deferred payment scheme**

A person who owns a property can defer the costs of their residential care against the value of their property. This is known as a Deferred Payment Agreement. This takes the form of a loan from the Council and a legal charge is placed on the property to secure the loan. There is also a management charge for requesting a deferred payment, which is listed in Appendix 2.

The Council may refuse a Deferred Payment in the following situations:

- The Council is unable to secure the first charge on the property.
- The property is uninsurable.
- You want to defer more than you can provide adequate security.
- You refuse to engage in the Deferred Payment process.

The Council may decide to discontinue with the Deferred Payment Agreement where:

- The upper limit is reached.
- A spouse or dependent moves into the property after the Deferred Payment Agreement commences.
- Where the person becomes entitled to a property disregard

The amount of care costs that can be deferred will be calculated in accordance with your eligibility and regulations. There is a maximum amount that a person

can defer as a loan against the value of their property which must not exceed 90%.

Any deferred fees are to be repaid to the Council as soon as practically possible.

#### **3.4.1. Interest on Deferred Payments**

The Council charges interest on the deferred payment loan amount. Interest rate charges can go up to but not exceed the rate set by the Government. The interest rate used for the Council's deferred payment scheme is determined by National Financial Authorities. These charges will be included in the Deferred Payment Agreement. Charges made by the Council for a deferred payment will be made publicly available.

You will be notified of any accruing debt for the Deferred Payment Loan every 4 weeks.

#### **3.4.2. Applying for a deferred payment**

You will be required to provide evidence that you are able to give the Council adequate security in return for the loan e.g. in the form of your property.

A person entering a deferred payment agreement must have mental capacity to enter the agreement, except in the case of a person who has a court-appointed deputy to act for them or a registered power of attorney.

You will need to ensure that any application for the deferred payment is requested to Buckinghamshire Council prior to moving into residential care. Buckinghamshire Council will not make any payments before an application is received.

### **3.5. Choice for services**

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

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

Top ups for residential care differ from community care where the top-up may be paid by the individual themselves.

If an individual enters a deferred payment agreement, the top up contribution can also be paid by the individual themselves and be added to the deferred payment debt if the Council agrees there is enough equity in the client's home.

### **3.6. 'Top-ups'**

Whilst local authorities are required to offer an affordable care option to individuals, if the personal preferences of service users are for other more expensive care options, additional service user top up fees may be charged by a local authority.

You may choose a placement that is different to the service identified by the Council, which is more expensive than the option by which the Council can meet your eligible care needs.

This placement may be provided if someone you know (a third party) is willing and able to meet the additional cost. Meeting this additional cost is known as a 'top-up' payment.

The person paying the 'top-up' must enter into a written agreement with the Council, agreeing to meet the additional cost and any increases for the duration of the agreement. The agreement is called a "Third Party Agreement."

The 'top-up' fee is calculated by subtracting the cost of the option identified by the Council, minus your care contribution identified in the financial assessment, from the cost of your preferred placement.

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

- You are subject to a 12-week property disregard.

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

### **3.6.1. If you are no longer able to pay your top-up fee**

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

If this is the case, the Council will undertake an exercise to understand how they can meet your eligible care needs in the most cost efficient way possible. This might result in you moving to another category of room or to another care home, unless the care home is able to accommodate you at the same cost as an alternative location identified by the Council.

## **3.7. Residential Placements outside of Buckinghamshire**

As stated in the previous section (Choice for Care Services in Buckinghamshire) Buckinghamshire Council are able to provide care choices in different locations.

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

Placements outside of the County boundary may be offered in exceptional instances, for example:

- The care and support required is particularly specialist and therefore opportunity to make an appropriate placement in Buckinghamshire is extremely limited

- The individual has no ties to the County, i.e. no relatives or family/friends' network within the County, and has no preference for where they are placed
- A placement within Buckinghamshire would be deemed unreasonable because it denies family/carers access to the individual and diminishes the chance to experience family life and support
- Further to this, an individual's particular situation will be considered in extraordinary circumstances on a case to case basis

Each of these scenarios would be subject to discussion during the assessment process and Buckinghamshire Council will take reasonable steps to ensure these preferences are taken into account when sourcing placements. The individual's particular circumstances will also be considered and Buckinghamshire Council will take steps to establish that the cared for person agrees to the receipt of this care.

## 4. Compliments and complaints

You can let the Council know when things go right or when things go wrong. You can also let the Council know your suggestions of how things could be done better to help the Council improve its services.

If you would like to make a complaint or send a compliment, it should be sent by post to the following:

### **Compliments and Complaints Team**

Buckinghamshire Council  
Walton Street Offices  
Walton Street  
Aylesbury HP20 1UA

Email: [complimentsandcomplaints@buckinghamshire.gov.uk](mailto:complimentsandcomplaints@buckinghamshire.gov.uk)

Telephone: 01296 387844

# Appendix 1 - Capital limits and tariff income

Upper Capital Limit: £23,250

Lower Capital Limit: £14,250

## Tariff Income from Capital

Capital between these amounts		Tariff Income
Nil	£14,250	£0
£14,250.01	£14,500	£1
£14,500.01	£14,750	£2
£14,750.01	£15,000	£3
£15,000.01	£15,250	£4
£15,250.01	£15,500	£5
£15,500.01	£15,750	£6
£15,750.01	£16,000	£7
£16,000.01	£16,250	£8
£16,250.01	£16,500	£9
£16,500.01	£16,750	£10
£16,750.01	£17,000	£11
£17,000.01	£17,250	£12
£17,250.01	£17,500	£13
£17,500.01	£17,750	£14
£17,750.01	£18,000	£15
£18,000.01	£18,250	£16
£18,250.01	£18,500	£17
£18,500.01	£18,750	£18
£18,750.01	£19,000	£19
£19,000.01	£19,250	£20
£19,250.01	£19,500	£21
£19,500.01	£19,750	£22
£19,750.01	£20,000	£23
£20,000.01	£20,250	£24
£20,250.01	£20,500	£25
£20,500.01	£20,750	£26
£20,750.01	£21,000	£27
£21,000.01	£21,250	£28
£21,250.01	£21,500	£29
£21,500.01	£21,750	£30
£21,750.01	£22,000	£31
£22,000.01	£22,250	£32
£22,250.01	£22,500	£33
£22,500.01	£22,750	£34
£22,750.01	£23,000	£35
£23,000.01	£23,250	£36
More than £23,250		Full Fee Paying

## Appendix 2 - Charges and rates with effect from 1 April 2022

SERVICE	CHARGE
Deferred Payment set up Fee	£671.00
Annual Administration Fee for Deferred Payment	£100.00
Short Breaks per week (this figure will vary depending on level of need) to be applied from October 21	Full Cost  (Current Range of Full Cost £740-£1,495.00)

## Appendix 3- Glossary

<b>Term</b>	<b>Definitions</b>
<b>Adult</b>	Any person over the age of 18.
<b>Adult with care and support needs</b>	Any person over the age of 18 who has needs for care and support to live their day to day life.
<b>Care and support</b>	A mixture of practical, financial, and emotional support and services that the Council offers or can support, for any person aged 18 or over in order for them to live their day to day life.
<b>Carer</b>	<p>Any person over 18 who provides or intends to provide care or support to another adult who needs care. This includes emotional care and support as well as physical.</p> <p>A person who is paid to provide care or does so as a voluntary worker is not considered a carer.</p>
<b>Carers Assessment</b>	This is where the Council gathers information to help determine the carer's need for care and support to help them live their day to day life and continue to provide care for the adult they are caring for. It also helps to determine whether or not they meet the eligibility criteria.
<b>Direct Payment</b>	Payments made by the Council directly to a person with care and support needs so they can choose where, how and when to get their own care and support.
<b>Duty</b>	Something that the law says the Council must do.
<b>Financial Assessment</b>	This is the dialogue the Council has to have with the service user or their representative to gather information and the formal means-test under the relevant charging policy rules once all the information has been gathered. This helps determine whether or how much an adult can

	afford to contribute towards any care and support services and to record other financial details, such as benefits.
<b>Indicative Budget</b>	The maximum monetary value that indicates how much the Council believes is required to meet your care needs as calculated by our RAS.
<b>Independent Advocate</b>	An appropriate individual separate from the Council who can represent a person where they are not able to themselves.
<b>National Eligibility Criteria</b>	These are the minimum levels of care and support needs for a person which the Council must support to meet the assessed needs.
<b>Needs Assessment</b>	<p>This is the dialogue the Council has with an adult to gather information that helps to determine the adult's needs for care and support in order to help them live their day to day life.</p> <p>It also helps to determine whether or not they meet the eligibility criteria.</p>
<b>Nursing Care</b>	The social and health care provided to a person who is living in a care home registered with the Care Quality Commission as a nursing home rather than their own home.
<b>Personal Budget</b>	This is a statement of what it costs to meet an adult's care needs. The breakdown includes the amount the adult with care and support needs pays towards the total cost as well as the amount the Council pays towards the total cost. It also looks at other funding options available to meet needs and considers services where there is no cost, such as a community resource.
<b>Prevention</b>	The individual interventions the Council makes to promote health, improve skills or functioning for one person or a group, or reduce the impact of caring on a carer's health and wellbeing.

<b>Home Independence</b>	Free of Charge Intermediate care including up to 6 weeks care to help you recover from a major event such as a stay in hospital.
<b>Residential Care</b>	The care provided to a person who is living in a care home on a temporary or permanent basis (any establishment providing accommodation with personal or nursing care) rather than their own home.
<b>Overnight Short breaks</b>	Temporary residential care for the cared for person which enables a carer to look after their own health and wellbeing and to take a break from caring.
<b>Self-Funder</b>	Any person who funds all their own care and support services or who has their care costs paid for by a third party, such as a family member.
<b>Wellbeing</b>	The individual aspects of wellbeing are those outcomes most relevant to a person with care and support needs and carers.