

Deprivation of Capital and Assets

Policy and Appeals Process
Information Sheet 5



POLICY VERSION CONTROL

POLICY NAME	Deprivation of Capital and Assets		
Document Description	This policy aims to support the financial assessment process and make charging fair and consistent for all individuals as set out in the Care Act 2014 and Care and Support (charging and assessment of resources) Regulation 2014.		
Document Owner	Karen Jones		
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Policy Statement

This policy aims to support the financial assessment process and make charging fair and consistent for all individuals as set out in the Care Act 2014 and Care and Support (charging and assessment of resources) Regulation 2014.

To see the full Care Act 2014 documentation please visit www.gov.uk and search for department of health care and support statutory guidance.

When undertaking a financial assessment, Lancashire County Council may identify circumstances that suggest an individual may have deliberately deprived themselves of capital or assets in order to reduce the level of contribution they make towards their care and support, or secure assistance in paying for their care and support from Lancashire County Council.

Throughout this leaflet Lancashire County Council will be referred to as 'we' and the Individual as 'you'

For the purposes of this policy, capital and assets means capital and/or income.

What is Deprivation?

Deprivation of assets is where you have intentionally deprived or decreased your overall assets in order to reduce the amount you are charged towards your care.

This means you must have been aware you needed care and support either imminently or at some point in the future and you have reduced your assets in order to reduce the contribution you would be asked to make towards the cost of that care and support.

We will not automatically assume deprivation has occurred, there may be valid reasons why you have disposed of an asset. These reasons will be considered and it is up to you or your representative to prove you no longer have the capital or asset and provide information and evidence as to why you no longer have it. This will enable us to make an informed decision as to whether deliberate deprivation has occurred.

The term deliberate deprivation covers a broad range of ways in which you might transfer capital or assets from your possession. For example, you may deprive yourself in one of the following ways:

- A lump-sum payment to someone else, for example as a gift;
- Substantial expenditure has been incurred suddenly and is out of character with previous spending;
- The title deeds of a property have been transferred to someone else;
- Assets have been put into a trust that cannot be revoked;
- Assets have been converted into another form that would be subject to a disregard under the financial assessment, for example, personal possessions;
- Assets have been reduced by living extravagantly, for example, gambling;
- Assets have been used to purchase an investment bond with life insurance.



However, this will not be deliberate in all cases. Deprivation will only be considered where you cease to possess capital and assets that would have otherwise been taken into account for the purposes of the financial assessment or you have turned the asset into one that is now disregarded.

Has deprivation of capital or assets occurred?

There may be many reasons for you depriving yourself of capital or an asset; we will consider the following before deciding whether deliberate deprivation to avoid care and support charges has occurred:

- Whether avoiding the care and support charge was a significant motivation;
- The timing of the disposal of the asset. At the point the capital was disposed of could you have a reasonable expectation of the need for care and support;
- Did you have a reasonable expectation of needing to contribute to the cost of your eligible care needs: and
- How did you expect to meet the cost of any future care and support?

What information and evidence will you need to provide?

We will need to establish the reason for the transfer or disposal, including when and why it was done.

Receipts and evidence may need to be provided and the timing of the disposal will be considered; was the transfer or disposal made at a time when care needs were being considered or care and support being provided. In some circumstances, where there has been a disposal of assets and there is evidence of iniquity or sharp practice we may ask you to disclose documents or written advice provided by the legal representative involved in the matter. ¹

We will consider if gifts were made historically and what provisions have been put in place to meet future care needs.

What happens if deprivation has occurred?

If it is decided that deprivation has occurred, you will be treated as having 'notional capital' or 'notional income' to the value of that which you have disposed of.

If the notional capital, when added to your actual capital comes to more than £23,250, we will assess you as being able to meet the full cost of your care.

¹ LBB Brent v Estate of Mr Owen Kane & Ors [2014] EWHC 4564 (Ch)

Reviewing the deprivation decision

You can request a review of the decision we made if you feel that we have not interpreted guidance set out in the Care Act 2014 and Care and Support (charging and assessment of resources) Regulation 2014 correctly.

If you wish to request a review, you must do this within 28 days of receiving the deprivation decision letter. If we do not receive a request for a review within 28 days, it may not be possible for us to consider one.

Charges will continue to be raised and payment sought throughout the review process. Any adjustments resulting from the outcome of the review will be applied retrospectively.

About your review

Your review should be addressed to the Deprivation and Deferred Payment Team.

You should send your request for a review to:

**Deprivation and Deferred Payment Team
Lancashire County Council
Exchequer Services
PO Box 1337
SCRM
County Hall
Preston
PR2 0TG**

Or email your request for a review to appeals.panel@lancashire.gov.uk

Please provide all the information you feel is relevant to your case and supply any additional documents you think may help support your request.

When we receive your request for a review, you may be contacted by the Deprivation and Deferred Payment Team, to gather more information in order for your review to take place.

The Deprivation and Deferred Payment Team will contact you, in writing, to let you know the outcome of your review, once this has been completed.

Appealing the deprivation decision

You can appeal the decision we make if you feel that we have not interpreted guidance set out in the Care Act 2014 and Care and Support (charging and assessment of resources) Regulation 2014 correctly.

If you wish to make an appeal, you must do this within 28 days of receiving the outcome of the deprivation review letter. If we do not receive an appeal within 28 days, it may not be possible for us to consider one.



If you make an appeal, you must give sufficient detail as to why you feel the decision is incorrect, it is not enough to say 'I want to appeal' or 'I don't agree with the decision'

Charges will continue to be raised and payment sought throughout the appeals process. Any adjustments resulting from the panel's decision will be applied retrospectively.

About your appeal

Your appeal should be addressed to the Adult Social Care Finance Appeals Panel.

You should send your appeal to:

Adult Social Care Finance Appeals Panel
Lancashire County Council
Exchequer Services
PO Box 1337
SCRM
County Hall
Preston
PR2 0TG

Or email your appeal to appeals.panel@lancashire.gov.uk

Please provide all the information that you feel is relevant to your case and supply any additional documents you think may help support your appeal.

The adult social care finance appeals panel meets once every 4 to 6 weeks and consists of:

- A senior finance manager
- A senior operational manager
- A panel administrator.

A legal representative may also be present.

When we receive your appeal, you may be contacted by the panel administrator, in order to gather more information before your appeal is presented to the appeals panel.

The panel administrator will contact you, in writing, to let you know the result of your appeal within seven working days of the panel decision.

If you feel the Appeal decision is incorrect

The decision made by the appeals panel is final, however, if you feel that the Deprivation and Deferred Payment Team and the Adults Social Care Finance Appeals Panel have not interpreted guidance set out in the Care Act 2014 and Care and Support (charging and assessment of resources) Regulation 2014 correctly, you may register a complaint via the strategic customer quality team, by writing to:

**Complaints and Appeals Team
Legal and Democratic Services
Christ Church Precinct
County Hall,
Preston.
PR1 8XJ**

Or email your complaint to complaintsandfeedback@lancashire.gov.uk

If you want to see the full version of our complaints policy, please ask for a copy from your local adult social care office or visit www.lancashire.gov.uk.

You must detail in your complaint why you feel that the guidance has not been interpreted or followed correctly. The complaints team will only investigate where an error may have been made or where you have been treated unfairly. They will not investigate cases where you are just not happy with the decision.

If you are not satisfied with the response to your complaint, you can complain to the Local Government and Social Care Ombudsman who is completely independent of Lancashire County Council. Although the Ombudsman can investigate complaints about what the local authority has done (or not done), they cannot question what the authority has done simply because someone does not agree with it.

You can get more information about the Ombudsman from the LG&SCO Advice Team.

Their contact details are as follows:

**Local Government and Social Care Ombudsman
PO Box 4771
Coventry
CV4 0EH**

Advice line: **0300 061 0614**

Website: **www.lgo.org.uk**

Further information

If you require any further information regarding any of the points covered in this leaflet, please contact the Deprivation and Deferred Payment Team on 0300 123 6708 option 1.



Additional information and guidance regarding charging for Adult Social Care is also available in a series of Information Sheets as follows:

Information Sheet 1 – Adult Social Care Fees – 2023/24

Information Sheet 2 – Financial Implications for Non Residential Care Services

Information Sheet 3 – Financial Implications of moving into a Residential
or Nursing Home

Information Sheet 4 – What is the Deferred Payments Scheme?

Information Sheet 5 – Deprivation of Capital and Assets, policy and appeals
process

Information Sheet 6 – Independent Financial Advice