

## Factsheet 10

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## 1 Recent developments

*Local Authority Circular (DHSC) (2024) 2*, published in February 2024, increased the income thresholds in the financial assessment in line with inflation. The capital limits remain the same as the previous financial year.

## 2 Sources and terms used in this factsheet

### Care Act 2014, regulations and statutory guidance

This factsheet is based on the *Care Act 2014* ('the Act'), introduced in April 2015. There are references to the charging regulations and statutory guidance that support the Act, which set out how a local authority must administer adult social care.

These include the *Care and Support (Charging and Assessment of Resources) Regulations 2014* ('the charging regulations') and the *Care and Support Statutory Guidance* ('the guidance'). Section 8 of the guidance *Charging and financial assessment* and the Annexes include:

Annex B: Treatment of capital

Annex C: Treatment of income

Annex E: Deprivation of assets

### Care homes and nursing homes

This factsheet provides information about *care homes* and *nursing homes*. These are standard terms used by the Care Quality Commission, the industry

## **Local authority**

In this factsheet, we use '*local authority*' to refer to the adult social services department of the local authority or council. It is also used to describe similar departments within: a county council, a district council for an area in which there is no county council, a London borough council, or the Common Council of the City of London.

## **Capital**

Capital takes many forms, but it generally refers to money or assets you own that may be available to fund part, or all, of meeting your assessed needs. It can be buildings or land, savings or stocks and shares or trusts. It is not regular payments of income, such as pensions or benefits.

## **3 How to get help from the local authority**

If you need residential care, the local authority may have a duty to arrange it once it has assessed your needs. You are likely to have to pay something towards care home fees from your income and capital. If the local authority is involved in arranging your placement, the amount you pay is worked out via a financial assessment.

See section 14 for information about free assistance with care costs.

**Note**

If you have more than £23,250 in capital, the local authority do not contribute towards your fees.

### **3.1 Assessment of needs**

The local authority must first carry out a needs assessment to establish whether your needs meet the eligibir

## 4 The financial assessment

The financial assessment is how a local authority calculates your contribution to the overall cost of meeting your eligible needs in a care home, specified in your personal budget. Y

## A written record of the financial assessment

You must be given a written record of the financial assessment, explaining how it was carried out, what the charges will be, how often they are made, and the likelihood of fluctuations in charges. It should be provided in a way you can easily understand, as early as possible.

## 5 Your savings and other types of capital

Most forms of capital are included in the financial assessment, including savings, bank or building society accounts, National Savings accounts, Premium Bonds, stocks and shares, and property (buildings or land).

For more about how property is valued and deferred payment agreements, see factsheet 38, *Property and paying for residential care*.

### 5.1 General points about treatment of capital

#### Valuation of capital

If your capital is valued at more than £23,250, no precise valuation is needed because you are expected to pay full fees yourself. Capital either has a *market* value – the amount a willing buyer would pay (e.g. stocks and shares), or a *surrender* value (e.g. Premium Bonds).

Any outstanding debt secured against an asset, such as a mortgage, is deducted from the value. If you would incur expenses in realising the value of



**If you have between £14,250 and £23,250**

## Property disregards

Your share in the value of your former home can be disregarded, for example, if your partner still lives there or, in certain circumstances, a relative. If your home is included in the financial assessment, its value is disregarded for the first 12 weeks of a permanent care home placement. This is to give you time to make a decision about your property in relation to paying

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## Notional capital

This is capital that is included in the financial assessment, even though you do not have it. For example, it could be (see Financials and Assets for more information) such as an unclaimed Premium Bond win, or capital you disposed of to avoid using it to pay for care home fees (*deliberate deprivation* see section 7).

If you are assessed as having notional capital, its value must be reduced on a weekly basis by the difference between the weekly rate you pay for residential care and the weekly rate you would have paid if notional capital did not apply.

## 5.2 Business asset short-term disregards

If you are a permanent resident, the local authority should disregard the capital value of any business assets you own or part own for a reasonable period of time, providing steps are being taken to realise the capital value and specified information is provided.

## 6 Your income

Your income can be included in your financial assessment. It is usually looked at on a weekly basis and taken into account in full, unless it is fully or partly disregarded. Your income is calculated on the basis that benefits such as Pension Credit are being claimed, so make sure you have applied for any possible benefits. If your weekly eligible income exceeds your personal budget, you are

## Notional income

Notional income is income you are treated as having even though you do not actually receive it. For example, this can be income that is available on application but you have not yet applied for it, or you have applied for only some of it, income due but has not been received, or income you have deliberately deprived yourself of to reduce the amount you must pay for your care (see section 7).

## 7 Deliberate deprivation of assets

Deliberate deprivation is when capital or income is given away, disposed of, or not claimed, with the intention of reducing the amount you must pay towards your care home fees. If this happens, the local authority has the power to treat you as though you still possess the assets you have given away as '*notional*' capital or income in the financial assessment.

A local authority must use its discretion when assessing the timing and motives for the transfer of eligible assets prior to a financial assessment. To be held to have deprived yourself of assets, they must show that you must have known you may need care and support and have intentionally reduced your assets to reduce your potential financial contribution. If you pay off a debt that would otherwise remain, even if not immediately due, this must not be considered as deprivation.

The local authority must take into account



The amount of Guarantee Credit paid is the difference between your assessed income (less any disregarded amounts) and the appropriate minimum guarantee.

### **8.1.2 Savings Credit**

Savings Credit is abolished for people reaching State Pension age on or after 6 April 2016.

If you are a couple, you can get Savings Credit if both of you reached State Pension age before 6 April 2016. If only one of you did, you cannot claim unless you or your partner had an existing award from before 6 April 2016 and have remained entitled since.

## 8.2 Disability benefits

Attendance Allowance (AA), Disability Living Allowance (DLA) and Personal Independence Payment (PIP) can be paid if you have care or mobility needs. AA can be claimed if you have reached State Pension age, but it does not have a mobility component.

If you claim DLA or PIP before reaching State Pension age, you can continue to receive it after reaching State Pension age, even if your award includes a mobility element.



If you receive NHS CHC in a nursing home, payments of AA, DLA care component and PIP daily living component stop after 28 days, or sooner as above. However, you may be treated as being in a '*similar institution*' to a hospital.

This means your benefits are affected in the same way as for hospital in-patients so AA and both components of DLA and PIP stop after 28 days. These rules should only apply if you receive medical or other treatment from, or under the direct supervision of, the nurses or other health professionals at the nursing home. This can also apply if you receive local authority funding towards a nursing home placement.

### **Disability benefits and Pension Credit for self-funders**

If you receive AA, DLA middle or high rate care component, or PIP daily living component, an extra amount (severe disability addition) can be included in the calculation for PC Guarantee Credit entitlement.

As a self-funder, including where you enter into a deferred payment agreement, you can continue to be paid AA or the care/daily living elements of DLA and PIP, meaning you can get this extra amount in your PC if you are entitled. This applies as long as no one is

Your income and capital are taken into account when working out whether you are entitled to PC. Your share in the value of property is disregarded in certain circumstances, for example, your partner lives there.

This also applies if a close relative lives there and they are State Pension age or incapacitated. If this does not apply, your property is disregarded for PC for 26 weeks if you are taking steps to sell it (note, this disregard does not apply to the social care financial assessment).

It is particularly important to check your entitlement to PC if you enter a deferred payment agreement, as this may reduce the amount that is ultimately repaid to the local authority at the end of the agreement.

For more information, see factsheet 48, *Pension Credit*.

## Introduction of Personal Independence Payment

DLA is being replaced by PIP. New adult claimants must apply for PIP. If you currently receive DLA, this continues but if your circumstances change, you are invited to claim PIP. All working age DLA recipients are being assessed for PIP over the next few years. If you currently receive DLA and were 65 or over on 8 April 2013, you will not move to PIP.

See factsheet 87, *Personal Independence Payment and Disability Living Allowance*, for more information.

## 9 Personal Expenses Allowance

The local authority must let you to keep a Personal Expenses Allowance (PEA) of at least £30.15 a week. You should not be asked to put your PEA towards the cost of meeting your eligible needs if you are a permanent or temporary care home resident. It is for your own personal use. 88 ne m00

The local authority has a 25% cap on the PEA for care home residents. It is for your own personal use. 88 ne m00

The local authority arranges for you to move permanently into a care home. Your personal budget is set at £700 a week to meet your assessed eligible care and support needs. The home costs £700 a week.

Your capital is ignored by the local authority because it is less than £14,250.

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<b>The local authority calculation</b>	<b>£</b>
<b>Your total weekly income (£125.95 plus £92.20)</b>	218.15

Your savings of £10,400, together with half of the balance of the joint account, £4,000,



The local authority must demonstrate that care and support suitable to meet your assessed eligible needs can be arranged within the amount specified in your personal budget. It must show there is at least one suitable care home at your personal budget level.

If no care home can meet your assessed eligible needs within the amount set by the local authority, it must increase your personal budget to meet the extra cost and must not request a top-up.

If you choose a care home costing more than your personal budget and a third party agrees to pay the additional cost, the local authority must make a contract with your preferred home, subject to these conditions.

The third party must show they can reasonably expect to be able to contribute for as long as the arrangement lasts i.e. the length of time you will be in the home. The third party and the local authority must agree what will happen if the home fees subsequently increase. The local authority may not necessarily agree to pay for all, or even part, of, an increase.

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## **Residents' contributions to more expensive accommodation**

You cannot usually top-up your own fees to meet additional costs of more expensive accommodation, for example using your Personal Expenses Allowance or disregarded capital or income.

If *top-up* is required for your care home and all parties agree (you or the third party paying the top-up, the local authority, and the home), you and the local authority can each pay your respective share directly to the provider. The guidance states this is not recommended.

### 13 Financial assessment delays

The financial assessment should be completed promptly. You can challenge the local authority if there are delays. The Local Government and Social Care Ombudsman state they generally expect a financial assessment to be done within four weeks of a needs assessment.

Ask the local authority to explain what is causing the delay and what steps are being taken to ensure the assessment is completed as soon as possible. If this does not resolve the situation, you can raise a formal complaint (see section 18).

The local authority may expect you to pay backdated care charges that have accrued during the period of delay. If you believe this is unreasonable, you can complain.

However, if your complaint reaches the Ombudsman, they may say the local authority can expect you to pay backdated charges, even where the authority are at fault for delaying the financial assessment. They will consider, for example, whether the local authority made you aware of possible charges before making care arrangements for you. You should not be expected to pay backdated charges in one go. Any repayments should be affordable for you.

### 14 NHS and other care services in care homes

The NHS is responsible for providing community health services to you in your care home on the same basis as if you are in your own home, for example district nursing and continence services. They should meet the cost of any continence supplies (such as continence pads) you are assessed as requiring. You can receive services such as physiotherapy, speech and language therapy, occupational therapy, and chiropody. Your GP should visit you if needed.



Where services are provided by the NHS, they are free of charge, with limited exceptions. The NHS covers the cost of health-related equipment given to you that is not standard provision within the home, if you are assessed as needing it. Your Integrated Care Board should have its own criteria for the type of help it provides, based on guidance. These criteria should be published and available locally.

The local authority can provide other personal social care services to you in a care home based on your assessed eligible needs. This includes short-term rehabilitation (called *'bed-based intermediate care'*), or the provision of bespoke disability equipment such as specialist seating - beyond what a care home has a duty to provide as a registered service provider.

This is based on your assessed eligible needs in full. Local authority-provided equipment is free. For more information see factsheet 44, *NHS services*, and factsheet 42, *Disability equipment and home adaptations*.

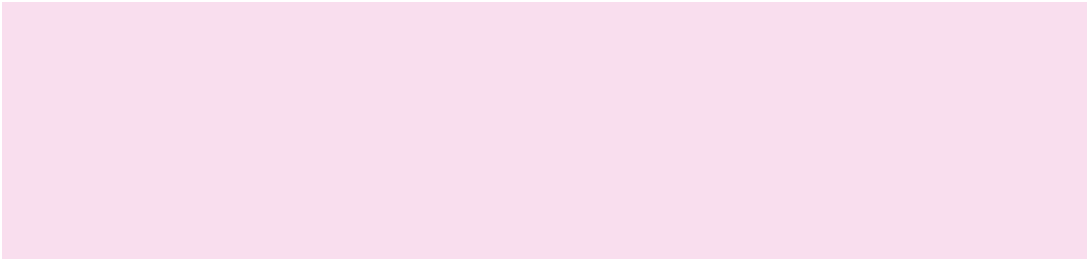
## 15 Free assistance with care costs

This section sets out when a financial assessment for care costs does not apply.

### 15.1 NHS Continuing Healthcare

In certain circumstances, the NHS is responsible for meeting the full cost of your care in a care home. This is called NHS Continuing Healthcare (NHS CHC). To be eligible, you must be assessed and found to have a *'primary health need'*. The NHS arranges and meets the full cost of your care. Unlike social care, you are not required to make a financially assessed contribution, as the services are provided for free.

The professionals involved in your care, for example GP, nursing staff or social worker, must consider whether you may be eligible and refer you for an assessment where appropriate. The local authority should not undertake a financial assessment until it has considered whether you should be referred for an NHS CHC assessment.



Responsibility for NHS FNC lies with your Integrated Care Board (ICB). If you move to a different ICB area, you become the responsibility of that ICB when you register with a GP.

Before you move into a care home, the service provider must clearly set out the fees they intend to charge and what services they cover. If you are a self-funder, this should be in the statement of terms and conditions they provide to you. The care home must give a clear explanation of how NHS FNC relates to the fees you are charged.

## 15.4 Mental health 'after-care' services – section 117

If you have been detained in hospital for treatment under section 3 or the criminal provisions of the *Mental Health Act 1983*, your residential care may be provided as an 'after-care' service under Section 117.

Local authorities cannot charge for after-care provided under Section 117.

This places a joint duty on health and local authorities to provide

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In *Complaint number 06/B/16774 against Bath and NE Somerset Council, 2007*, the Local Government Ombudsman found maladministration when a local authority sought to discharge a person with dementia from a section 117 care home placement because they had *settled*. It was stated that:



## **17 The local authority information and advice duty**

The local authority has a duty to provide an information and advice service relating to care and support. As a minimum, this must include the following:

the local care and support system and how it operates

## **Mental capacity – advocates and attorneys**

While you are still

## **19 Complaints and safeguarding from abuse and neglect**

If you are not satisfied with any aspect of the service



If they are experiencing, or at risk of experiencing, abuse or neglect and cannot protect themselves because they have health or social care needs, there is a duty to carry out a safeguarding enquiry. Following the enquiry, the local authority must decide whether it needs to take action to protect the adult concerned.

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## Useful organisations

### Care Quality Commission

[www.cqc.org.uk](http://www.cqc.org.uk)

Telephone 03000 616 161

Independent regulator of adult health and social care services in England, covering NHS, local authorities, private companies or voluntary organisations and people detained under the *Mental Health Act*. They assess how local authorities meet their duties under the Care Act 2014.

### Care Rights UK

[www.carerightsuk.org](http://www.carerightsuk.org)

Telephone 020 7359 8148

Advice and support to older people in care homes, relatives and friends.

### Carers UK

[www.carersuk.org](http://www.carersuk.org)

Telephone 0808 808 7777

Provides information and support for carers, including information about benefits.

### Citizens Advice

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Telephone 0800 144 8848 (England)

National network of advice centres offering free, confidential, independent advice, face to face or by telephone.

### Equality Advisory and Support Service

[www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

Telephone helpline 0808 800 0082 Mon-Fri 9am-7pm, Sat 10am-2pm

Helpline provides information and advice about the *Equality Act 2010* and human rights.

### Local Government and Social Care Ombudsman

[www.lgo.org.uk/](http://www.lgo.org.uk/)

Telephone 0300 061 0614

Provides free, independent, service for complaints about local authorities and about social care service providers for self-funders.

**Office of the Public Guardian**

[www.gov.uk/government/organisations/office-of-the-public-guardian](http://www.gov.uk/government/organisations/office-of-the-public-guardian)

Telephone 0300 456 0300

Registers attorneys and deputies for people lacking mental capacity. Deals with complaints and concerns about attorneys and deputies.



## Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

### Age UK Advice

[www.ageuk.org.uk](http://www.ageuk.org.uk)

0800 169 65 65

Lines are open seven days a week from 8.00am to 7.00pm

### In Wales contact

#### Age Cymru Advice

[www.agecymru.org.uk](http://www.agecymru.org.uk)

0300 303 4498

### In Northern Ireland contact

#### Age NI

[www.ageni.org](http://www.ageni.org)

0808 808 7575

### In Scotland contact

#### Age Scotland

[www.agescotland.org.uk](http://www.agescotland.org.uk) 0 595.32 841.92 reW\*nBT/F1 15.96

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