

## Factsheet 46

# Paying for care and support at home

April 2017

### About this factsheet

This factsheet explains charging for social care services in places other than care homes, mainly related to services provided in your own home. This is because the two charging systems are slightly different. It also covers charging for carers' services.

This factsheet also describes how you can be deemed to be a self-funder following a means test meaning you are expected to fully fund meeting your own needs and your available support options.

The information in this factsheet is correct for the period April 2017 – March 2018. Benefit rates are reviewed annually and take effect in April but rules and figures can sometimes change during the year.

The information in this factsheet is applicable in England. If you are in Scotland, Wales or Northern Ireland, please contact Age Scotland, Age Cymru or Age NI for their version of this factsheet. Contact details can be found at the back of this factsheet.

Contact details for any of the organisations mentioned in this factsheet can be found in the Useful organisations section.

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## 1 Recent developments

This factsheet is based on the *Care Act 2014* and supporting regulations and statutory guidance, introduced in April 2015.

*Local Authority Circular (DH)(2017) 1*, published in January 2017, kept all the figures and financial thresholds for charging for care and support at the same levels as the previous financial year.

## 2 Terminology and sources used in this factsheet

### Charging regulations and statutory guidance

There are references to the charging regulations and statutory guidance that support the *Care Act 2014* ('the Act') throughout this text. These set out in detail how a local authority must administer adult social care.

The most significant regulations are the *Care and Support (Charging and Assessment of Resources) Regulations 2014* ('the charging regulations'). The other reference source is the *Care and Support Statutory Guidance 2014* ('the statutory guidance'). This has section 8, '*Charging and financial assessment*' and a number of annexes including:

- Annex B: Treatment of capital
- Annex C: Treatment of income
- Annex E: Deprivation of assets

### Local authority

In this factsheet, '*local authority*' refers to the adult social services department of the local authority or council. It is 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.

## 3 How to access local authority services

If you are having difficulty managing at home or with being a carer, you can ask your local authority for a needs assessment. Another person such as your carer, GP, or district nurse can make a referral on your behalf with your permission. You can receive health and social care services at the same time.

If you are in hospital, the professionals working on your ward may need to arrange social care services with you prior to discharge to ensure you are safe and properly supported at home or to meet your rehabilitation needs. A social worker should lead the planning of your future care and support with you.

In this factsheet we focus on services you may receive outside of a care home, but residential care may also be an option to meet your needs.

### 3.1 The range of services available

There are a wide range of social care services that can be provided to help you stay in your own home and assist your carer if you have one. Services can include:

- domiciliary or home care and personal assistants
- meals delivered to your home
- day-centre attendance and respite care
- live-in care services
- rehabilitation services
- counselling
- direct payment support
- information, brokerage and advice services
- specialist disability equipment
- adaptations to your home
- community alarms and other types of assistive technology.

Other non-residential care services include the provision of specially designed or adapted sheltered accommodation, known as supported living, warden controlled or extra-care accommodation. Shared lives accommodation is where you move in with a carer in a long-term arrangement. Other housing options may be available, for example designed to wheelchair access standards.

These are just examples of services. Your local authority has a broad discretion about how to meet your needs and generally support you and your carer if you have one.

Your local authority may directly provide services or commission them to be provided externally, for example via a care home agency.

For more information, see information guide 17, *Adapting your home*, factsheet 6, *Finding help at home*, factsheet 42, *Disability equipment and home adaptations* and factsheet 64, *Specialist housing for older people*.

#### A personalised approach

You may be able to choose how funding is provided, for example through direct payments (cash payments) once your personal budget has been agreed to arrange and fund your own care. For more information see section 5.1 and factsheet 24, *Personal budgets and direct payments in adult social care*.

Statutory guidance requires your local authority to support your involvement in and control over how your needs are met. They have a duty to maximise your wellbeing starting with the assumption that you are best-placed to judge what this means.

## 3.2 Assessment for care and support

The first step in getting help is to ask your local authority to carry out a needs assessment. This is how they find out what sort of help and support you need and if you meet the eligibility criteria. This can relate to both you and your carer as you may both be entitled to services.

Your local authority must carry out an assessment of your needs if you appear to be someone who may have a right to services. This decision must not be influenced by your financial circumstances.

A representative from your local authority, such as a social worker, usually visits you to discuss your needs and to decide with you what actions should be taken.

Your assessment must be suitable for your particular requirements and your needs should be written in your agreed care and support plan. You can have as much involvement in this process as you want and can even self-assess in some circumstances. You should be provided with a copy of your plan. Your carer, if you have one, may also be entitled to an assessment of their needs, leading to a support plan.

Your plan must describe:

- outcomes you wish or need to achieve
- what your assessed needs are
- which needs your local authority will meet
- relevant information and advice on how you might be able to prevent, reduce or delay your future needs for social care
- your personal budget figure, and
- details of any direct payments that are agreed.

Your personal budget sets out the cost to your local authority of meeting your assessed eligible needs. It tells you how much you should pay towards this following your financial assessment and the remaining amount your local authority must pay to ensure your needs are met '(see section 5).

## 3.3 The eligibility criteria for services

To meet the eligibility criteria for services, not being able to achieve certain outcomes in your daily life must be deemed to be having a significant impact on your wellbeing. If you have a carer, the eligibility assessment must be carried out as if they are not present so your baseline needs can be fully documented.

If you are assessed as having eligible needs, your local authority has a legal duty to ensure they are met. It can charge you for most services intended to meet this duty. This is different to NHS services, which are largely free at the point of delivery. For more information, see factsheet 41, *How to get care and support*.

### 3.4 Self-funders' 'right to request' service provision

If you are assessed as having eligible needs but are deemed to be a self-funder because you have a high income or more than £23,250 in available capital following your means test, you can still request to have your needs met. Your local authority must agree to your request, but can charge an arrangement fee.

The statutory guidance requires the fee to cover only the costs that your local authorities actually incur when arranging your care. They can take account of the cost of negotiating and/or managing your contract with a service provider and cover any administration costs incurred. Statutory guidance advises creating written agreements to avoid disputes about future funding liabilities.

If you are deemed to be a self-funder with eligible needs and do not make this request, you are expected to meet your own needs if you can, or if you have support to do this. If you have excessive difficulty, lack mental capacity and do not have support, your local authority has a duty to assist you.

## 4 Local authority charging rules

This section outlines the local authority charging procedures for non-residential care services for service users and carers. It is not relevant if you are self-funding your care and support.

Your local authority can choose to charge for nearly all services it provides. There may be a blanket charge for a low cost service and some services must be provided free of charge.

### Note

Statutory guidance states that local authorities can choose whether or not to charge and that *'the overarching principle is that people should only be required to pay what they can afford.'* Application of their charging policies must reflect these principles in each case.

Your local authority must carry out a financial assessment, also known as a *'means test'*. This is when it has a duty to, or chooses to, meet your needs for care and support, or your carer's support needs. Your income, including benefits, pensions and capital (usually savings) are taken into account in the assessment. Your home is excluded if you still live there, but other available capital such as savings can be taken into account.

The financial assessment should follow your needs assessment promptly and be based on what was agreed in your care and support plan or support plan if a carer. You should be given a personal budget figure in writing setting out how much it costs to meet your needs. This may initially be an estimated or indicative amount until it is confirmed to be sufficient to meet your needs. Your means test shows how much you must contribute to this figure. You should also be given information and advice to help you decide what care or support you receive.

#### **4.1 The local authority charging discretion**

Your local authority has discretion (a choice) about whether to charge you for services, (except as noted in section 7 where they are free of charge). Its general approach must be set out in its charging policies and it must be able to explain each individual decision.

##### **‘Light-touch’ financial assessment**

Statutory guidance allows ‘*light-touch*’ financial assessments in certain circumstances. For example, if you obviously have significant financial resources but require support; where a small service is supplied for a general nominal fee; or if you receive means tested welfare benefits.

#### **4.2 Only the service user should be charged**

The statutory guidance confirms that your local authority ‘*has no power to assess couples or civil partners according to their joint resources. Each person must therefore be treated individually*’.

Your local authority should not routinely include the assets of your spouse or civil partner not receiving care and support in the financial assessment. If they do, they must have a justifiable reason, for example where you have jointly owned assets.

If you have jointly held savings in a bank account, the total value is divided equally between joint owners except if there is evidence one of you owns an unequal share. Once you are in sole possession of your actual share, you can be treated as owning that actual amount.

Your carer cannot be charged for care and support provided to you, only for support services they directly receive. It can be difficult to know who a service is for. For example, if you have a respite care home placement, you are charged, even though it may benefit your carer. Responsibility for payment must be clearly explained and agreed at the outset



### 4.3 Written record of charging decisions

You should be provided with a written record of your charging decision by your local authority. It should explain how the financial assessment has been carried out, what the charge is and how often it will be made. Your local authority must ensure this is provided in a manner that you can easily understand.

### 4.4 Income protection principle

After paying your required service charge, your weekly income should not reduce below a minimum income level. This is called your *Minimum Income Guarantee* (MIG). The MIG amount for 2017/18 if you are single and have reached the qualifying age for Pension Credit is £189.00 a week.

If you are also a carer, an extra £43.25 may be included and your protected income should be £232.25. If you are a member of a couple and one or both of you has reached the Pension Credit qualifying age, your MIG is £144.30 a week.

If you are a single person over Pension Credit qualifying age and you receive certain disability benefits, such as Attendance Allowance, Disability Living Allowance care component (high or middle rate) or Personal Independence Payment daily living component, you can ask that a disability addition of £40.35 a week to be added to your MIG.

However, your local authority may not agree with this interpretation of the charging regulations.

#### Independent living and social inclusion

Your local authority must consider how to protect your weekly income via the MIG. The statutory guidance states the purpose of the MIG is to promote independence and social inclusion and ensure you 'have sufficient funds to meet basic needs such as purchasing food, utility costs or insurance.' The charging regulations require 'any mortgage repayments, payments by way of ground rent, council tax' and certain service charges to be taken into account. The statutory guidance requires your MIG figure to be confirmed after the inclusion of 'any housing costs such as rent and council tax net of any benefits provided to support these costs.' Housing costs and Council Tax should be assessed net of any Housing Benefit or support under the local Council Tax Reduction Scheme. It should be net of Income Tax and National Insurance contributions. You should be allowed to keep benefits or tax credits paid for children.

Any disability related expenditure should also be taken into account in the MIG calculation, see section 4.7.

This means that if you are paying these types of ongoing costs they must be deducted from your overall available income calculation when you are being charged for services. If you do not have sufficient capital, as described in section 4.8 and your charges leave you with a weekly income below the MIG figures, ask for the level of your charge to be reviewed.

### **Freezing of MIG in April 2016**

In April 2016, the Government froze the MIG at 2015/2016 rates. It has not been updated for 2017/2018. Any Pension Credit and/or State Pension uprating may be clawed back in your means test if you are required to make a contribution to your care service.

If you are under Pension Credit age, your MIG relates to Income Support figures in the Local Authority Circular mentioned in 'Recent developments' above, which are unchanged in 2017/18.

### **Income that cannot be taken into account**

The charging regulations and statutory guidance state that some types of income should not be taken into account in your financial assessment and others must be partially disregarded.

#### **Examples of fully disregarded income:**

- Disability Living Allowance or Personal Independence Payment mobility components (not care or daily living components)
- any earnings you receive
- income frozen abroad
- income in kind, which is income other than money
- Social Fund payments (including winter fuel payments)
- war widows and widowers special payments
- income from savings – interest paid on your savings is added to the balance of your savings and counts as part of your capital
- charitable and voluntary payments (which could be made by a relative)
- Child Tax Credit or Guardian's Allowance
- payments made due to personal injury, except where the payment is specifically intended to cover care costs, for up to 52 weeks from the day of receipt of the first payment. If the money is placed in a personal injury trust or administered by a court, relevant capital disregards apply.

#### **Examples of partially disregarded income:**

- Pension Credit Savings Credit Disregard (£5.75 per week for single people, £8.60 for couples)
- £10 a week of War Widows, War Widower's/War Disablement pension.

- war pensions payments to injured veterans with the exception of their Constant Attendance Allowance element, which is specifically intended to pay for care

There is further information about all of the available disregards in the charging regulations and statutory guidance.

## 4.5 Social security benefits

You may be able to claim social security benefits to help meet the cost of your care and support needs, on top of local authority funding. These include:

- Attendance Allowance
- Disability Living Allowance/Personal Independence Payment
- Carer's Allowance
- Pension Credit

See section 4.7 for how these may be taken into account or not.

### Other benefits

Some other benefits are available that may help you meet the extra costs of disability or make your home more suitable for your needs.

These include:

- Council Tax Reductions – if you need extra space for a wheelchair, or the living room is mainly for your use (for instance, you now have your bed in a downstairs room) your Council Tax can be reduced by a band.
- Council Tax discounts in certain circumstances if a carer lives with you.
- Help with heating and insulation – may be available through various schemes including the Government's Energy Company Obligation (ECO) scheme (you may know it as the 'Affordable Warmth' scheme). See factsheet 1, *Help with heating costs*, for more details.

## 4.6 Disability-related benefits and expenditure

### Note

Your local authority can take disability benefits into account when calculating how much it is reasonable to charge you. If they do this, they must disregard your expenditure to meet any disability-related needs they are not meeting.

Disability benefits include Attendance Allowance (AA), Disability Living Allowance (DLA) care component, Personal Independence Payment (PIP) daily living component, Constant Attendance Allowance and Exceptionally Severe Disablement Allowance. The mobility elements of Disability Living Allowance and Personal Independence Payment must always be disregarded.

Additional amounts for severe disability used in Pension Guarantee Credit (or other benefits such as Income Support or Income-related Employment and Support Allowance) can be classed as a disability benefit.

This means you are likely to be required to pay a contribution towards the care and support you receive if you get any of these on top of your Pension Guarantee Credit (or other means-tested benefits) and you get an additional amount for severe disability.

### Charging in relation to day and night care

If you receive services during the day only (services to help get you out or into bed count as day-time services), only low rate AA or middle rate DLA care component should be taken into account. If you receive services during the night, the local authority can include the whole AA or DLA award in the means test, but does not have to and it must consider your disability expenditure.

This is based on the case of *R v Coventry City ex p Carton (2001) 4 CCLR 41*, where the High Court found it was unlawful and unfair for a council to treat as income available for day care sums of DLA paid for night care. The statutory guidance section '*Disability-related expenditure*' states at paragraph 37:

*Where disability-related benefits are taken into account, the local authority should make an assessment and allow the person to keep enough benefit to pay for necessary disability related expenditure to meet any needs which are not being met by the local authority.*

This includes '*Day or night care which is not being arranged by the local authority*' as a possible disability related expenditure that should be disregarded in the means test.

#### Note

There is no distinction between day and night needs for PIP daily living component. Both standard and enhanced rates of PIP can be paid for care needs during the day and/or night.

## Taking disability-related expenditure into account

If your local authority takes into account disability benefits, it must take into account disability-related expenditure in your financial assessment. This is to meet any disability-related needs not being met by the local authority.

Some local authorities disregard set amounts to take account of disability-related expenditure, partly to avoid having to ask questions that might be considered intrusive. The amount disregarded varies from authority to authority. If your disability related costs are greater than the set amount, ask for a full assessment of your costs.

The statutory guidance provides a list of examples of disability-related expenditure which varies from person to person. When being assessed to see how much you can pay, you should consider everything you have to buy or pay for because of your disability.

It may be difficult to prove you have extra costs if you have not actually incurred those expenses. For example, you may not put the heating on for fear of large bills, or are not following a special diet because of cost.

Local authorities should work out an amount considered to be normal expenditure for your area and type of housing to assist their response, or what you would spend if you not avoiding it due to fear of high costs.

Acceptable costs include:

- extra washing or special washing powder and conditioner for delicate skin
- community alarms (pendant or wrist)
- special diet
- special clothing or footwear (or extra wear and tear)
- additional bedding
- extra heating costs
- gardening
- household maintenance (if you would normally have done it yourself)
- any cleaning (if not part of your care plan)
- internet access
- any care that social services do not meet
- buying and maintaining disability-related equipment
- any transport costs (both for essential visits to the doctor or hospital, but also to keep up social contacts).

Other costs might also be accepted. The courts have confirmed that local authorities should not be inflexible but should always consider individual circumstances. For example, an authority should not adopt a blanket policy of refusing to acknowledge payments made to close relatives, as there may be exceptional reasons for a particular arrangement.

In the case *R (B) v Cornwall CC [2010] EWCA Civ 55*, a local authority was criticised for not properly carrying out an assessment of the person's disability related expenditure by doing a home visit and for rejecting some items of expenditure such as swimming lessons and paying the carer to accompany him on holiday. Such costs should be considered if they are reasonable expenditure needed for independent living.

Local authorities should ensure that appropriate benefits advice is provided to all service users and carers at the time of the charging assessment. See section 14 on the information and advice duty.

Assessment of disability-related costs can be carried out in your own home with a personal interview. Staff should be appropriately trained in a range of benefits and be able to give advice about entitlement, help with completing forms and any follow-up action if you want this. If you would prefer independent benefits advice, you should be offered this choice.

## 4.7 Capital and maximum charges

Capital is most often your savings, but it can include other assets such as land or valuable possessions.

### Upper capital limit

The upper capital limit in the financial assessment is £23,250. If you have more than this, you may be asked to pay the full cost of maximum local authority charge for your care. A local authority can be more generous if it wishes.

### 'Tariff' income calculation

Capital between £14,250 and £23,250 is assessed as producing an assumed or 'tariff' income. For every £250, or part of £250, between £14,250 and £23,250, you are assessed as if you have an extra £1 a week in income. For example, if you have capital of £14,400, the local authority treats you as having a tariff income of £1 a week.

### Local authority charging discretion

Capital earmarked for specific items or purpose at the time of the means test can be disregarded if you ask for this to happen. The local authority may agree to this request if it is reasonable. This overlaps with the information on deliberate deprivation of assets in section 6.

## 4.8 Capital that must be disregarded

The property you are living in as your main or only home is disregarded. Personal possessions are disregarded as long as they were not bought with the intention of avoiding future social care charges. See section 6 regarding deprivation of assets.

### Other disregarded capital

Capital that is disregarded indefinitely includes the surrender value of life insurance policies or annuities; the value of funds held in trust or administered by a court that can only be disposed of by a court order or direction, which derive from a payment for personal injury, including compensation for vaccine damage and criminal injuries. The value of certain types of investment bond with a life assurance element is disregarded. If you hold an investment bond but are unsure whether it has a life assurance element, ask the company that issued the bond or your financial adviser. Age UK cannot advise on particular financial products.

The treatment of money held in trust depends on what rights you have to demand trust money be paid to you. The rules about trusts are complicated so seek advice from the trust provider if you are affected. Trust ownership principles are discussed in factsheet 38, *Property and paying for residential care*.

£10,000 compensation payments made to Far East Prisoners of War on or after 1 February 2001 are disregarded.

Payments made to those who caught hepatitis C as a result of contaminated blood products are disregarded.

Capital assets from government created trusts for variant Creutzfeldt-Jakob disease (CJD) must be disregarded. This includes payments from the trust to a partner at the time of the death of the person. There are trust-related capital disregards for a member of the person's family for 2 years from the date of their death from the disease (or from the date of payment from the trust if later); or a dependent child or young person until they turn 18.

## 5 Your personal budget – choice and control

A personal budget is the amount of money your local authority must provide to meet your assessed eligible needs after your financial assessment. These are the needs it has a legal duty to meet. As part of your care planning process, you should be provided with an estimated personal budget figure so you know how much money you are entitled to, to meet your eligible needs. A financial assessment is then carried out to find out what you should contribute to a final personal budget figure.

You can choose to have your personal budget as:

- a direct payment (money given directly to you), if appropriate

- a budget managed by the local authority
- an individual service fund where the funds are managed by a third party such as your service provider, or
- a combination of these.

The most common way that older people receive social care is where the local authority arranges both the service and manages your funding.

You must be given appropriate advice and support to allow you to make an informed choice as to how best to arrange your funding.

You must not be put under any pressure to accept direct payments if you do not want them. All that matters is what is best for you to achieve the best possible outcomes at that time in your life.

## 5.1 Direct payments

Direct (cash) payments offer an alternative to the local authority arranging services on your behalf and holding your personal budget. Your local authority is required to give you this option if you satisfy certain requirements. It can be empowering if it is right for you. You have discretion to use the money in the way that best suits you with regard to meeting the needs set down in your care and support plan.

You can choose to employ a carer/personal assistant yourself or use a local home-care agency if you do not wish to take on the responsibility of being an employer. There may be a support group in your area to help you manage direct payments. Your local authority must provide appropriate advice and support to assist you if you need it. Carers can receive direct payments instead of directly arranged services.

### Note

Skills for Care provide an '*Information hub*' for people wishing employ a personal assistant. See:  
[www.skillsforcare.org.uk/Employing-your-own-care-and-support/Information-hub.aspx](http://www.skillsforcare.org.uk/Employing-your-own-care-and-support/Information-hub.aspx)

Direct payments cannot usually be used to pay a spouse or close relative living in the same household, unless your local authority exceptionally thinks this is the most appropriate way to meet your needs, for example to assist with carrying out essential administrative tasks.

Your local authority has to monitor the arrangement to ensure the money is being spent on the care you need. If you want a direct payment but your local authority refuses, you can use the complaints procedure to challenge the decision. For more information, see factsheet 24, *Personal budgets and direct payments in adult social care*.



## People who lack mental capacity

Direct payments if you lack the capacity to consent or you have severe mental health problems can be made in certain circumstances. If you lack mental capacity, direct payments can be made to an appropriate 'suitable person', such as a family member or friend, who receives and manages the payments on your behalf.

## 6 Deliberate deprivation of assets

Deprivation of assets is covered in Annex E of the Statutory Guidance. This allows your local authority to use its discretion to decide whether eligible capital and/or income have been deliberately placed beyond its reach to avoid, or reduce, your charge for services. It is basically a test of foreseeability and intention.

Local authorities have powers to deem deliberately removed capital and income as notionally available for inclusion within the means test.

The Annex outlines the type of inferences a local authority may draw, based on evidence, when carrying out a means test to ensure all eligible assets are included. For example, in terms of income:

- was it your income?
- what was the purpose of the disposal of the income?
- timing of the disposal of income. When the income was disposed of, could you have a reasonable expectation of a need for care and support?

Your local authority's main power is to charge the full cost of the service if it concludes that eligible resources have not been fully disclosed, or have been deliberately put beyond the reach of the means test.

Where you transfer an asset to a third party to avoid the charge, they can become liable to pay the local authority the difference between what it would have charged and did charge you for care.

However, the third party is not liable to pay anything exceeding the benefit they received from the transfer. If you transfer funds to more than one third party, each is liable to pay the local authority the difference between what it would have charged or did charge you in proportion to the amount they received.

The local authority can potentially use the County Court process to recover debts, but this should only be used after all other avenues have been exhausted. When pursuing the recovery of charges from a third party, a local authority must have regard to Annex D in the statutory guidance, on debt recovery. Annex E states there may occasionally be valid reasons why someone no longer has an asset and a local authority should ensure it fully explores this before reaching its conclusions.

## Note

When a local authority makes a decision based on discretionary power, it must clearly set out its reasons based on all of the relevant case facts at that time. This is so that you can understand why the decision is taken and challenge it if you disagree.

## 7 Services that should be provided free of charge

### Local authority assessment, means test and care planning

Your local authority cannot charge you for your needs assessment, financial assessment or the care and support planning process where decisions are made about how your needs will be met.

If your local authority assists with your funding, it arranges the service. However, see section 3.4 about self-funders' right to request non-residential care services and the arrangement fee.

### Rehabilitation - intermediate care and reablement

These are short-term periods of rehabilitation aimed at either preventing hospital admission or building up your abilities and confidence after hospital discharge. Charging regulations describe them as: a programme of care and support, or support; for a specified period of time; that has as its purpose the provision of assistance to enable you to maintain or regain the ability needed to live independently in your own home.

These must be provided free of charge *'for the first 6 weeks of the specified period or, if the specified period is less than 6 weeks, for that period.'* Statutory guidance states there should not be a strict upper time limit in each case. Your local authority may offer this service free of charge for longer than six weeks if there are clear preventative benefits. The guidance gives an example when someone has recently become visually impaired.

You usually receive this type of service in your own home.

The NHS provides a similar type of free short-term rehabilitation, usually called intermediate care. For more information, see factsheet 76, *Intermediate care and reablement*.

### NHS care and services

You do not have to pay for GP and other community based NHS services you need such as district nursing, physiotherapy or speech therapy.

The NHS is responsible for meeting the full cost of care (in a care home or in your own home) if your primary need is for health care i.e. if your needs for care are beyond those the local authority has a duty to meet. This is called NHS continuing healthcare and is often described as '*fully funded care*'.

It is important to check you have been properly assessed for fully funded NHS Continuing Healthcare, if you may be entitled to it. This should take place before the local authority carries out its means test for care and support. Otherwise you may be charged for services you are entitled to receive for free.

For more information, see factsheet 20, *NHS continuing healthcare and NHS-funded nursing care*.

### **Community equipment and minor home adaptations**

Community disability equipment and minor home adaptations (costing under £1000) must be provided free of charge by a local authority if provided to meet your eligible needs. This could be part of a wider package of care that you can be charged for.

Equipment can include: a mobile hoist, raised toilet seat or toilet frame, electric bath lift or a long handled grabber. '*Minor*' adaptations can include a short concrete ramp or various rails within your property or at its access.

More costly '*major*' home adaptations require other funding related to the tenure of the property, for example private and rented accommodation needs a means tested Disabled Facilities Grant. For more information, see factsheet 42, *Disability equipment and home adaptations*.

### **Creutzfeldt-Jakob disease (CJD)**

Charging regulations confirm that if someone suffers from CJD they should be exempt from all charges for local authority care and support.

## **8 Free mental health 'after-care' services**

If you have previously been detained in hospital for treatment under certain sections of the *Mental Health Act 1983*, your on-going care outside of hospital may be provided as an '*after-care*' service under Section 117 of this Act. This is to reduce the chance of re-admission.

Section 75 of the Act confirms that if you receive services under section 117 of the *Mental Health Act 1983* following a period of detention in hospital, you cannot be charged for these services. It places a joint duty on local health and social services authorities to fund and provide these services.

### Point of law

In *R v Richmond LBC and others, ex parte Watson and others* [1992] 2 CCLR 402, it was held that after-care provision does not have to continue indefinitely but must continue until the health body and the local authority are satisfied it is no longer needed. The judge felt it difficult to see how such a situation could arise where the illness is dementia.

## 9 Charging for carers' services

Carers have an absolute right to services if eligible support needs are identified under the Act. Previously, your local authority could choose whether to meet your carer's needs.

Carers can only be charged for services they receive in their own right. A service to you might benefit your carer, but it is still your service. It is important at the outset that everyone is clear who is receiving the service and is therefore charged.

Statutory guidance notes that in many cases, charging a carer could be a false economy as it may deter or discourage the choice to care in the long-term. Your local authority should treat your carer as a partner in care and recognise the significant contribution they make in helping to maintain your independence, health and wellbeing.

Your local authority should consider the likely impact of any charges on your carer, particularly in terms of their willingness and ability to continue their caring responsibilities. Ultimately, it should ensure any charges do not negatively impact on your carer's ability to look after their own health and wellbeing and to continue to care effectively and safely. Carers often forgo earnings to care so charging for support services could cause financial difficulties.

For more information, see factsheet 41, *How to get care and support*.

## 10 Charges for respite care

Where you are a temporary or short-term resident in a care home, your local authority may choose to charge you based on its non-residential care charging policies. For example, if you are resident in order to receive respite care, for the first eight weeks your local authority may choose to charge you based on its approach to charging for those receiving care and support in other settings or in their own home. See factsheet 58, *Paying for temporary care in a care home*.

## 11 Independent Living Fund

The Independent Living Fund (ILF) closed on 1 July 2015. It was a Government funded scheme helping people with day and night care needs and who received the high rate care component of Disability Living Allowance. A jointly funded ILF/local authority care support package was provided to help them live independently in the community.

Your local authority is now fully responsible for your care provision. Each authority received a transfer of Independent Living Funds to facilitate this process. The amount of support varies from authority to authority. Some ring fenced funds so the level of support is unchanged, but others have not. See: [www.gov.uk/independent-livingfund](http://www.gov.uk/independent-livingfund) for more information.

## 12 Home repairs, adaptations and equipment

### Repairs and improvements

Your local authority is required to publish a policy setting out how it assists householders with repairs and improvements to their homes. The assistance is discretionary and may take the form of loans or grants.

### 'Major' adaptations - Disabled Facilities Grant

You may be eligible for a means tested Disabled Facilities Grants (DFG). This can provide a variety of major improvements and adaptations to make your life easier at home. Your local authority has a duty to provide a DFG in certain circumstances, for example if it is the only way to meet an assessed eligible, need. Examples of '*major*' home adaptations include a level access shower, stair lift, or a through-floor lift.

Your assessment is usually carried out by an occupational therapist employed by the local authority. They have to work jointly with the housing department who administer the DFG funding and ensure recommended works are safe and appropriate.

### 'Minor' adaptations

Adaptations costing less than £1000 must be provided free of charge by your local authority when they meet assessed eligible needs. Examples include grab rails, a short ramp, or door widening for wheelchair access.

### Disability equipment

Specialist disability equipment must be provided free-of-charge by your local authority if it is part of meeting your assessed eligible needs. See factsheet 42, *Disability equipment and home adaptations*.

## VAT relief for people on disability-related equipment

If you have a disability, you do not have to pay VAT when buying specialist equipment designed solely for your use or equipment adapted so you can use it. VAT is not charged on certain disability-related services including some building work to adapt your home and the hire of disability equipment such as wheelchairs.

Goods and services that you do not have to pay VAT are often referred to as 'zero-rated' or 'eligible for VAT relief'. The rules are quite complex and not everything supplied is zero-rated for VAT. For more information see: [www.gov.uk/financial-help-disabled/vat-relief](http://www.gov.uk/financial-help-disabled/vat-relief).

## 13 Supporting People programme

Your local authority may run a programme called '*Supporting People*' under which housing-related support services like a sheltered housing scheme manager service and emergency alarm system can be funded.

It used to be the case that councils were given money for this specific purpose. This money is now part of the general pot of funds a local authority is given to provide services in its area, meaning it may be used differently in different areas.

Check to see if your local authority has a Supporting People programme in operation, and whom or what it funds. Even if they do not, you can ask them to assess your circumstances and tell you if you would be likely to receive help with your housing-related support charges. If you get housing benefit or are on a low income, you may find that they will pay some or all of these charges.

## 14 Information, advice and advocacy duty

Your local authority is required to provide an information and advice service to all those who need it. The service must provide information and advice on the following areas:

- the local care and support system and how it operates
- the choice of types of care and support, and the choice of providers available to those who are in the authority's area
- how to access the care and support that is available
- how to access independent financial advice on matters relevant to the meeting of needs for care and support, and
- how to raise concerns about the safety or well-being of an adult who has needs for care and support.

Your local authority must provide you with information to help you understand your choices, what you may have to pay and how this relates to your circumstances.

## The independent advocacy right

If you have no support, you may be eligible for independent advocacy to help you get social care services. This can be because you have substantial difficulty understanding and retaining relevant information, using or weighing that information, or communicating your views, wishes or feelings by any relevant means.

Your local authority must involve you in decisions made about your care and support - you should be an active partner. Your advocate's role in this context is to help you to express your needs, views and wishes and to ensure that you are treated appropriately.

## Mental Capacity advocacy

If you lose mental capacity and have no support or advocate, for example someone with a power of attorney, you may have to be provided with an Independent Mental Capacity Advocate. This has similarities with the social care Independent Advocate right. The social care advocate has a lower threshold trigger for the right as it is not based solely on the loss of mental capacity.

See factsheet 22, *Arranging for someone to make decisions on your behalf*, for more information.

## 15 Complaints

If you or your carer is not satisfied with your assessment or unhappy with the decision reached, you can complain through the local authority's complaints procedure. You can subsequently escalate the complaint to the Local Government Ombudsman if you are not satisfied with the complaint outcome.

If you arrange and fund your own care services without the assistance of a local authority, you can make a complaint about the service you receive directly to the Local Government Ombudsman.

You should be provided with information about how to complain on request.

The Care Quality Commission is the industry standards regulator for home care agencies. You can contact it if you experience poor standards of care.

For more information see factsheet 59, *How to resolve problems and complain about social care*.

## Useful organisations

### Care Quality Commission

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

Telephone 03000 616 161 (free call)

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.

### 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 0344 411 1444 (England)

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

### Department of Health

[www.gov.uk/government/organisations/department-of-health](http://www.gov.uk/government/organisations/department-of-health)

Telephone 020 7210 4850

Government department with overall responsibility for social care.

### Equality Advisory & Support Service

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

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

Funded by the Equality and Human Rights Commission, the EASS Helpline provides information and advice about the *Equality Act 2010*.

### NHS Choices

[www.nhs.uk/Conditions/social-care-and-support-guide/Pages/funding-care.aspx#](http://www.nhs.uk/Conditions/social-care-and-support-guide/Pages/funding-care.aspx#)

A Government website that provides information on funding care and which links to local care services.

### United Kingdom Homecare Association

[www.ukhca.co.uk/](http://www.ukhca.co.uk/)

Telephone 020 8661 8188

A professional association of home care providers in the UK whose members comply with a Code of Practice.



## Further reading

### **Disability rights handbook**

Edition 42, 2017–2018. £33.50 available from May 2017 (£18.00 if you are receiving benefits). Available from Disability Rights UK, telephone 020 7250 8191 (national call rate), website [www.disabilityrightsuk.org](http://www.disabilityrightsuk.org) mail order service available. Contact Disability Rights UK for details of annual membership for voluntary and other organisations.

Fairer charging policies for home care and other non-residential social services (the policy guidance). Available from the Department of Health website: [www.gov.uk](http://www.gov.uk). If you do not have access to the internet your local library or local Age UK may be able to assist you.

## 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

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

0800 022 3444

### 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)

0800 124 4222

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