

# Financial charges for care explained: non-residential care

This factsheet is for adults who draw on non-residential care. The factsheet covers the following topics:

- [An introduction to financial charges for non-residential care](#)
- [How a local authority decides who pays for care](#)
- [How much a person can expect to pay](#)
- [Disability Related Expenses and the financial assessment](#)
- [How to challenge a decision](#)
- [What to do if you owe money to the local authority for your care](#)

Unlike health care, social care is not usually free. It is usual for people in receipt of adult social care to contribute towards the cost of their care.

Local authorities can choose to charge people in receipt of social care support, and most local authorities do charge. In England, the Care Act 2014 sets out what local authorities need to consider when assessing financial resources to see how much a person can reasonably afford to pay towards their care costs. Further details about how and what local authorities can charge [can be found in the Care and Support Statutory Guidance](#) which accompanies the Care Act.

There are two types of care that can be charged for: **residential care** and **non-residential care**. The amount you may have to pay towards your care will depend on the type of care you receive. This factsheet looks at **non-residential care**, which is care and support that you receive in your own home or in the community. For example, it covers care and support in people's own homes, supported living accommodation where a person lives in accommodation with on-site support workers, sheltered accommodation, Shared Lives schemes, and day services/centres.

While local authorities can charge for the social care people receive, there are certain types of care and support that local authorities are not



allowed to charge for regardless of whether you receive residential care or non-residential care:

- Short term care and support, normally following discharge from hospital which can include support to regain skills. This type of support, often called 'intermediate and re-enablement care' must be provided free of charge for up to 6 weeks.
- Community equipment (aids and minor adaptations). Aids must be provided free of charge whether provided to meet or prevent/delay needs. A minor adaptation is one costing £1,000 or less.
- After-care services/support provided under section 117 of the Mental Health Act 1983.
- Any service or part of service which the NHS is under a duty to provide. This includes Continuing Healthcare and the NHS contribution to Registered Nursing Care.

## How does a local authority decide who pays for care?

The law identifies thresholds that impact on whether a person pays for their care. The thresholds, called 'capital limits' consider a person's financial assets (income, savings, property, investments). The amount of money above or below these limits will determine whether a person will have to pay towards their care.

If a person has **£23,250** or more, they will have to pay for all their care costs which is also known as being a self-funder.

If a person has **£14,250** or below, they will have a financial assessment and the person should only be required to pay what they can afford. The local authority will contribute towards their care costs as well.

If a person has capital between the two limits, they will be expected to pay what they can afford towards their care costs as well as extra money because of their capital. The way this works is quite complicated but the

amount of capital a person has between the two limits is split into £250 chunks and the person pays £1 per week for every £250 of capital between £23,250 and £14,250. For example, if someone had £20,000 in capital, they would have to pay £23 per week extra towards their care costs ( $\text{£20,000} - \text{£14,250} = \text{£5,750} / \text{£250} = \text{£23}$ ).

## How much will I have to pay?

Local authorities carry out a **financial assessment** to work out how much you will have to pay towards your care. The Care Act 2014 and accompanying regulations set out the law in relation to charging. The most important thing is that charges for care need to be **affordable** and **reasonable**. Alongside this requirement, the local authority must consider a person's wellbeing – physical, mental, and financial – when deciding how much a person has to pay towards their care. It is important to remember that a financial assessment should only be carried out once the local authority has carried out a Needs Assessment to identify what eligible needs you have.

The financial assessment will look at:

- Your income (including pensions or benefits)
- Your capital (including savings)
- Housing costs

For the purposes of a financial assessment, the benefits you receive make up your income. There are certain rules about what benefits can be included in the assessment and what cannot – this is explained below.

The charging rules mean that if you receive care in your own home (or in a supported living setting) you must have enough money, after social care charges, to pay for household costs such as rent, mortgage, utilities, council tax and food. If you live in your own home and receive care in it, the value of your home cannot be considered when looking at your capital.

To make sure that you are left with enough money to pay for household expenses such as rent, food and bills, a **Minimum Income Guarantee (MIG)** has been set by the government. This is a minimum amount of money per week that you should have after your charges for these household costs. The amount of MIG depends on your circumstances and will be affected by several different factors such as your age and relationship status. Historically, there has been little change to the MIG, but it has recently been slightly increased to reflect inflation to a degree. The amount you should be allowed for MIG [is set out in regulations](#).

As part of the financial assessment process, you may be asked to fill in several forms about your income, capital, household expenses and costs you have because of your disability. These forms can be complicated, but they are important to do as it helps the local authority get a better picture of what you can reasonably afford. If you need help to fill in the forms, [contact your local Citizens Advice](#). Your local authority should also be able to give you the forms in an accessible and easier to understand format.

The local authority should give you a copy of your financial assessment which will explain how they have calculated what you will pay, and how often. You can ask for this to be provided in an easy read format. Fundamentally, you cannot be charged more than your care costs the local authority to provide and, you should only have to pay what you can reasonably afford.

## What is counted as income?

Local authorities can consider most of a person's benefits which, for the purposes of a financial assessment, are classified as 'income'. However, not all of your income can be taken into account and some elements and must be disregarded when working out how much you can afford to pay for your care in a non-residential setting (this list is not the full list which [can be found in Annex C of the Care and Support Statutory Guidance](#)):

- Mobility Component Personal Independence Payment (PIP)
- Mobility Component Disability Living Allowance (DLA)

- War Pension Scheme payments
- Guaranteed Income Payments made to veterans under the Armed Forces Compensation Scheme
- Working Tax Credits
- Child Tax Credit
- Council Tax Reduction Schemes
- Christmas Bonus
- Winter fuel payments
- Earnings from paid employment
- Statutory sick pay or maternity/ paternity/ adoption pay

The remainder of a person's benefits can be considered when working out how much a person can afford to pay:

- Employment and Support Allowance (ESA)
- Universal Credit (UC)
- Daily Living Component PIP
- Care Component DLA
- Carers Allowance
- Attendance Allowance
- Industrial Injuries Disablement Benefit
- Maternity Allowance
- Pension Credit
- State Pension

Where a person who needs care and support lives at home with their family, the local authority can only look at the person's income and savings, not that of their family. If living as part of a couple, then the local authority will assume that the property is owned jointly (or rent paid jointly) or, if a joint bank account exists, then that the account owned jointly unless it can be proved otherwise.

## What about the extra costs of being disabled?

Research<sup>1</sup> carried out by Scope has found that being disabled can lead to extra costs of around £975 per month. Your financial assessment has

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<sup>1</sup> Disability Price Tage 2023 [Extra Costs | Disability charity Scope UK](https://www.scope.org.uk/extra-costs)

to consider the extra expenses that you face because of your disability. These expenses are known as 'Disability Related Expenditure' (DRE). The local authority should consider any reasonable DRE suggested by you as long as it is not already part of your care package or funded by another public body such as the NHS. DRE should be individual and based on your needs and your disability. However, [the Statutory Guidance identifies a list of potential DREs](#) that can help guide local authorities when deciding what they could accept as DRE. This list is not exhaustive and local authorities have to be flexible and make a judgement based on individual needs.

Examples are:

- (a) payment for any community alarm system
- (b) costs of any privately arranged care services required, including respite care
- (c) costs of any specialist items needed to meet the person's disability needs, for example:
  - I. Day or night care which is not being arranged by the local authority
  - II. specialist washing powders or laundry
  - III. additional costs of special dietary needs due to illness or disability  
(you may be asked for permission to approach your GP in cases of doubt)
  - IV. special clothing or footwear, for example, where this needs to be specially made; or additional wear and tear to clothing and footwear caused by disability
  - V. additional costs of bedding, for example, because of incontinence
  - VI. any heating costs, or metered costs of water, above the average levels for the area and housing type
  - VII. occasioned by age, medical condition, or disability
  - VIII. reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by your disability and not met by social services
  - IX. purchase, maintenance, and repair of disability-related equipment, including equipment or transport needed to enter or remain in

work; this may include IT costs, where necessitated by the disability; reasonable hire costs of equipment may be included, if due to waiting for supply of equipment from the local council

- X. personal assistance costs, including any household or other necessary costs arising for the person
- XI. internet access for example for blind and partially sighted people
- XII. other transport costs necessitated by illness or disability, including costs of transport to day centres, over and above the mobility component of DLA or PIP, if in payment and available for these costs. In some cases, it may be reasonable for a council not to take account of claimed transport costs – if, for example, a suitable, cheaper form of transport, for example, council-provided transport to day centres is available, but has not been used
- XIII. in other cases, it may be reasonable for a council not to allow for items where a reasonable alternative is available at lesser cost. For example, a council might adopt a policy not to allow for the private purchase cost of continence pads, where these are available from the NHS.

Making sure that all your expenses linked to your disability are considered can help to reduce the overall amount you have to pay towards your care. It is a good idea to keep receipts and / or invoices for these expenses so you can prove to the local authority you have to pay extra money because of your disability. You will also need to clearly explain to the local authority how the expense is specifically linked to your disability. For example, if your disability means that you find it difficult to keep your clothes clean because you spill food and drink a lot, or have continence issues, you could ask the local authority to allow for the extra costs of doing extra washing every day.

## How can I challenge my financial assessment?

There are two main ways in which you can potentially challenge your financial assessment:

1. Failure of the local authority to include reasonable and relevant DRE

2. That the charges are not affordable

## 1. Failure to consider relevant DRE

There has been a lot of discussion about what can be considered as DRE. It is becoming clear that local authorities cannot apply a blanket policy on DRE.

A recent case heard in the High Court showed that local authorities have to make careful judgements about DRE. The case – RW v Royal Borough of Windsor<sup>2</sup> - explored whether attendance at a pay-as-you-go social group should be DRE. The person, who is autistic, and finds social engagement difficult, took the case to court. The local authority argued it was their choice to attend the club (which cost) and therefore they had to pay for it themselves. However, the Judge decided that, on balance, the local authority had taken an unlawful approach to assessing DRE which had been limited on the grounds of cost, focused too narrowly on needs identified in the care planning process and had failed to fully consider the person's wider wellbeing. The Judge found that the local authority in this case had made an unlawful decision to not allow the social group as DRE and they had to look again at their decision.

This case is potentially helpful as it shows that local authorities have to take a flexible and wide looking approach to DRE that goes beyond what is set out in the needs assessment and care plan. It could be used to make an argument for the inclusion of DRE for an expense that has previously been refused by a local authority.

While the [Statutory Guidance sets out a list](#) of what could be considered as DRE (Annex C) this list is not exhaustive and is intended to be a guide. Local authorities need to explore the issue of DRE beyond this list to ensure they are being lawful in their approach to DRE.

When challenging the failure of the local authority to include certain DRE you will need to be clear about why the expense is necessary and how it is linked to your disability. It would be helpful to include receipts and / or invoices that demonstrate the cost you have to pay. We have a template

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<sup>2</sup> RW v Royal Borough of Windsor and Maidenhead [203] EWHC 1449 Admin

letter on our chatbot which can help with challenging the decision to not allow relevant and reasonable DRE.

## 2. What if I can't afford to pay?

It is important that the calculations in your financial assessment are correct. If you do not have a copy of your financial assessment, you should request one as soon as you can. Look at how your charges have been calculated and at the local authority's own charging policy to make sure the local authority has done everything correctly. Pay particular attention to the DRE and the MIG that the local authority has included in the calculation.

If you are finding it hard to pay your charges you should speak to the person who carried out your financial assessment. It is a good idea to try and communicate with them in writing via email if this is possible but if not then call them.

You can ask that your financial assessment is reviewed if you cannot afford to pay the charges. You will need to give the local authority details of your monthly personal expenditure and show that you are struggling to afford to pay the charges. Your argument for not being able to afford the charges will need to focus on the [wellbeing principle in the Care Act 2014](#) and the impact of the charges on your wellbeing. You will need to demonstrate that it is not practicable for you to afford the charges.

If there is no change following your request for your charges to be reviewed, you can make a **formal complaint** using the local authority's complaints process. This should be available on their website. We have a separate factsheet on how to complain effectively and a template letter available.

There are often deadlines when making a complaint, so you need to be aware of the deadline and how long the local authority has to respond. If you are still not happy with the outcome once the complaint has been responded to by the local authority, you can [take it to the Local Government Ombudsman](#) who can look again at the decision. We have a factsheet on our chatbot about this.

## What can I do if I am in debt to the local authority because of my charges?

If you are in debt to the local authority because of your charges it is a good idea to speak to them about it. It may be possible to set up a repayment plan with the local authority which could be a more affordable way of paying what you owe. Care charges debt can grow quite quickly and the local authority have the power to make you pay what you owe (commonly known as debt recovery).

A common reason for falling into debt for charges is that local authorities are allowed to backdate the charges. This can lead to a large debts building up. The backdating of charges is lawful if your circumstances at the time meant you would have been required to pay them. If the debt has built up because of the backdating of charges, check your financial assessment carefully (and your previous assessment) to make sure that all the information was correct at the time. You can ask that a debt is not recovered if you are in extreme financial hardship. However, the local authority does have legal right to recover the debt.

There are certain principles that the local authority has to consider when recovering debt:

- Possible debts must be discussed with you or your representative.
- The local authority must act reasonably.
- Arrangements for debt repayments should be agreed between the relevant parties.
- Repayments must be affordable and should not lead to hardship for you or your family.
- Court action should only be considered after all other reasonable avenues have been exhausted.

If you are in receipt of benefits, then the local authority could deduct the overpayment from ongoing benefit payments.

Alternatively, the local authority may issue an invoice for the full amount of what it has calculated to be the overpayment. If a debt has occurred

because your capital was above the upper capital limit it may make the most financial sense to repay the full amount as soon as possible if it would bring your assets below the upper capital limit. The local authority could also choose to issue county court proceedings against you. The powers that a local authority has when recovering debt makes it even more important to reach out to them early if you are in debt and work with them to see if an affordable repayment plan can be set up.

## **What does 'intentional deprivation of assets' mean?**

Deprivation of assets happens when a person moves money or capital such as a property into someone else's name to reduce their overall capital and reduce how much they pay towards care costs. If it can be proved that someone has intentionally deprived themselves of assets, then the local authority can do one of two things:

- Charge the person as if they still had the asset; or
- Seek to recover the lost income from the person to whom the asset was transferred

If the local authority is recovering a debt, then deprivation of assets will be one of the factors taken into consideration in deciding whether to recover the debt and how that debt will be recovered.

## **Summary**

- Social care is not usually free and local authorities are legally allowed to charge people who receive care and support from them. The Care Act 2014 sets out the law on charging alongside other legislation and guidance.
- There are two types of care that can be charged for: residential care and non-residential care. Non-residential care is care and support a person receives in their own home or a community setting. This factsheet explains charging for non-residential care.

- Some care and support is free – often on discharge from hospital. This can include minor adaptations costing under £1000 to a person's home.
- The amount of capital a person has determines whether they can be charged. If a person has £23,250 or more, they have to pay for all of their care costs and are 'self-funding.' If a person has £14,250 or less they will be assessed and only charged what they can afford. Capital amounts between these two limits mean a person is expected to pay what they can afford for their care plus an extra contribution. Unless a joint account, only income for the person with care needs is considered, not that of a partner. If living together the rent is assumed to be split 50/50 unless otherwise told.
- The amount a person is charged is worked out through a Financial Assessment. This looks at income, savings and capital. Certain elements of benefits such as PIP Mobility is not taken into account but most other benefits are. By law, a local authority has to leave the person with the Minimum Income Guarantee (MIG) after their charges have been calculated. Charges can be reduced by consideration of Disability Related Expenditure (DRE).
- DRE are costs that relate to being disabled, for example, if a person has to do more laundry because of nighttime incontinence the cost of this could be included as DRE. Keep receipts to send to the local authority to prove the expense.
- Financial assessments can be challenged. Check the income is correct (and that PIP mobility has been disregarded), MIG and all relevant DREs have been included. Complain to your local authority if you are not happy and request a review.
- Charges can be backdated. If in debt because of care charges, speak with the local authority and see if a payment plan can be set up.