

# Key messages check list:

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## Things your local authority should have told you about charging you for care.

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These key messages are a useful summary of the things you should let people know about charging for Care and the responsibilities local authorities have regarding charging and contributions from people who draw on social care from their local council.

This leaflet relates to non-residential care charges (e.g. for people living in their own homes or in supported living). The charging system for people in residential care homes is different.

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### A quick overview of the law on charging

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Local authorities have a duty to arrange support for those with eligible needs. Each Council is given the discretion as to whether they can charge a contribution for these services. Currently, almost all councils have decided to use this discretion.

Where the local authority decides to apply its discretion section 17 of the Care Act 2014 states that it must carry out a financial assessment. The purpose is to assess the person's financial resources and the amount (if any) that they are likely to pay towards the cost of their care package.

The rules setting out how the Council must carry out the financial assessment is found in two documents that are linked to the Care Act. One is called the Care and Support (Charging and Assessment) Regulations 2014 and the second is called the Care and Support Statutory Guidance.

Councils usually put in place a charging policy to explain its financial assessment process, but it cannot go below the standards set out in the Care Act documents.

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### Some key messages

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**1. The overarching principle is that people should only be required to pay what they can afford.** People will be entitled to financial support based on a means-test and some will be entitled to free care. The framework is therefore based on the following principles that local authorities should take into account when making decisions on charging. (see [Care and Support Statutory Guidance para 8.2.](#))

The principles are that the approach to charging for care and support needs should:

- ensure that people are not charged more than it is

reasonably practicable for them to pay

- be comprehensive, to reduce variation in the way people are assessed and charged
- be clear and transparent, so people know what they will be charged
- promote well-being, social inclusion, and support the vision of personalisation, independence, choice and control
- support carers to look after their own health and well-being and to care effectively and safely
- be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs
- apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings
- encourage and enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so
- be sustainable for local authorities in the long-term

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## Some key messages cont...

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2. Local authorities must also have regard to identifying people that contact them who may benefit from financial information and advice independent of the local authority and actively facilitate those people to access to it. (see [Care and Support Statutory Guidance para 3.6.](#))
3. The local authority must provide information to help people understand what they may have to pay, when and why and how it relates to people's individual circumstances. This must include the charging framework for care and support, how contributions are calculated from both assets and income (see [Care and Support Statutory Guidance para 3.43.](#))
4. The local authority must offer to consider a person's specific circumstances (see [Care and Support Statutory Guidance para 3.47.](#))

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## Some things to know about the financial assessment

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A Council should not start charging you a contribution to your care package without completing a financial assessment. There are three main steps to take before the completion of a financial assessment:

1. The assessment of any capital that a person has;
2. The assessment of any income that a person receives; and
3. The assessment of any Disability-Related Expenditure that should be taken into consideration.

### 1. The assessment of any capital that a person has<sup>1</sup>

If a person has over £23,250 in capital they will be responsible for the costs of their care provision.

If a person has between £14,250 and £23,230 the Council can apply what is known as a tariff income. This means that for every £250 of capital or part of that sum a person is deemed to be able to contribute £1 per week towards the cost of their eligible care needs.

If a person has below £14,250 the financial assessment cannot put any charge on the capital amount.

### 2. The assessment of income that a person has<sup>2</sup>

Any earnings that an employed or self-employed person earns are fully disregarded.

Most benefits are taken into account. A list is set out at Annex C para 16 of the Care and Support Statutory Guidance.

There are some benefits that are fully or partially disregarded. For instance the mobility component of DLA/PIP. A list is set out at Annex C para 15 of the Care and Support Statutory Guidance.

Since a person who receives care and support outside a care home will need to pay their daily living costs such as rent, food and utilities, the charging rules must ensure they have enough money to meet these costs. When determining what charge if any a person must pay, the Council must always ensure that a person is left with the minimum income guarantee (MIG) equivalent to Income Support plus a buffer of 25%. The amount of MIG received depends on several different factors and is set out in Appendix 1 below.

<sup>1</sup>The treatment of capital for charging purposes is set out in a section called 'Annex B: Treatment of Capital' in the Care and Support Statutory Guidance.

<sup>2</sup>The treatment of income for charging purposes is set out in a section called 'Annex C: Treatment of Income' in the Care and Support Statutory Guidance

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### 3. Disability-Related Expenditure (DRE)<sup>3</sup>

In addition, where a person receives benefits to meet their disability needs that do not meet the eligibility criteria for local authority care and support, the charging arrangements should ensure that they keep enough money to cover the cost of meeting these disability related costs. (See Care and Support Statutory Guidance para 8.42.) Annex C para 39-41 provides more information about what can be included as DRE with some examples \* More information about DRE can be found in Appendix 2 below.

It is important to be aware that the list of Disability-Related Expenditure is not exhaustive and so the Council should consider any DRE.

It is also useful to keep any evidence or receipts you have to show how you have spent your money on DRE because Councils sometimes ask for proof. For instance if your food bills are particularly high because you require a special diet, keep some receipts to hand.

#### Treatment of couples

Unlike with most benefits, the Council can only assess the income and capital of the person who is subject to the financial assessment and not their partner.

If money is held in a joint account, unless it can be shown that one partner owns an unequal share the total value will usually be divided equally between the joint owners.



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## Important points to remember

Once the financial assessment is completed the Council must under section 17 of the Care Act provide a written record.

A financial assessment must be completed before any charge can be put in place. This is important because a number of councils seem to be providing people with financial assessments without having checked whether the information is correct and whether the person has any Disability-Related Expenditure that should be taken into consideration.

Councils should be making sure that service users have clear, accurate and available information about their charging policies and this should be accessible on their website or on request.

Just because a Council has a policy stating that it can act in a particular way that does not mean it is lawful or fair. If a policy adversely affects a particular group of people more than others without a justifiable reason it may be that their policy is discriminatory and can be challenged

It is worth reiterating that Council's cannot take action that fall below the standards set out in the Care Act and that they can only require people to pay what they can afford. People should never be placed in a position where they have to give up their care package because they cannot afford their contribution.

Don't suffer in silence. If you feel that you are not getting clear answers to concerns or are not sure that you are being treated correctly, reach out to other service users or

<sup>3</sup>Annex C para 39-41 provides more information about what can be included as DRE with some examples.

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## Appendix 1 – Minimum Income Guarantee (MIG)

People receiving local authority-arranged care and support other than in a care home need to retain a certain level of income to cover their living costs. Under the Care Act 2014, charges must not reduce people's income below a certain amount but local authorities can allow people to keep more of their income if they wish.

This is a weekly amount and is known as the [MIG](#)\*.

2.10 For the next financial year (2020/21), the rates of the MIG will remain at their current levels as follows:

- 7(1)(b) where the adult concerned is responsible for, and a member of, the same household as a child, the amount of £83.65 in respect of each child.
- 7(2) Where the adult concerned is a single person and—
  - is aged 18 or older but less than 25, the amount of £72.40;
  - is aged 25 or older but less than pension credit age, the amount of £91.40;
  - has attained pension credit age, the amount of £189.00.
- 7(3) Where the adult concerned is a lone parent aged 18 or over, the amount of £91.40. • 7(4) Where the adult concerned is a member of a couple and—
  - one or both are aged 18 or over, the amount of £71.80;
  - one or both have attained pension credit age, the amount of £144.30.
- 7(5) Where the adult concerned is a single person who is in receipt of, or the local authority considers would, if in receipt of income support, be in receipt of—
  - disability premium, the amount of the applicable premium is £40.35;
  - enhanced disability premium, the amount of the applicable premium is £19.70.
- 7(6) Where the adult concerned is a member of a couple and one member of that couple is in receipt of, or the local authority considers would, if in receipt of income support, be in receipt of— 5
  - disability premium, the amount of the applicable premium is £28.75;
  - enhanced disability premium, the amount of the applicable premium is £14.15.
- 7(7) Where the adult concerned is in receipt of, or the local authority considers would, if in receipt of income support be in receipt of, carer premium, the amount of the applicable premium is £43.25.

(Extract from Charging for care and support circular 2.9/2.10)

Full report [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/872440/charging-for-care-and-support-local-authority-circular.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/872440/charging-for-care-and-support-local-authority-circular.pdf)

\*The link given to the MIG is timebound, you may need to check the current rates.

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## Appendix 2 – Disability Related Expenditure (DRE)

DRE explained Independent lives <https://www.independentlives.org/disability-related-expenses-explained>

It can be difficult to think about Disability Related Expenditure and what costs you incur each month that arise from your disability. OXFSN have come up with a list of items and services that may be included depending on each individual's circumstances. Disability Related Expenditure costs usually fall in to one of three categories.

1. Specialised items and services: things that are made to help with your disability such as wheelchairs & care support. These items may have additional costs like repair and insurance.
2. Increased use of non-specialised items and services: you may have to use things more because of your disability, such as transport or heating.
3. Higher cost non-specialised items and services: such as home delivery.

Examples of DRE Costs Disability Related Expenditure

Example/Tips

**Community alarm system** If where you live has an alarm to keep people safe and you are charged for this.

**Washing** powders or laundry If you need to use a special detergent or a launderette. If you have to do more laundry, for example, because of incontinence, risk of infection or part of a behaviour.

**Dietary needs** If you have a condition that means you have to eat/drink special foods such as coeliac disease or you are a diabetic. It may also include more expensive ready meals as you cannot prepare food yourself.

**Clothing and footwear** Special clothing and shoes to fit your disability. If you have to buy clothes more often. Cost of getting clothes adapted such as Velcro instead of buttons.

**Bedding** Special bedding used such as incontinence sheets and anti-allergenic sheets.

**Heating costs**, electricity and water If you need your home to be heated more due to your condition (over and above the £15 a week allowance already given). If you spend more time at home because of your disability and use more power. If you use more water due to extra laundry.

**Garden maintenance, cleaning or domestic help**, window cleaning You may need to pay someone to do one or all of these if you cannot do them yourself or you are not supported to do them.

**Purchase, maintenance and repair** of disability related equipment Items such as wheelchairs, beds, mattresses; hoists, lifts & stair lifts & home adaptations like grab rails & ramps if you hired these yourself (or you had to make a contribution to top up a Disabled Facilities Grant). Any costs repairing or maintaining them, insuring them (e.g. wheelchair services, new batteries)

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## Appendix 2 – Disability Related Expenditure (DRE) cont...

**IT** such as adapted computers & communication aids, or specialist software. Special gadgets you need in the kitchen or around the house such as food prep machines, bedside tables, bath boards, sliding sheets, & special cutlery if not provided by an OT.

**Personal Assistance Costs** If you need to hire extra personal assistants to help with needs arising from your disability & not already covered by your social care package.

**Transport Costs** Use of taxis if unable to use public transport. Transport to day-centres, health appointments. Cost of travel for PA or carer to go with you if you need to pay for them.

**Prescriptions** If you pay for your prescriptions for medication & equipment/aids

**Holidays/respite Additional costs** that arise due to your disability when you go on holiday such as needing a carer or rental of specialist equipment when away.

**Therapies** If you pay for private therapy such as counselling or chiropody and podiatry.

**Social activities** If you have costs that relate to social activities to help with mental health issues, such as clubs and befriending services, or if you need to pay extra to take someone with you because of your disability

**Internet access or other technology purchases.** If the need for internet access or the technology arises from your disability Home delivery costs e.g. Supermarket delivery charges If you can't go shopping yourself

**Extra costs of day-to-day life** Disposable gloves for PA's and carers not provided by the NHS. Urinals. Anything that you pay extra for that you cannot do yourself because of your disability.

**Household cleaning Cleaner, carpet washing** (if you can't do these because of your disability or they are more frequent because of it & not already covered by your social care budget).

Cost relating to **hobbies & getting out and about** Where these support your health and well-being and are higher because of your disability, or you do them because of your disability.

The statutory guidance says that policy should 'encourage & enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so'. This could include any costs you incur in relation to volunteering, if they are not reimbursed and the volunteering is part of your plans for getting in to work Everyone's costs will be different and a list of examples cannot contain everything.

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## **Appendix 3 – Review of my financial assessment for social care charges (Inclusion London)**

example letter template

Your name and address

Name of local authority

Address

Date

Dear

**Re: review of my financial assessment for social care charges**

I am writing to request a review of my financial assessment.

On \_\_\_\_date I received my financial assessment record, the outcome of which is that I have to pay £\_\_\_\_\_ towards my social care support. I disagree with this calculation and would like you to change it.

Para 8.2 of the Care and Support Statutory Guidance issued by the Department of Health makes it clear that councils can only charge what I can reasonably afford to pay.

The Guidance further makes it clear that I should be left with minimum income guarantee, the purpose of which is to promote independence and social inclusion and ensure that I have sufficient funds to meet basic needs such as purchasing food, utility costs or insurance.

I cannot afford to pay £ \_\_\_\_ per week. I am attaching a list of my income and expenditure, so you can see how little I have left to live on. This shows that in reality I will not have enough funds to meet my basic needs.

The above mentioned guidance also says a para 8.42 where a person receives benefits to meet their disability needs that do not meet the eligibility criteria for local authority care and support, the charging arrangements should ensure that they keep enough money to cover the cost of meeting these disability-related costs.

I believe the way the assessment was carried out and the calculations do not ensure I keep enough money to meet my disability-related costs.

Here are the items I spend money on because I am disabled

Item	Cost per year/month or week	Why I need this item

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I would like you to recalculate my contribution taking into account my DRE listed above.

If you do not consider items above to be DRE, please give detailed reasons.

I am also concerned that at no point during my financial assessment any attempts were made to support me in identifying my Disability Related Expenditure.

What I want as an outcome of this complaint:

- A recalculation of my contribution
- A change in the way you do financial assessments and assess disability related expenditure to ensure everyone who needs to is supported to identify their DRE.

Yours faithfully,

Your name



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## Helpful references

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The Care and Support (Charging and Assessment of Resources) Regulations 2014  
[http://www.legislation.gov.uk/uksi/2014/2672/pdfs/uksi\\_20142672\\_en.pdf](http://www.legislation.gov.uk/uksi/2014/2672/pdfs/uksi_20142672_en.pdf) 5

Care and Support Statutory Guidance.

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#chapter-1>

Charging for care and support, Local authority circular

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/872440/charging-for-care-and-support-local-authority-circular.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/872440/charging-for-care-and-support-local-authority-circular.pdf)

There is a very informative book on all aspects of community care law

[Luke Clements, Community Care and the Law \(LAG, 2019\)](#)

Inclusion London shared the following links

<https://www.disabilityjustice.org.uk/financial-assessment/>

<https://www.real.org.uk/wp-content/uploads/2017/12/Reals-guidance-on-disability-related-expenditure-updated-11.12.17.pdf>



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