



Department
of Health &
Social Care

Implementing the cap on care costs: draft operational guidance

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Contents

1. Cap on care costs	4
Introduction.....	4
Overview	5
Daily living costs	6
How people start metering towards the cap	7
What does and does not count towards the cap.....	8
Calculating a person's contribution.....	10
Setting out which costs count towards the cap.....	11
Care accounts	11
Continuity of care and cross-border issues	12
Preparations for reaching the cap.....	14
Reaching the cap.....	15
Adjustments to the cap	16
Requesting that the local authority meet needs.....	16
Case studies.....	17
2. Independent personal budgets.....	20
Introduction.....	20
Principles.....	20
People eligible for an IPB	21
Assessments for self-funders	21
Calculating the IPB.....	23
Meeting needs.....	27
Communicating the final IPB	29
Verification of purchase of formal care	29
Review and revision	30
Dispute resolution.....	31
Moving to local authority support.....	32
Case studies.....	33
3. Care accounts.....	35
Introduction.....	35
Who is eligible for a care account.....	35
Components	36
Adjustments to accrued costs.....	41
Changes of circumstances	42

Providing wider information	43
Retention of care accounts	43
Portability of care accounts	44
Case studies.....	44
Consequential amendments to the CASS guidance	47
Chapter 3.....	47
Chapter 4.....	47
Chapter 6.....	47
Chapter 8.....	47
Chapter 9.....	48
Chapter 10.....	51
Chapter 11.....	51
Chapter 20.....	53
Chapter 23.....	53
Annex A: choice of accommodation and additional payments.....	53
Annex B: treatment of capital	54
Annex C: treatment of income	55
Annex F: temporary residents in care homes	55
Annex I: repeals and revocations	55
General amendments.....	55

1. Cap on care costs

This chapter covers:

- an overview of the cap on care costs and its operation
- how people start metering towards the cap
- costs that count and do not count towards the cap
- how a person's financial contribution should be calculated and set out
- what happens when a person moves to another local authority
- approaching and reaching the cap
- self-funders asking the local authority to meet their needs

Introduction

- 1.1 The cap on care costs ('the cap') sets the basis of a new partnership between the person and the state. Its purpose is to protect people from unpredictable care costs by limiting the costs a person in England will need to face to meet their eligible care and support needs in their lifetime (where eligible needs are those defined as such under the Care Act 2014 ('the Act')). As a result, the cap makes it clear the costs that a person will need to meet themselves throughout their care journey.
- 1.2 From October 2023 the cap will be set at £86,000. Anyone assessed by a local authority as having eligible care and support needs, whether a new entrant or an existing social care user, can begin to progress towards the cap from October 2023 onwards. The maximum amount anyone who starts receiving care after this date will have to pay for care to meet their eligible care and support needs will be £86,000, or the equivalent figure increased each year in line with inflation. This is based on what the local authority charges the person to meet their eligible care and support needs, or in the case of self-funders who arrange their care themselves, what the cost would be to the local authority of meeting those needs. Details on how people's progress towards the cap should be reflected if and when the level of the cap is adjusted are in paragraphs 1.48 and 1.49.

- 1.3 The cap aims to provide people with clarity about the costs they will face for their care and the financial support they can expect from the state. The certainty and peace of mind that the cap offers will enable people to plan more effectively, and to provide and prepare for the possibility of their future care needs.

Overview

- 1.4 Several different elements support the operation of the cap. For each person with eligible care and support needs, the local authority must provide a statement setting out either what the cost is, or what it would be, to the local authority of meeting those eligible needs.
- 1.5 The person will either have their needs met by the local authority or they will meet their needs themselves. Where needs are being met by the local authority, this means the person is either in receipt of local authority financial support, has their care arranged by the local authority (because of the duty in section 18(3) of the Act), or both.
- 1.6 For people whose needs are met by the local authority, the statement will be in the form of a personal budget (see chapter 11 on Personal budgets in the [Care and support statutory \(CASS\) guidance](#)). The personal budget will set out what the overall cost is to the local authority of meeting the person's care and support needs. This will be broken down into the amount that the person is charged by the local authority, and the amount that the authority will pay. It is only the amount that the person is charged by the local authority, minus daily living costs (DLCs) where applicable, that will accrue towards the cap. It is important that the local authority considers the principles of setting personal budgets as set out in chapter 11, which remains a tool for personalisation. To ensure that the accrued costs best reflect what the person is actually charged to contribute on their care, local authorities should maintain up-to-date personal budgets.
- 1.7 For self-funders who are meeting their own needs, the statement will be in the form of an independent personal budget (IPB). This will set out what the cost would be to the local authority if the local authority was meeting the person's eligible needs. The amount set out in the IPB should be the amount that accrues towards the cap (see the new chapter on Independent personal budgets in this document). So that it can effectively support the operation of the cap, the local authority should keep the IPB up to date. When a self-funder who has been meeting their own eligible care and support needs reaches the cap, or the upper capital limit, the local authority will start to meet their needs and the person will be provided with a personal budget.

- 1.8 The local authority must also maintain a care account (see the new chapter on Care accounts in this document) to keep track of the person's progress towards the cap. Drawing on information in a person's personal budget or IPB, a care account records the costs accrued towards the cap ('accrued costs'). It can also be a useful tool to help the person and local authority to plan and prepare for their ongoing costs and to take account of when the person may be eligible for local authority support or may reach the cap.
- 1.9 If a person is receiving care in a residential home, any additional payments they or a third party chooses to make for a preferred choice of accommodation that meets the person's needs ('top-up' payments) do not count towards the cap. See Annex A: choice of accommodation and additional payments of this document.
- 1.10 When a person's accrued costs are nearing the cap, the local authority should ensure that the person understands the implications of reaching the cap and their options for meeting their needs after they reach the cap. The local authority should prepare to ensure that there is a smooth transition and in particular that it is in a position to meet the person's eligible needs as soon as the cap is reached. When a person's accrued costs reach the cap, the local authority must inform the person and meet their eligible needs.
- 1.11 After the cap has been reached, unless the person objects, the local authority must pay the costs of care to meet the person's eligible needs for care and support. The person will continue to be responsible for their daily living costs where they can afford them. The person receiving care, or a third party, may continue to make – or choose at that stage to make – top-up payments for a more expensive preferred choice of accommodation where they are willing and able to pay it.

Daily living costs

- 1.12 For those receiving care in a residential home, DLCs must be deducted from the cost assumed in a person's personal budget or IPB to arrive at the amount that counts towards the cap. The main purpose of DLCs is to ensure fairness in the rate of progress towards the cap between those who receive care in a residential home and those at home. The regulations set a notional amount that is attributable to DLCs. DLCs will not accrue towards the cap, and people remain responsible for paying DLCs once they reach the cap and continue to receive care in a residential home.
- 1.13 The concept of DLCs does not change the amount a person with eligible care needs has to contribute towards the total cost of their care package as they

progress towards the cap, that is, what people are charged based on their financial assessment is not affected. Nor does it change what providers are able to bill for a person's care package, both before and after a person has reached the cap.

- 1.14 For the purpose of deciding whether a given care setting should be regarded as residential care in this context, that is whether DLCs should be deducted from the total cost of meeting the person's eligible needs, the local authority should consider whether the person is contributing any costs towards their accommodation separate to the cost of the care and support package. Where they are, the setting should be considered as domiciliary and DLCs are therefore not applicable. If the person is for instance in receipt of any housing benefits, owns the home they live in, or pays some form of rent or other charge towards accommodation, then their care package should be considered as domiciliary care. If the overall package of care and support that is being charged for includes accommodation, then this should be considered as residential care. Where the local authority is financially supporting the person, they may want to consider which social care allowances the person is left with. If they are left with the personal expenses allowance, then DLCs must be applied in the calculations.

How people start metering towards the cap

- 1.15 Anyone assessed by a local authority as having eligible care and support needs as defined as such under the Act, whether a new entrant or an existing social care user, can begin to progress towards the cap from October 2023 onwards. Costs incurred before October 2023 do not count towards the cap, unless the person is resident in a local authority that participates in the trailblazer initiative.
- 1.16 A person can only accrue costs towards the cap if they have been assessed as having eligible needs. Costs begin to accrue from the point at which the local authority became required to carry out a needs assessment, that is, from when the person contacted the local authority to request a needs assessment, or from the point at which the local authority identified that they might need one.
- 1.17 For costs to accrue from the point at which the local authority became required to carry out a needs assessment, the person must subsequently be assessed as having eligible needs and the person or someone else on their behalf must have purchased care to meet the person's eligible needs in the interim period. The level of cost accrued from the point at which the local authority required to carry out a needs assessment should be based on the amount it would have cost the local authority to meet their eligible needs (less DLCs where applicable). The person must provide evidence of the cost of care that was purchased, for example, in the form of a care receipt or care contract (see also the section on verification in

chapter on independent personal budgets of this document). Only the cost of meeting eligible care needs according to the Care Act accrue towards the cap. Therefore, where it is apparent the person has not met their needs fully or substituted meeting their needs with informal care, the local authority should amend the care account to reflect this, as needs have not been met according to the relevant legislation.

- 1.18 When a person first contacts the local authority to request a needs assessment, the local authority should inform the person that the cost of the care that the person purchased can only accrue towards the cap during the period between the request for a needs assessment and the preparation of either the personal budget or the independent personal budget if the person is subsequently found to have eligible needs, and the accrual in respect of eligible needs met during this period, will be based on the rules set out above.
- 1.19 The local authority should consider prioritising putting care and support arrangements in place even where a personal budget is not yet agreed. Chapter 5 of the CASS guidance or section 19 of the Act sets out the powers of the local authority to meet care and support needs in cases which appear to be urgent, and a needs assessment has not been completed.

What does and does not count towards the cap

- 1.20 Care and support costs that count towards the cap are the costs of any provision that meets eligible needs as defined under the Act. The introduction of the cap does not affect eligibility as defined in the Act. In line with the intention of personalisation in the Act, as part of the person's needs assessment, local authorities must consider all of the adult's care and support needs, establish the impact of those needs on the individual's day-to-day life, and decide how the person's needs will be best met, for example whether they are best met in a care home, or whether the person could benefit from community-based services. It is the provision of care to meet eligible care needs which forms the basis of the costs that count towards the cap – less DLCs for those in residential care (see below).
- 1.21 As set out in the Act, the local authority must consider whether the person's needs are being met in whole or in part by an informal carer. Care needs met by a carer, as defined by section 10 of part one of the Act, are not eligible care needs, and therefore do not count towards the cap.

The following provides a summary of what does and does not count towards the cap.

Costs that count

The following costs count towards the cap:

- for a person whose needs are being met by the local authority: the amount that the individual is charged to contribute towards the cost of the overall care package as arranged by the local authority, less DLCs where applicable
- for a self-funder meeting their own eligible needs: the cost to the local authority if they were to meet the person's eligible care and support needs, less DLCs, where applicable

Costs that do not count

The following costs do not count towards the cap:

- costs of meeting eligible care and support needs incurred before October 2023, unless the person is resident in a local authority that participates in the trailblazer initiative
- any financial contribution from the local authority towards an individual's care package
- for people who receive residential care, DLCs at the level set in regulations
- for people whose needs are being met by the local authority, any top-up payments the person or a third party chooses to make for a preferred choice of accommodation
- costs of meeting non-eligible needs, even where the local authority has chosen to meet those needs
- NHS-funded nursing care for people in care homes and continuing health care
- the cost of care and support services that are provided under other pieces of legislation (for example, free aftercare provided under section 117 of the Mental Health Act)
- interest or fees charged under a deferred payment agreement

1.22 In cases where the local authority decides that a service, including meals on wheels or transportation, will meet an eligible need and is chargeable, then the amount they charge the person for such services will count towards the cap. As listed above, in circumstances where it is agreed that preventative services also

meet the person's current eligible care and support needs, the contribution that the individual pays towards these will count towards the cap. Where preventative services are not meeting the person's eligible care and support needs then the costs will not count towards the cap.

- 1.23 Where the local authority is meeting the person's needs, it is only the amount that the person is charged to contribute towards their care costs (less DLCs where applicable), that will count towards the cap. Even where the person has an administrative arrangement that means they pay their financial contribution directly to the provider, for metering purposes this financial contribution (less top-ups) should be considered the amount that the local authority is charging the person. (Further information on payments being made on a gross or net basis can be found in chapter 12 on Direct payments in the CASS guidance). Personal budgets must be used to set this out clearly and should be used as the starting point by local authorities to calculate a person's cap contribution. However, sometimes the amount presented in a personal budget may differ to the actual costs that a person is charged. This could be due to, for instance, late changes to a person's care schedule or temporary fluctuations in care needs. In these circumstances, the local authority may use care related invoices to establish what counts towards the cap.
- 1.24 A person will continue to accrue costs based on what they are charged for the meeting of their care needs, even if they fall behind with paying the amount charged by the local authority. The local authority should use established local debt recovery mechanisms to aim to recover any outstanding debt before the person reaches the cap.

Calculating a person's contribution

- 1.25 The local authority should calculate the person's contribution towards the cap as per the information above. They must also consider the guidance set out on financial assessments set out in chapter 8 on Charging and financial assessment of the CASS guidance.
- 1.26 For people who fall within the means test, the person's expected contribution towards their care costs and therefore contribution towards the cap depends on their income and assets. The person's tariff income, calculated from their assets, will apply as originally financially assessed and be recalculated on an annual basis as part of the person's annual financial reassessment.

Setting out which costs count towards the cap

- 1.27 The costs which count towards the cap must be set out in either a personal budget where the local authority is meeting the person's needs (that is, is arranging their care or is providing financial support), or an IPB (for people who are meeting their own needs). So it can effectively support the operation of the cap, the local authority should keep the personal budget or IPB up to date.
- 1.28 Where the local authority is meeting a person's needs the local authority must clearly set out in the personal budget what the cost is of meeting that person's eligible needs for care and support. This will mean clearly distinguishing this cost if, for example, the personal budget includes services to meet non-eligible needs, is pooled with the personal budget of another person or a carer or is combined with other sources of funding available to the person.
- 1.29 Personal budgets can include other elements separate to the cost of meeting the person's eligible needs, for example, other amounts of public money that the person is receiving, or the cost to the local authority of meeting non-eligible needs where the local authority has chosen to. The local authority should make it clear in the personal budget which costs form the basis of what accrues towards the cap: the person's chargeable contribution towards the care package to meet their eligible needs.
- 1.30 While personal budgets fulfil other functions, an IPB exists solely for the purpose of determining the costs that will count towards the cap for a person who meets their own eligible care and support needs. Local authorities must prepare an IPB for each person ordinarily resident or present in their area who has been assessed by them as having eligible needs which the local authority is not going to meet. The IPB must set out what the cost to the local authority would be if it was meeting the person's eligible needs. Comprehensive guidance on personal budgets and IPBs can be found in chapter 11 on Personal budgets (in the CASS guidance) and the new chapter on Independent personal budgets (in this document).

Care accounts

- 1.31 It is important that an up-to-date record is kept of the costs a person is accruing towards the cap. This record is called a care account and its principal purpose is to accurately record a person's progress towards the cap.
- 1.32 Local authorities must maintain a care account for each person ordinarily resident in their area who has been assessed by them as having eligible needs, whether or not those needs are met with local authority support. This includes people who

previously had eligible needs, even where they do not currently have needs which are assessed as being eligible.

- 1.33 Except in a small number of specific circumstances, local authorities must provide anyone for whom they are maintaining a care account with a statement of that account at least every 6 months to keep them informed of their progress towards the cap. They must also provide statements at other times where a person makes a reasonable request. There are a small number of exceptions to the requirement to provide annual statements which are set out in the new chapter on Care accounts.
- 1.34 Comprehensive guidance on care accounts can be found in the new chapter on Care accounts.

Continuity of care and cross-border issues

- 1.35 For general guidance on local authority responsibilities when a person moves from one local authority to another please see chapters 19 (Ordinary residence), 20 (Continuity of care) and 21 (Cross-border placements) of the CASS guidance. This section considers some of the typical situations that local authorities may face in relation to a person moving local authorities and how that affects the process of accruing costs. However, none of the below changes or impacts existing guidance on inter-local and cross-border issues.
- 1.36 If a person moves from one local authority area to another, the first local authority must, for the purposes of the cap, provide the second authority with a copy of the person's care account. They will also need to provide a copy of any care and support plan prepared for the person or, if they are meeting their own needs, a copy of their IPB and their most recent needs assessment. The second local authority must then assess the person's needs, prepare a care and support plan where applicable and determine what it would cost them to meet the person's eligible needs. Where the first local authority notifies the second local authority of the adult's intention to move prior to the move, the local authorities should work together to ensure continuity of care and comply with the requirements in sections 37 and 38 of the Act. For the purpose of the cap on care costs, it should be agreed between local authorities that any amount charged or the amount it would have cost the local authority to a self-funder's needs, should remain the same until the second local authority completes the relevant assessments. The second local authority must ensure that the care account is kept on the same basis as in the first local authority until the relevant assessments are completed (as required under section 38(1) of the Act). For a self-funder meeting their own needs, if, having completed the assessments, the second local authority considers that the

amount it would have cost it to meet the person's eligible care needs (where those needs were met) would have been more than the first local authority such that the person would have accrued more costs towards the cap, the second local authority should adjust the person's costs to reflect this. This should be from the point at which the person became ordinarily resident or present (but of no settled residence) in its area.

- 1.37 A local authority may become aware, through verification checks or the annual review, that a self-funder with an IPB has moved to a different local authority without informing them. If no advance notification of a move is given (such that the continuity of care provisions in sections 37 and 38 of the Act do not apply) local authorities should advise the person that they may find their accrued costs adjusted to reflect what it would have cost the second local authority to meet their needs from the point they became ordinarily resident or present (but of no settled residence) in that area. This could mean that the rate at which costs accrue is less than what it would have been to the first local authority.
- 1.38 If a local authority arranges for a person to receive care in a residential setting in another local authority area, the person is generally deemed to continue to be ordinarily resident in the area of the first or 'placing' authority and will progress towards the cap based on the cost to the first local authority of meeting their eligible needs for care and support as set out in the personal budget. The first local authority will be responsible for maintaining the person's care account and notifying the person should they reach the cap.
- 1.39 If a person is meeting their own eligible needs and arranges residential care in another local authority to the one in which they lived previously, they become ordinarily resident in the local authority where they are receiving care. It is therefore the responsibility of that local authority to maintain the person's care account and they will progress towards the cap based on what the cost would be to that local authority were it to arrange the care required to meet their eligible needs. This cost will be set out in their IPB. The first local authority must review the person's IPB, and when no further action is needed, the local authority no longer needs to update the care account.
- 1.40 If a local authority in England arranges for a person to receive residential care and support (or care in other specified accommodations) in another country of the UK and the person will still be ordinarily resident in that authority's area, that local authority must maintain that person's care account and the person will progress towards the cap at the cost to that local authority of meeting their eligible needs. However, if a person living in England arranges their own residential care in another country of the UK, and they become ordinarily resident in that country, they will not progress towards the cap.

- 1.41 Where a local authority in another country of the UK arranges for a person to receive residential care in England and the person will not be ordinarily resident in England, the person will not progress towards the cap as other countries of the UK are not subject to the Act. However, a person living in another country of the UK who arranges their own residential care in England will normally become ordinarily resident in the local authority where they are receiving care. They will therefore be able to progress towards the cap.

Preparations for reaching the cap

- 1.42 Before a person's accrued costs reach the cap, the local authority should make preparations to ensure that there is a seamless transition to local authority support and continuity of care. In particular, the local authority should ensure that they carry out the necessary work in sufficient time to ensure that they are able to fulfil the legal obligation to meet the person's eligible needs as soon as the cap is reached, unless person decides they do not want the local authority to do so. This will require the local authority to plan ahead in conjunction with the person to decide how their needs are going to be met.
- 1.43 When a person is expected to reach the cap within 12 months of a care account statement being issued, that statement must include an indication of the date at which the person is expected to reach the cap. It should also clearly set out the steps for transition, including what action, if any, they need to take.
- 1.44 In particular, the local authority should ensure that the person has a clear understanding of the costs the local authority will meet when the cap is reached. If the person is receiving care in a care home this will include ensuring that they understand:
- that they will continue to be responsible for meeting or contributing to their DLCs
 - that they or a third party will continue to be responsible for meeting any top-up payments for a preferred choice of accommodation already being paid should they wish to continue with a current arrangement
 - that they may be required to move accommodation if they choose not to pay a top-up and the cost of their care package is more than the amount that the local authority would pay to meet their needs
 - that if they are transitioning to local authority support, that they or a third party may choose to make top-up payments for a preferred choice of accommodation

- 1.45 In respect of a person who is receiving local authority support, at an appropriate time before the cap is reached, the local authority:
- should ensure that they have an accurate overview of the person's finances and consider whether a new financial assessment is necessary
 - should prepare to provide the person with a revised personal budget when the cap is reached to reflect that the local authority will be responsible for meeting the cost of care to meet the person's eligible needs
 - may want to consider whether it would be appropriate to review the person's care and support plan in accordance with this guidance; and
 - should consider any top-up payment the person or a third party proposes to make or continue to make and where appropriate make preparation for the arrangement to commence at the point the cap is reached
- 1.46 The local authority should agree with the person how they wish their eligible needs to be met on reaching the cap. If their eligible needs can be met by means of a direct payment, the person may choose to receive one and maintain their contract with their existing care provider themselves. Alternatively, the person may choose to ask the local authority to arrange their care. Where the person does so, the local authority should advise the person of the available options, including the option for those in residential care for the person themselves or a third party on their behalf to make a top-up payment to remain in a preferred choice of accommodation or to move to a setting within their personal budget.

Reaching the cap

- 1.47 When a person reaches the cap, the local authority should ensure that there is a smooth transition and:
- must inform the person that they have reached the cap
 - should provide the person with a revised personal budget where the local authority was previously meeting the person's needs
 - must provide the person with a new personal budget where the person was previously meeting their own needs
 - must then meet the person's eligible care and support needs in the way they have agreed with the person

Adjustments to the cap

- 1.48 The Act sets out clear parameters for how the level of the cap must be reviewed but does not prohibit changes at other times. Section 16 of the Act provides for an annual adjustment to the cap where the Secretary of State considers that there has been a change in the level of average earnings over the review period of 12 months. Section 71 of the Act requires the Secretary of State to carry out a detailed review on the operation of the cap and to publish a report on the outcome of that review every 5 years. This also includes the level of DLCs and the upper capital limit.
- 1.49 Where the level of the cap is adjusted, the extent of a person's progress towards the cap, that is, accrued cost as a percentage of the level of the cap, will be maintained. For example, if a person is 50% towards the cap when the level of the cap is changed, adjustments will be made to ensure that the person's progress remains at 50%. When the percentage to reflect the person's progress towards the cap is calculated, the local authority should round up to 2 decimal places, and any resulting changes to accrued cost rounded up to the nearest pound sterling. Any adjustments must be clearly reflected in the person's next care account statement.

Requesting that the local authority meet needs

- 1.50 The local authority must make self-funders who want to progress towards the cap aware that they can ask the local authority to meet their needs by arranging their care at any time, if both the following occur:
- the person asks them to
 - the local authority finds (through an assessment) that the person has eligible care and support needs (where eligible needs are those defined as such under the Act)
- 1.51 This is particularly important where the local authority has reason to believe that a person may have difficulty in arranging their own care. The local authority must also explain what it would mean for the person for the local authority to commission care on their behalf. If a person chooses to ask the local authority to meet their needs in this way, then the local authority must do so. In such a case, the local authority must also provide the individual with a personal budget rather than an IPB (see the section above on progressing towards the cap). If the local authority meets the needs of a self-funder, they must meet these needs in the same way as they would for other care users. Guidance relating to meeting needs

and the setting of personal budgets applies equally regardless of a person's funding status.

- 1.52 The local authority may not always be able to commission equivalent care at a consistent price, meaning that people with similar needs may pay different amounts and therefore progress towards the cap at different rates. This is permitted, but the local authority must not treat self-funding individuals whose needs the local authority is meeting differently to other groups, for example by consistently commissioning their care at a higher rate.
- 1.53 The local authority must make clear to the self-funding person whose needs they are meeting that they may be liable to pay an arrangement fee in addition to the costs of meeting their needs and that these fees would not count towards the cap. Such fees must cover only the costs that the local authorities actually incur in arranging care and should take account of the cost of negotiating and/or managing the contract with a provider and cover any administration costs incurred (see chapter 8 on Charging and financial assessment in the CASS guidance).

Case studies

- 1.54 The following section provides case study examples of how the new system will work for different people. Further examples are provided throughout the guidance.

Case study 1: a local authority-supported person registering for the cap

Ted is 74 years old. He has Parkinson's disease and dementia and requires additional support.

On 1 November 2023, Ted moves into a local care home at a cost of £800 per week. His wife Rebecca (who has lasting power of attorney) contacts the local authority on his behalf to register him for a care account on 3 December 2023. The local authority conducts a needs assessment on 5 January 2024 and determines that Ted has eligible care and support needs which would continue to be best met in a care home at a cost of £750 per week to the local authority (including daily living costs at £212). Following his needs assessment, Ted decides that he wishes the local authority to commission his care.

Ted and Rebecca own a property worth £200,000, but as Rebecca continues to live in the home, it is disregarded for the purposes of the financial assessment. Ted and Rebecca downsized a few years ago and as a result Ted has a £50,000 share of their joint savings in addition to his £300 personal weekly income. As such, he qualifies for means-tested support. Ted is charged £394 per week to contribute towards his care costs. £212 of the

total £394 charge will be considered as daily living costs and therefore will not count towards the cap. It is the remaining £182 that will.

The local authority provides Ted with a personal budget reflecting these figures and creates a care account to track his progress towards the cap. From the date Rebecca approached the local authority on his behalf (3 December 2023) until the date Ted is given a needs assessment (5 January 2024), Ted meters towards the cap at £538 per week – £750 minus DLCs at £212. For the period following his needs assessment, Ted progresses at the rate of his personal contribution of £182 per week.

Counts towards the cap	Does not count towards the cap	Does not count towards the cap
Care costs charged to Ted: £182 per week	Means tested contribution from local authority: £356 per week	Daily living costs charged to Ted: £212 per week

Assumptions

Daily living costs in financial year (FY) 2023 to 2024 prices of £212 per week.

Personal expenses allowance in FY 2022 to 2023 prices at £25.65 per week.

Case study 2: a local authority-supported person registering for and reaching the cap

Zainab is 74 years old and has recently sustained injuries through a fall. She contacts her local authority to request a needs assessment and support. The local authority determines Zainab has eligible needs. During the care and support planning process, Zainab and the local authority agree that her needs would be best met in her own home, costing £320 per week.

Zainab has savings of £45,000 from an inheritance. She is eligible for local authority financial support. She also has an income of £240 per week, including the new State Pension and Attendance Allowance.

Zainab starts to progress towards the cap at £145 per week: the amount that she is charged by the local authority to contribute towards the total cost of her care.

Counts towards the cap	Does not count towards the cap
Care costs contribution charged to Zainab: £145 per week	Means tested contribution towards care costs paid by local authority: £175 per week

When Zainab reaches the cap, the local authority becomes responsible for paying the full cost of the £320 required to meet her eligible care and support needs.

Assumption

Minimum Income Guarantee in FY 2022 to 2023 prices at £194.70 per week.

Case study 3: a self-funder asking the local authority to meet their needs

Uri is aged 92 and has recently had a stroke. He contacts his local authority and is assessed as having eligible needs best met in a care home.

Uri previously lived alone in the home he owns, which is worth £250,000, and he also has an income of £270 per week, including the new State Pension and Attendance Allowance. As there is no qualifying relative who continue to live in his home, he does not benefit from a property disregard, and therefore is not eligible for means-tested local authority support.

Uri chooses to ask the local authority to commission his care. The local authority finds a placement for Uri in a care home at £600 per week (including daily living costs at £212).

The local authority provides him with a personal budget which sets out these costs. Uri is charged £600 to pay for his care and support package, and progress towards the cap at £388 per week, excluding daily livings costs.

Counts towards the cap	Does not count towards the cap
Care costs charged to Uri: £388 per week	Daily living costs charged to Uri: £212 per week

2. Independent personal budgets

This chapter covers:

- what an independent personal budget (IPB) is for and who an IPB is for
- what counts towards the cap and how to approach the calculation of the IPB
- verification of spend
- review and revision of the IPB
- what happens when a self-funder with an IPB moves to local authority support.

Introduction

- 2.1 The capped system offers protection from unpredictable care costs by limiting the costs a person may face to meet their eligible care and support needs. In order to measure a person's progress towards the cap, it needs to be clear what does and doesn't count towards the cap.
- 2.2 Everyone with eligible needs for care and support will be given a statement which sets out the costs that will count towards the cap. Where the local authority is meeting those needs, the cost of meeting them will be set out in a personal budget. There is specific guidance regarding processes and practice on the setting of personal budgets at chapter 11.
- 2.3 To ensure fairness, self-funders whose needs are not going to be met by their local authority must progress towards the cap at a rate based on what the cost would be to the local authority of meeting their eligible care and support needs if it were required to do so. That cost will be set out in an IPB, which exists solely for the purpose of assisting in the determination of what costs will count towards the cap. A person should not have a personal budget and an IPB at the same time.
- 2.4 The purpose of this chapter is to provide guidance to support local authorities in setting a self-funder's IPB to ensure that that this approach is consistent, fair and proportionate.

Principles

- 2.5 Though the IPB is a new concept introduced by the Act, the principles underpinning it are the same as for personal budgets. It is vital that the process for

setting an IPB is transparent, so that people are clear how their budget was calculated and what it means for them, and timely, to enable people to plan ahead. The process should also ensure that the IPB is set at an amount which would be sufficient for the local authority to meet the person's eligible needs and which reflects the cost of good quality care service provision locally. This chapter provides further guidance on applying these principles to the calculation of the IPB.

People eligible for an IPB

2.6 Anyone who is assessed as having eligible needs for care and support will be able to progress towards the cap. Where a local authority is not aware of a person's needs, for example, because they are unknown to the local authority and does not come forward for a care needs assessment, or if a person with capacity refuses that assessment, it cannot be determined that they have eligible needs hence they cannot progress towards the cap. Where a local authority is meeting a person's eligible needs, that person will receive a personal budget as part of their care and support plan. If the local authority is not required to (and does not decide to) meet the eligible needs of a person ordinarily resident in their area, the local authority must provide the person with an IPB, when requested to do so, and open a care account for them so that they can begin to accrue costs which count towards the cap.

Assessments for self-funders

2.7 Only the costs of meeting eligible care and support needs as defined as such under the Act count towards the cap. Local authorities must undertake an assessment for any person who appears to the local authority to have any level of needs for care and support and determine which of their needs may be eligible based on the eligibility criteria as set out in chapter 6 on Assessment and eligibility in the CASS guidance. Local authorities must meet their legal duties when carrying out a needs assessment for a self-funder who wants to start their care account just as they would for a person whose care they are financially supporting. This includes identifying the person's needs, how these impact on their wellbeing and what outcomes they want to achieve. The local authority must also ensure that the person, their carer and anyone else they request are involved in the assessment. Local authorities must seek to ascertain whether the person is able to be involved in their assessment and consider whether they may have substantial difficulty in doing so. If a person does have substantial difficulty and there is no appropriate individual to support and represent the person, the local authority must

appoint an independent advocate. (See chapter 7 on Independent advocacy in the CASS guidance).

- 2.8 The local authority should also use the initial assessment to explain that if eligible for the cap, the person has a responsibility to comply with requirements for annual reviews and to ensure that the local authority has their most up to date contact details, including any changes in their address. The local authority should make the person aware that they need to inform the person that if they move and that if they fail to alert the local authority, then their accrued costs could be adjusted if there are large differences in the cost of care between the first and second local authority. The local authority should also explain the implications of the local authority being unable to contact the person. Further detail on this is set out in the 'Moving to local authority support' section of this chapter. The local authority may want to consider explaining that these implications are also valid when the person loses mental capacity. As such, the local authority may also want to provide the person with advice about the importance of assigning power of attorney and/or deputyships if their mental capacity were to deteriorate.
- 2.9 Local authorities have a duty to carry out an assessment proportionately. In doing this they will need to establish, at an early stage in the assessment process, the wishes of the person being assessed, taking into account their presenting need and their circumstances to ensure that the assessment is carried out appropriately and proportionately. Local authorities must also offer the person a supported self-assessment where they are able and willing to undertake it. Further detail is provided in chapter 6 on Assessment and eligibility in the CASS guidance.
- 2.10 The local authority will also need to determine whether the person might qualify for financial support from the local authority. This will usually be done through a financial assessment. Where it appears very likely that a person's assets will exceed the threshold for financial support, the local authority may consider a 'light-touch' financial assessment. This approach enables a local authority to treat a person as if a financial assessment had been carried out where the local authority is satisfied of the person's ability to afford care fees. Guidance on how to undertake a financial assessment or a light touch assessment is set out in chapter 8 on Charging and financial assessment in the CASS guidance. A person who has capacity may also opt not to have a financial assessment, in which case, they are assumed to be a self-funder. An IPB will only be prepared when the local authority is not going to meet the person's eligible needs.
- 2.11 Following the needs assessment, the local authority must provide a person with personalised information and advice about how to meet their needs and how to prevent or delay the development of further needs. The assessment process also provides an ideal opportunity to help the person plan for their future care costs and

local authorities should consider what information and advice might help them to do this. Further detail on the duty of local authorities to provide information and advice can be found in chapter 3 of this document. For example, it may be appropriate to talk to a person about their finances and how quickly they may become eligible for local authority financial support, and what steps they will need to take to ensure a smooth transition once they do become eligible for that support.

- 2.12 The Act sets out that self-funders who meet their needs themselves must progress towards the cap at what it would have cost the local authority to meet the person's eligible needs had they been required to. The local authority should make it clear that this could differ from the person's expectations about what is required to meet their needs and could be lower than what the person may currently be paying. The decision about whether or not a self-funder's needs are eligible will be taken in the same way as if the local authority were meeting their needs, based on the eligibility criteria and taking into account where needs are being met by a carer.
- 2.13 For people receiving residential care, DLCs will not count towards the cap and they will continue to be responsible for DLCs once they reach the cap. Further details on daily living costs can be found in the new chapter on the Cap on care costs (in this document). Where people choose a service or care home that is more expensive than the cost specified in their IPB, this additional amount will not count towards the cap.
- 2.14 To help a self-funder, who arranges their care themselves, to understand what does and doesn't count towards the cap they must receive a record, the IPB, which specifies:
- what the cost would be to the responsible local authority if it were to meet their eligible needs
 - if they are in a care home, what amount is deducted from the cost above for DLCs
 - the amount that will count towards the cap

Calculating the IPB

- 2.15 A person's IPB sets the amount that will count towards the cap. This must be based on the estimated cost to the local authority of meeting their eligible needs, if it were required to do so. As the local authority is not meeting the person's needs, they are not required to conduct a full care and support plan in the process of setting an IPB. The process of setting the IPB should be proportionate, allowing

the local authority to fulfil its statutory responsibilities, whilst placing no more of an administrative burden onto a local authority than is necessary and no undue burdens on people to provide information to the local authority. However, the local authority should also take into account the complexity of a person's needs and whether individual circumstances are likely to have an impact on the cost of meeting them.

- 2.16 To ensure fairness the IPB should be calculated, as far as is practicable, on a consistent basis and it must be based on real costs. Real costs will become increasingly reflective of a fair and sustainable rate for care as the [Fair Cost of Care Fund](#) is introduced. Where possible, the local authority should try to allocate an IPB based on the cost of equivalent care packages for people whose needs the local authority has been meeting, as set out in existing, recently set personal budgets, or by basing the IPB on the cost of quality local provision in the same manner as they would for a direct payment.
- 2.17 To support setting an IPB, local authorities should, as far as possible, make use of up-to-date cost data or undertake a 'dummy purchasing' process where relevant data is unavailable. Local authorities should seek to minimise the influence of factors that drive sudden variation in the cost of commissioning care of a certain type, such as the availability of beds on a particular day or the status of any block contracts which may apply, for example through using average costs over a relatively recent period where appropriate (see 'sufficiency' principle).
- 2.18 The local authority should maintain a personalised approach consistent with the Act to ensure that people with complex needs are not disadvantaged in the process of setting an IPB. When setting an IPB for a person with complex needs, the local authority should consider whether it may be necessary to take a more tailored approach. In some cases, it may therefore be appropriate to support the process of setting an IPB by producing a care and support plan.
- 2.19 In determining how to apply the framework set out above, local authorities should apply the same principles that underpin the calculation of personal budgets: transparency, timeliness, and sufficiency. Further guidance in relation to each is given at paragraphs 2.20, 2.22 and 2.24 accordingly. Throughout the process of calculating the IPB the local authority must also support the overall outcome of promoting a person's wellbeing and independence in a way that fits with the Act's vision of personalisation (see the wellbeing principle at chapter 1 (Promoting wellbeing)). This means that conversations should be had about the person's individual circumstances, how their needs may be met through signposting to community organisations and resources, and the role their family and friends play in the person's support network (see paragraph 6.10 in the CASS guidance).

Transparency

- 2.20 It is possible that self-funders approaching the local authority to register for the cap will have limited awareness of what will and won't count towards the cap and/or of the types of care and support required to meet their eligible needs and what these would cost. Therefore, it will be important that the local authority provides clear information and advice to enable the person to understand how their IPB has been calculated and on what basis. This will give people confidence that the IPB allocation is correct and therefore sufficient to meet their care and support needs, helping to minimise the likelihood of complaints. In particular, the local authority should ensure that the person understands from the outset that their IPB must reflect what the cost would be to the local authority of meeting their eligible needs, which may be different to the rate the person has been quoted, is paying, or expecting to pay. In particular, the local authority should also communicate clearly to the person that the monetary values contained in an IPB are reflective of what the local authority deems to be sufficient for meeting a person's needs following the needs assessment and eligibility determination. (See chapter 6 in the CASS guidance on Assessments and eligibility for more information on needs assessments.) The person should also be made aware that they are able to challenge their IPB through the local authority's internal complaints system if they believe that the amount would not be sufficient for the local authority to meet their eligible needs. The local authority should also provide information and advice to help the person to understand that their accrued costs will be backdated to the date they requested an assessment (or October 2023 if the assessment was requested prior to that date) and that any costs incurred prior to that date will not count towards the cap. The local authority should also make clear that, of the costs incurred prior to the assessment, only those deemed as meeting eligible needs as set out in the IPB will count towards the cap. (See the section 'How people start metering towards the cap' in the chapter 'Cap on care costs' of this document.)
- 2.21 The local authority should also provide information about reviewing the IPB including how often the person can expect their IPB to be reviewed, what can trigger a review and how they can request a review if they think one is needed.

Timeliness

- 2.22 Once an IPB has been set, a person's progress towards the cap will be backdated to the date on which they requested an assessment or the date on which the local authority identified that the person may have a need (but not earlier than October 2023). However, local authorities should ensure that the IPB is finalised and communicated to the person within a reasonable time of the needs assessment

being conducted. The process should not be any less straightforward or take longer than it would usually take to finalise a personal budget for a person receiving local authority support. The local authority should give an indication at the outset of how long the process might be expected to take in order to provide clarity for the person affected and reduce the number of enquiries or complaints that could be made about progress.

- 2.23 The local authority may also propose a period of time, following communication of the IPB, during which the person is invited to consider the IPB rate and contact the local authority with any queries. This would allow an opportunity for the local authority to provide any further information and advice or explanation and may as a result reduce the number of challenges relating to IPBs. However, for this to be a meaningful exercise the local authority should ensure that the person understands that the amount is determined on the basis of what the local authority would pay. The local authority should also make clear that this does not impact on the individual's right to complain at a later date.

Sufficiency

- 2.24 The local authority must have a reasonable expectation that the costs in a person's IPB would be sufficient to meet their eligible needs if the authority were required to do so. The IPB should therefore be consistent with personal budgets recently set by the local authority for people with similar eligible needs or care packages, or other available up to date data on prices of local authority commissioned care. In doing so they should pay due regard to the results of any Fair Costs of Care exercise to ensure they are reflected in the prices of local authority commissioned care. Local authorities should ensure that the costs on which the IPB rate will normally be based reflect good quality local market provision and consider on a case-by-case basis whether there are factors which would make meeting that person's needs more expensive. In some circumstances it may be appropriate to consider the costs incurred in arranging their own care (for example, the costs incurred in complying with legal obligations as an employer), in the same way as these would be taken into account when determining the amount of a direct payment.
- 2.25 As set out in the chapter 'Cap on care costs' in this document, the IPB will set out the cost of the care to meet eligible needs. Where the person has needs that are being met by a carer at the time of the assessment, the local authority must take into account the carer's willingness and ability to continue to meet those needs as well as the impact of continuing to do so. The local authority should record in the IPB where needs are being met by a carer, so that the authority is able to respond

to any changes in circumstances (for instance, a breakdown in the caring relationship) more effectively.

Meeting needs

- 2.26 Though the local authority is not under a duty to provide a care and support plan for people receiving an IPB, they may nonetheless consider undertaking a process along similar lines to help the person to determine how their needs might best be met to achieve their desired outcomes. This may be particularly helpful in cases where setting an IPB according to recently set personal budgets may not be appropriate, for instance, where people have a need for specialist care and support that might be more expensive. If a care planning process is used it should follow the principles set out in chapter 10 on Care and support planning in the CASS guidance.
- 2.27 Whether or not the local authority undertakes a care planning process with the person, the local authority must offer information and advice about the different types of care and support available and the choice of providers in the local area to help them to make an informed decision about their options for care and support (see chapter 3 on Information and advice in the CASS guidance). The local authority must also consider whether the person concerned would benefit from any preventative services and provide information and advice about how to reduce or delay any needs (see chapter 2 on Preventing, reducing or delaying needs in the CASS guidance).
- 2.28 Though the local authority must provide information and advice about ways to meet needs, a self-funder with an IPB is not under any obligation to meet their needs in any particular way in order to progress towards the cap, except where needs are met by a carer. However, the person must have met their eligible needs, at least in part, in order for costs to accrue towards the cap. Where a self-funder has spent no money towards their care then they would not progress towards the cap during that time. For that reason, local authorities are able to require the person to provide evidence of the cost of any arrangements they have made to meet their needs.
- 2.29 A person with an IPB is entitled to choose to meet their needs in a different way to the way the local authority would and may purchase additional care and support to meet non-eligible needs. The costs of this additional care do not count towards the cap. If the local authority has concerns about the sustainability of the way in which a person is choosing to meet their needs, they should consider whether the person would benefit from financial information and advice, particularly that which is provided independently of the local authority.

- 2.30 It is possible that a self-funder may be able to arrange a package of care with a provider that costs less than the amount set out in their IPB. In such circumstances, it is for the local authority to consider whether the person's IPB is still reflective of what the cost would be to the local authority to meet the person's eligible needs. See paragraph 2.38 for more information on the verification process.
- 2.31 A self-funder may choose not to meet their needs either at all or only in part. They are entitled to do so but the local authority must offer information and advice about how their needs can be met and how to prevent the development of further needs. Again, the local authority should consider whether the person's IPB should be revised and their accrued costs adjusted to reflect where a person has not met their needs at all or only in part, making use of evidence obtained as part of the verification process.
- 2.32 There will be some people who choose to have their needs met by an informal carer. Any needs met by an informal carer are not eligible needs under the Act. Therefore, if the local authority finds the person substituted meeting their needs with informal care whilst continuing to progress towards the cap the local authority should complete a new needs assessment to reevaluate what eligible care needs the person has and provide a new IPB for the person reflecting this. Second, the local authority should consider adjusting the person's accrued costs. More information on how to adjust a person's accrued costs can be found in the chapter on Care accounts in this document.
- 2.33 The local authority will also need to be alert in their interactions with self-funders to any signs that the way in which the person is choosing to meet, or not meet, their needs arises from a situation that may require further safeguarding enquiries. This could include, for example, a situation where a family member is coercing the person into buying cheaper services that do not meet their needs or a situation where a person with care needs who is neglecting to care for their own personal hygiene, health or surroundings is fearful of buying any services that require someone to enter their home. See chapter 14 on Safeguarding (in the CASS guidance) for further guidance.
- 2.34 The local authority will also need to be alert to any signs of financial abuse. Financial abuse is the main form of abuse investigated by the Office of the Public Guardian (OPG) and local authorities should not underestimate its potential impact on a person's health and wellbeing. Chapter 14 on Safeguarding provides further guidance on the potential signs of financial abuse and when to inform the OPG or the Department of Work and Pensions. Most financial abuse is also capable of amounting to theft or fraud and so would be a matter for the police to investigate.

Communicating the final IPB

2.35 In communicating the final IPB the local authority should provide clear information regarding:

- the basis for the calculation
- what does and doesn't count towards the cap
- how often the IPB rate will be reviewed and what may trigger a review
- the person's options if they are not content with their IPB
- what changes in circumstances should be notified to the local authority
- how the person's accrued costs will be recorded in the care account
- how often the person will receive care account statements
- that costs accrued towards the cap are subject to the verification process and could be adjusted

2.36 The local authority should ensure that the information above is communicated in a suitable format and in such a way that the person is able to understand it. In particular, the local authority should have regard to the guidance regarding the accessibility of information (see chapter 3 on Information and advice in the CASS guidance).

2.37 The local authority must also make the person aware that they can ask the local authority to meet their eligible needs, and that the local authority has a duty to do so when requested. Further detail can be found in 'Requesting that the local authority meet needs' in the chapter 'Cap on care costs' of this document. This is particularly important where the local authority has reason to believe that a person may have difficulty in arranging their own care.

Verification of purchase of formal care

2.38 As set out in paragraph 2.28, to help mitigate any risk of safeguarding or fraud issues, the local authority should complete some form of verification to check if those with an IPB are in receipt of formal care that meets their eligible care and support needs set out in their IPB. This verification should be conducted at a regular interval and could coincide with the person's annual review to minimise bureaucracy. However, the local authority may review the person's spend more

frequently if they choose to and should in particular consider conducting additional checks in the beginning stages of a person's journey towards the cap. If the local authority has reasonable doubts about whether a person is formally meeting their eligible needs, they may want to consider undertaking more regular checks.

- 2.39 The local authority should consider the most appropriate and accessible method of conducting the verification, which could, for example involve a request to see a care contract or care receipts, or bank statements. Where possible, the local authority should consider working with care providers to automate such verification of spending.
- 2.40 To assist with verifying a person's spend, the local authority should explain that the person should keep receipts of their care expenditure from the point at which their IPB is agreed.
- 2.41 The verification checks should also be used to confirm any long breaks in the persons care journey. See the section 'Adjustments to accrued costs' in the chapter 'Care accounts' of this document for more information on the expectations of local authorities when there has been a change to someone's care package and/or needs.

Review and revision

- 2.42 To ensure that the IPB rate continues to accurately reflect the person's eligible needs and what it would cost the local authority to meet those needs, local authorities must keep the IPB under general review. In many cases it would be appropriate to do so annually in order to align it with reviews of needs and financial assessments, but the local authority should consider whether they may need to do so more frequently in the beginning stages of a person's journey towards the cap, or if the person's needs are likely to change. The IPB must also be reviewed if the local authority becomes aware of a change in the person's circumstances that may affect the cost of meeting a person's needs. The annual review of someone's IPB should also reflect changes in market prices.
- 2.43 The local authority must also review the IPB at the reasonable request of the person or someone acting on their behalf. This request may be made at any time. In considering a request for a review the local authority may wish to consider the guidance on reviews of care and support plans (see chapter 13 on Review of care and support plans in the CASS guidance).
- 2.44 When the local authority is deciding whether to revise the IPB they must involve the person, their carer (if they have one) and anyone else the person asks to be

involved. At any review point, the local authority should assess and check in on capacity issues. Where the person lacks capacity, the local authority must involve anyone who has an interest in the person's welfare, including any independent advocate who may have been arranged to support the person's involvement in the assessment or review process (see chapter 7 on Independent advocacy in the CASS guidance).

- 2.45 If the local authority considers that the person's circumstances or care needs may have changed in a way that might affect the IPB, then they must determine whether they need to carry out a new needs assessment and revise the IPB. If the local authority considers that the costs of the person's care are likely to be different following a change in circumstances, then the local authority should amend the IPB. If a person refuses a reasonable request by the local authority to assess their needs, the local authority is not required to keep their care account up to date. However, it is important that the local authority considers whether there are other underlying reasons for the person refusing an assessment and where the adult is experiencing, or may be at risk of, abuse or neglect, or lacks capacity, the local authority may still be required to carry out an assessment.
- 2.46 Following a review, the local authority must notify the person of the outcome, regardless of whether it has resulted in a change to the IPB. Where the IPB has changed, the local authority must explain the reason for the change and should provide information about how the person can query the change if they wish to do so.

Dispute resolution

- 2.47 The local authority should take all reasonable steps to avoid disputes regarding the calculation of the IPB. This should include involving the person as far as is practicable in the process. As with all aspects of care and support under the Act, local authorities must fulfil their responsibilities under the Mental Capacity Act 2005, conducting a capacity assessment where appropriate, supporting individuals who may lack capacity to make a decision themselves (for example, presenting information in an easy to understand format) and, where the individual is lacking capacity in regard to the specific question, involving family, carers, advocates and any appropriate person to arrive at a best interests decision.
- 2.48 The local authority should also be able to reduce the number of potential disputes by providing information and advice that enables the person to understand how their IPB has been arrived at and by abiding by the principles of transparency, timeliness and sufficiency, as well as showing due regard for the wellbeing principle, in determining the IPB rate.

- 2.49 The local authority should provide clear information at the outset about the process set out in this chapter, including an indication of expected timescales wherever possible. The local authority should also provide information about its complaints procedure.
- 2.50 Local authorities should keep a full record of the basis for the decision. Under the principle of transparency this should be shared with the person concerned.

Moving to local authority support

- 2.51 When a self-funder becomes eligible for local authority support, either because the value of their assets has fallen below the upper limit of the means test threshold for local authority financial support or because their accrued costs have reached the cap or because they have asked the local authority to meet their needs, they will move to local authority support and must be provided with a care and support plan and a personal budget. This will help the person to decide how their needs are going to be met, including through direct payments. Further guidance is provided at chapter 10 on Care and support planning in the CASS guidance.
- 2.52 Where a person qualifies for local authority support as a result of reaching the cap, the local authority must take all reasonable steps to ensure that the person moving to local authority support receives that support as soon as they become entitled to it. To ensure that the transition is as smooth as possible, local authorities should identify people nearing the cap early and take steps to begin the care and support planning process with them (see chapter 10 on Care and support planning).
- 2.53 The local authority should also provide information and advice to help a person to understand what changes in their circumstances may mean that they qualify for local authority support through the means test. This will help to ensure that people come forward for a financial assessment at the appropriate time. The local authority must also inform the person that they have the right to ask the local authority to meet their needs at any time and explain what that would mean for the person.
- 2.54 Where a local authority has alerted the person that they are approaching the cap but have been unable to successfully contact them, the local authority should consider whether this could be due to illness or a lack of mental capacity. The local authority should have had a conversation about the implications for not maintaining contact from the beginning of the person's care journey (see the section on Assessments of self-funders in this chapter). The local authority is not liable for any costs that continue to accrue once the cap has been met. However, if the local authority has sufficient reason to believe that there are mitigating

circumstances, they may consider reimbursing a person (partially or wholly) for their care costs incurred post reaching the cap. In such circumstances, the local authority would need to treat this period as if the local authority had been meeting the person’s needs since they hit the cap and then reimburse what the cost of care would have been to the local authority.

Case studies

2.55 The following case study is an example of a self-funder registering for and reaching the cap.

Case study 4: a self-funder registering for and reaching the cap

Joe is 80 years old and has recently had a stroke. His daughter contacts his local authority on his behalf, and he is assessed as having eligible needs that would be best met in a care home.

Joe lives alone in the home he owns, worth £220,000, which is included in his financial assessment when he moves into a care home. Joe is therefore not eligible for means-tested support.

Joe’s daughter decides they don’t want to ask the local authority to commission his care. The local authority provides Joe with an independent personal budget, determining that if it were meeting his needs in a care home it would cost £650 per week (including daily living costs at £212). Joe chooses a care home which costs £800 per week and meets the full cost. Joe progresses towards the cap at £438 per week - £650 minus DLCs at £212. In addition, Joe is required to pay his daily living costs of £212 per week.

Counts towards the cap	Does not count towards the cap	Does not count towards the cap
Care costs paid by Joe: £438 per week	Additional amount paid by Joe for preferred care home accommodation: £150 per week	Daily living costs paid by Joe: £212 per week

When Joe reaches the cap, the local authority becomes responsible for paying the cost of meeting his eligible care and support needs (less daily living costs). Joe prefers to retain the contract with his current care home. Following a discussion of his options, the local authority satisfies itself that Joe is able to pay a £150 ‘top-up’ to cover the difference between the cost of his preferred accommodation and what it would cost the local authority to meet his needs. This means he does not have to move to an alternative residential setting.

The local authority then agrees to arrange for Joe’s needs to continue to be met in his current accommodation by making a direct payment of £438 per week. Joe continues to pay the remaining difference to meet the cost of his contract, consisting of £212 daily living costs and the £150 per week top up.

Local authority	Joe	Joe
Meets Joe’s eligible needs with a direct payment of: £438 per week	Additional amount paid by Joe for preferred care home accommodation: £150 per week	Daily living costs: £212 per week

3. Care accounts

This chapter covers:

- what a care account is for and who is eligible
- what should be recorded in the care account
- what information needs to be provided in care account statements
- adjustments to accrued costs and changes in circumstances
- -retention and portability of care accounts

Introduction

- 3.1 In order for the cap on care to operate effectively it is vital that an up-to-date record is kept of a person's progress towards the cap. For this reason, the Act requires local authorities to maintain a care account for each person who has been assessed as having eligible care and support needs, regardless of whether those needs are met by the local authority or by the person themselves. The care account enables a local authority to monitor a person's progress towards the cap and, when the person is nearing the cap, work in conjunction with them to ensure that the local authority is able to take responsibility for the costs of care to meet their eligible care and support needs as soon as the cap is reached.
- 3.2 The care account will also allow people to track their own progress towards the cap, giving them peace of mind and enabling them to plan their finances to meet their needs until such time as they reach the cap.

Who is eligible for a care account

- 3.3 If a person's care and support needs are assessed as meeting the eligibility criteria and they are ordinarily resident in the area of a local authority, the local authority must open a care account for the person. This is regardless of whether the local authority is meeting the person's needs.
- 3.4 A person's care account should be opened at the point they receive a personal budget or IPB for the first time. For a person whose needs are being met by the local authority, the care account will record the amount that the person is charged for their care costs using the person's personal budget as the starting point. As a

personal budget may not always reflect the actual contribution required from a person, the local authority may also use a person's care related invoices to update their care account. For a self-funder who is commissioning their own care, their rate of progress towards the cap is based on what it would have cost the local authority to meet their eligible needs, and will be reflected in their IPB. Costs incurred by a person can begin accruing from the point the local authority became required to carry out a needs assessment. If the person requested the assessment or was already receiving local authority support before October 2023 then their costs will accrue from October 2023. Any costs incurred before October 2023 will not be included in their care account. Further detail can be found in the chapter 'Cap on care costs' of this document.

Components

3.5 The care account must record:

- the total cost of meeting someone's eligible needs
- the person's current rate of progress towards the cap
- the total amount the person has accrued towards the cap to date
- any amount attributable to daily living costs
- any adjustments to the accrued costs in line with adjustments to the level of the cap

Provision of statements

3.6 In order for the cap to provide peace of mind and support people to plan financially people will need to be aware of what counts towards the cap and how much they have progressed towards the cap to date. When a person has a needs assessment that identifies eligible needs the local authority will prepare a statement setting out what it would cost the local authority to meet the eligible needs. This will take the form of a personal budget, if their needs are to be met by the local authority, or an IPB for a self-funder who arranges their own care. At the same time the local authority must open a care account for the person.

3.7 Once the person begins progressing towards the cap, they will be kept informed of their progress by means of care account statements. The local authority must provide these statements at least once every 6 months from the point that the account is opened (subject to the discretion discussed below under 'When care

account statements are not required') or upon the reasonable request of the person or their representative. As a minimum, statements should be provided in an electronic format but where this method is not appropriate for the person, the local authority must provide statements in another format, including hard copies where the person has requested to receive their statement in that way.

- 3.8 People may want to access their care accounts online and local authorities are encouraged to provide a secure online method to allow this, for example through a citizen portal. Doing so would allow people to make full use of the standardised information contained within their care account at a time that suits them to inform their financial planning and it may also reduce the administrative burden on local authorities by reducing the number of requests for statements. Providing online access does not, however, affect the requirement to provide statements at least every 6 months.
- 3.9 To help a person to consider their financial position in the round local authorities should consider where possible combining care account statements with deferred payment statements. As a minimum it would be good practice to provide both the cap and deferred payment statements at the same time as deferred payment statements are provided every 6 months as well. When issuing a combined statement local authorities may wish to take the opportunity to inform or remind the person of the availability and potential benefits of taking independent financial advice (see chapter 3 on Information and advice in the CASS guidance).

When care account statements are not required

- 3.10 In some circumstances providing 6-monthly statements may have little benefit to the person and cause a disproportionate administrative burden to local authorities. Local authorities are therefore not required to provide 6-monthly statements in certain circumstances, set out below, though they should always consider whether there may be other reasons why a person would benefit from receiving 6-monthly statements. In all cases the local authority must still maintain the care account and provide a statement if requested to do so by the person or their representative.
- 3.11 When a person has reached the cap, the local authority must retain their care account as a record of their entitlement to local authority support but is not required to provide further statements unless requested to do so.
- 3.12 Where a person has not received care and support or accrued any costs towards the cap since their last statement, for example because they do not currently have eligible needs, a bi-annual statement will not show any change in the person's progress towards the cap. The local authority may therefore consider whether or not to provide a statement. In doing so the local authority should consider how

long a person's progress towards the cap has been stable and whether or not there are other changes of which the person should be informed.

- 3.13 There are circumstances where the costs of care to meet the person's eligible needs are already being paid by the local authority (for example, where a person is only contributing to their DLCs). In this case, the person is also not accruing new cost towards the cap. In this circumstance the local authority may consider whether or not it would be beneficial to continue to provide regular statements. If there is a chance that the person's circumstances may change suddenly, for example if they stopped benefitting from a property disregard, it may be prudent to continue to provide regular statements to keep the person informed of their progress towards the cap.
- 3.14 Where a person has moved and become ordinarily resident in another local authority, once the transfer of care accounts has been completed, the first local authority will no longer need to provide care account statements to the person. More information on the responsibilities of local authorities to ensure continuity of care can be found in the chapter 'Cap on care costs' of this document.
- 3.15 In all cases, the care account must still be maintained so that the person's progress towards the cap is up-to-date if they later become liable to pay their care costs, in which case regular statements should restart. Regular statements should not stop in cases where the local authority is fully meeting the person's needs for only a short period of time, for example where a person is receiving reablement services.
- 3.16 In all cases, including when the person has reached the cap, to support data collection for monitoring and evaluation, the local authority should still continue to update the person's care account with the amount that the local authority is paying to meet the individuals eligible care needs.
- 3.17 If the local authority thinks it may be appropriate to stop regular statements, the person affected should be informed and given the opportunity to express their preference. This should be taken into account in the local authority's decision making.

Content of statements

- 3.18 In preparing a care account statement, the local authority should have regard to the guidance regarding the accessibility of information and advice (see chapter 3 on Information and advice in the CASS guidance) to ensure that the person receiving the statement is able to understand easily where they are in terms of

progressing towards the cap. This includes ensuring that the statement is provided in a suitable format.

3.19 The regulations set out the minimum information that must be included in a care account statement, but the local authority should consider what opportunities there may be to provide wider information and advice relevant to the person's care and support in the statement (see the section "providing wider information" below).

3.20 The statement must set out:

Item	Explanation
Current level of the cap	This is the level of the cap at the point that the statement is sent.
Total cost of meeting the person's care needs	For those with a personal budget, this will be the total cost of their care package as specified in their personal budget, that is, the person's contribution and the local authority's contribution combined. For those with an IPB, this will be the amount that it would cost the local authority to meet their needs.
Current rate of progress towards the cap	For those with a personal budget, this is the amount specified as the amount that the person is charged for their care costs based on what is set out in their personal budget, exclusive of DLCs and top-ups where applicable. For those with an IPB, this is the weekly costs specified in their budget, exclusive of DLCs where applicable.
Daily living costs	Any amount attributable to DLCs.
Total accrued costs to date	For those with a personal budget this will be the running total of what the person was charged to contribute to their care package, less DLCs and top-ups, and any adjustments to accrued cost where applicable. For those with an IPB this will be based on the running total of the amount that it would cost the local authority to meet their needs, including any adjustments to accrued cost where applicable.
Adjustment in the accrued costs	Any adjustments in the accrued costs (for example, temporary hospital stay or adjustments as a result of an increase in the cap) since the last statement.

Item	Explanation
Indicative date of when the person is expected to reach the cap	An indication of when the person would be expected to reach the cap must be added to the statement if the date falls within 12 months of the statement being prepared.

- 3.21 Government intends to publish additional guidance with further details on the titles of the care account statements, including standardised explanations, local authorities should adhere to it.
- 3.22 The purpose of setting out DLCs is to help make clear to a person in a residential home receiving the statement that DLCs are excluded from the costs accrued towards the cap and the person will remain responsible for paying these costs after they reach the cap. The amount of DLCs specified in the statement should be the same as that specified in the person's personal budget or IPB, which may be a weekly or monthly amount. The local authority is not required to keep a running total of the DLCs a person has paid.
- 3.23 The local authority should include a caveat in the care account statements for those with independent personal budgets, that the total accrued cost is subject to verification checks or finalised invoices for those with a personal budget.
- 3.24 The care account statement will also play an important role in ensuring the person's smooth and timely transition to local authority support when they reach the cap. For that reason, when a person is expected to reach the cap within 12 months of a statement being issued, that statement must include an indication of the date at which the person is expected to reach the cap. It should also clearly set out the steps for transition, including what action, if any, they need to take.
- 3.25 Where it is appropriate to do so, for example where a person is progressing towards the cap at a relatively fast rate, the local authority may also consider including an indication of when a person might reach the cap in earlier statements to support the person in their financial planning. Whenever an indication is given of the date a person might be expected to reach the cap, an explanation should be given to ensure the person is able to understand how the date was arrived at and that it is an estimate only. It is likely that a simple approach, such as assuming that the person's care and support needs continue at the same level, would be most simple to explain.
- 3.26 The care account statement also provides an opportunity to make people aware of the different types of financial information and advice that are available to support

them to use the information in their statement to plan for future care costs (see chapter 3 on Information and advice in the CASS guidance).

Adjustments to accrued costs

- 3.27 The Act makes provisions for the level of the cap to be adjusted. Further detail on how the cap may be adjusted is set out in the new chapter 'Cap on care costs' of this document. The care account statement provides an opportunity to inform people of any changes to the level of the cap and how it affects them. The statements must therefore clearly set out whether and how the cap has been adjusted since the last statement and what effect that has on the person's accrued costs. For clarity only adjustments which have been made in the period since the last statement should be shown.
- 3.28 Local authorities may adjust a person's accrued costs in other circumstances to ensure that the amount which accrues towards the cap is in accordance with the requirements of the Act. First, if a self-funder who is meeting their own needs has chosen not to formally meet their needs at all (or in parts) and has accrued no actual costs towards their care. Second, if they have instead had their needs met by an informal carer (needs met by a carer are not eligible needs).
- 3.29 Local authorities may also adjust a person's accrued cost if they become aware of temporary changes in a person's circumstances which resulted or would have resulted in a change to the cost to the local authority of meeting their needs for that period. The local authority will need to consider whether to reflect this in the care account by adjusting the accrued costs. Relevant changes in circumstances might include, for example, if a person has had a long stay in hospital or received free reablement services or begun to qualify for continuing healthcare. When a local authority becomes aware of changes in a person's circumstances, they should consider whether the change led or would have led to a change in the person's care and support arrangements, taking into account any contractual obligations and any potential impact on the person's wellbeing. Consideration should also be given to the administrative burden of making adjustments to ensure they are only made where it is proportionate to do so. Generally, accrued costs should not be adjusted to reflect changes of less than 6 weeks in duration. The local authority may also adjust accrued costs in light of decisions relating to disputes which have an impact on the level of a person's personal budget or IPB.
- 3.30 A local authority should not retrospectively amend accrued costs in any other instance, including in cases where there is a minor discrepancy between the values contained in an IPB and those reflected in an individual's actual contribution towards the meeting of their needs

- 3.31 For someone with an IPB, the person's spending will be subject to an annual verification process and as such the local authority should consider requesting evidence of the person's change and/or break in care needs. Further information can be found in the verification section of the chapter 'Independent personal budgets' of this document.
- 3.32 Any adjustments that the local authority chooses to make to a person's accrued costs, should only be done to the costs accrued since the last verification. As such, the local authority should not adjust costs that have been accrued more than a year before.
- 3.33 Where any adjustment is made to the person's accrued costs the care account statement should provide a clear explanation of why and how the adjustment has been made and how the person can raise any queries they may have.

Changes of circumstances

- 3.34 From time to time, the person's circumstances may change. This might include, for example, a change in the level of their care and support needs, in the setting in which they receive care and support or in their financial circumstances. The care account statement should set out what responsibilities the person has to inform the local authority of any changes in their circumstances to help ensure that any changes are recorded, and where necessary reflected in the care account, in a timely fashion. This will also help local authorities to ensure that a person's care and support plan or their IPB is kept under review and revised as appropriate to reflect any changes in the person's eligible needs or financial circumstances.
- 3.35 A person may alert the local authority that the level of their care and support needs have changed and as such request that the local authority undertakes a new needs assessment. There may be occasions where there is a delay to the local authority completing a needs assessment. If in the meantime, a self-funder alters their package (for example increase or reduce the amount of care that they have), and the local authority subsequently agrees with the person's level of eligible care needs, then the local authority should adjust the person's accrued cost from the point at which they began purchasing the increased or reduced care package to reflect this, so long as it is adjusted to reflect the amount it would have cost the local authority to meet the needs.
- 3.36 The local authority should also give an indication in the care account statement of when they would expect to review a person's needs and/or finances. This may be particularly relevant if a person has a deferred payment agreement and is

approaching the limit of equity in their chosen form of security (see chapter 9 on Deferred payment agreements in the CASS guidance).

Providing wider information

- 3.37 Although the primary purpose of the care account statement is to provide information on a person's progress towards the cap, it also affords an opportunity to provide wider information relevant to the person's care and support. In particular it provides a means to help the person better understand what they are responsible for paying in relation to their care costs. For example, where a statement is prepared for someone receiving local authority support, it may be helpful to include similar information as is set out in the personal budget. This might include information on the level of the local authority contribution to the costs accrued, any other amounts of public money the person is receiving or information regarding any top-up payments a person (or a third party on their behalf) has chosen to make. Local authorities may also wish to combine the person's care account statement with a deferred payment statement. However, the local authority should consider how best to present any wider information, so that the person is able to clearly distinguish what costs do and don't count towards the cap.
- 3.38 Providing wider information and signposting to independent sources of financial information and advice (see chapter 3 on Information and advice in the CASS guidance) could help the person to better plan and prepare for their ongoing costs and to take account of when they may be eligible for local authority support or may reach the cap.
- 3.39 Providing care accounts also offers an opportunity to provide access to wider information relevant to that person's care and support, for example it may provide an opportunity to make people aware of services that may help them to prevent, delay, or reduce development of their needs. Providing online access to care accounts may provide an opportunity to allow people to access wider information relevant to their own care and support via the same secure online service.

Retention of care accounts

- 3.40 Where a local authority which has been keeping a care account for a person but is no longer required to do so, for example because the person no longer has eligible needs, the local authority must retain the care account either for 99 years from the last day the account was updated or until the local authority becomes aware that the person has passed away.

- 3.41 After the person's death it is still possible that disputes could arise relating to the costs recorded in the care account. Therefore, in determining their local retention policy local authorities should have regard to the need to allow sufficient time to resolve such disputes as well as their duties under the Data Protection Act and common law. The local authority may want to consider a retention policy of up to 7 years following a person's death. If a dispute arises relating to a care account, that account should be retained until the dispute is resolved.

Portability of care accounts

- 3.42 People may choose to move across local authority boundaries for many reasons such as to be closer to family or simply because they live in a boundary area. Where a person has a care account with one local authority and they notify another local authority that they intend to move to their area, the second local authority will need to be satisfied that the person's intention to move is genuine and communicate this to the first local authority. The first local authority must then provide the second local authority with a copy of the person's care account. They will also need to provide a copy of any care and support plan prepared for the person or, if they are a self-funder, a copy of their IPB and their most recent needs assessment. The second local authority must then assess the person's needs, prepare a care and support plan where applicable and determine what it would cost them to meet the person's eligible needs. The person will continue to progress towards the cap at the rate of the personal budget or IPB set by the first local authority until the second local authority calculates a new personal budget or IPB. More detailed guidance can be found at chapter 20 on Continuity of care in the CASS guidance.

Case studies

- 3.43 The following section provides case study examples of what would happen following a change in a person's circumstances.

Case study 5: a self-funder moving from domiciliary care to residential care

Yun is 67 years old and has rheumatoid arthritis. She contacts her local authority for a needs assessment and to register for the cap.

She lives alone in the house she owns, worth £290,000, but benefits from a property disregard if she receives her care at home, meaning she may qualify for local authority

financial support. She also has a pension income of £300 per week, and £10,000 in savings.

Following a care and support planning process, the local authority and Yun agree that her needs would be best met at home. The local authority commissions a carer to come to her home for 10 hours per week at £200 per week. Yun then meters towards the cap at £105 per week, the amount the local authority charges Yun to meet her needs and set out in a personal budget. The local authority contributes £95 per week.

After 7 years, Yun has a stroke which greatly affects her ability to live safely at home. Her family, who now have power of attorney, contact her local authority to request a review of her needs. Yun’s family and the local authority agree that Yun’s needs are now best met in a care home.

Yun’s family wish to choose a care home for Yun themselves. Yun’s home is now included in the financial assessment, and so her assets are above the upper capital limit of £100,000. Therefore, the local authority provides her with an independent personal budget. This sets out that if the local authority was meeting Yun’s needs, it would cost £800 per week (including daily living costs at £212). Yun’s family choose a care home which costs £900 per week, and she meets the full cost. From this point, she progresses towards the cap at £588 per week.

Counts towards the cap	Does not count towards the cap	Does not count towards the cap
Contribution towards care costs paid by Yun: £588 per week	Daily living costs paid by Yun: £212 per week	Cost for preferred care home accommodation that is over and above what the local authority would pay: £100 per week

Assumption

Minimum Income Guarantee in FY 2022 to 2023 prices at £194.70 per week.

Case study 6: a self-funder in domiciliary care with a break in care of more than 6 weeks

Simran has been assessed as having eligible care and support needs that would be best met in her own home. Simran has savings of £40,000, therefore her local authority provides her a personal budget that sets out that she draws on 7 hours of home care per week at a cost of £140. However, Simran has a weekly income of £320 which means she has enough income and savings to cover the total cost of her care. Simran wants to remain as independent as possible and therefore chooses to arrange her own care.

Simran's family are taking her on an extended 10-week stay abroad during which her family will meet her eligible care and support needs. Simran contacts her care provider to inform them that she will not be requiring care for the next 10 weeks. She also alerts the local authority of these plans and lets them know that she won't be requiring care for the 10-week period. Upon Simran's return, the local authority adjusts her care account to subtract the £1400 which would have been accrued in those 10 weeks.

Assumption

Minimum Income Guarantee in FY 2022 to 2023 prices at £194.70 per week.

Consequential amendments to the CASS guidance

Summary of anticipated consequential amendments to the Care and support statutory (CASS) guidance issued in May 2022 to reflect the 2023 charging reforms

Chapter 3

Information and advice

Paragraph number	Update
Paragraphs 3.41 (Understanding Care Charges)	Update the final bullet to reflect the introduction of the cap from October 2023.

Chapter 4

Market shaping and commissioning of adult care and support

Paragraph number	Update
Paragraph 4.69 (Understanding the market):	Update the forward-looking reference to preparing for implementation of funding reforms from FY 2023 to 2024. Update reference to self-funders who are likely to move to local authority support in the future to include those projected to reach the cap. Update reference to people who are partly local authority-funded to include those who are likely to reach the cap.

Chapter 6

Assessment and eligibility

Paragraph number	Update
Paragraph 6.80 (NHS Continuing Healthcare):	Update to reflect changes made to CCGs (which will be replaced by ICBs) in the Health and Care Bill.

Chapter 8

Charging and financial assessment

Paragraph number	Update
Preamble	'This chapter covers': Add bullet point on meeting eligible needs when the cap has been reached.

Paragraph number	Update
Paragraph 8.2	Add the following text at the end of the third bullet: “be clear and transparent, so people know what they will be charged based on meeting their eligible needs set out in a care plan, when the charges stop, for example when people reach the cap on care costs. Please refer to chapter 11 for more information on the cap on care costs”.
Paragraph 8.12	Update to replace £14,250 with £20,000 and £23,250 with £100,000.
Paragraph 8.13	A person with more than £100,000 can ask their local authority to arrange their care and support for them. Edit to reflect cases where a person chooses to access the same rates for care that a local authority would pay. After the text “may pay the full cost of their care and support until their capital falls below the upper capital limit” add the following text: “or the cap on care costs is reached”.
Paragraph 8.13	Change “may pay the full cost of their care and support” to “may be charged the full cost of their care and support”.
Paragraph 8.17	In the fourth line after “changes to their resources” add a separate sentence to say: “and the amount a person has paid towards meeting the cap on care costs”.
Paragraph 8.20	Update to replace £14,250 with £20,000 and £23,250 with £100,000.
Paragraph 8.37	Remove the text in bold at “where a third party or in certain circumstances the resident is willing and able to pay the additional cost (‘top up’).” Edit to reflect that the local authority is only under an obligation to accept the request to make arrangements for the preferred accommodation when it is satisfied that the person or third party is willing and able to pay and enters into a written agreement containing certain conditions, and the preferred accommodation also meets certain conditions.
Paragraph 8.48	Delete the following words in this paragraph: “also consider whether it is appropriate to”.
Paragraphs 8.65 to 8.67	Delete. Section on 'pension reforms' no longer needed.

Chapter 9

Deferred payment agreements

Paragraph number	Update
Paragraph 9.1 (definition of terms)	Insert definitions for 'daily living costs' and 'cap on care costs' (subsequent paragraphs need renumbering).
Paragraphs 9.7(c) and 9.8(d) (Criteria governing eligibility for	Update to reflect the change in the upper capital limit from £23,250 to £100,000 for means-tested support.

Paragraph number	Update
deferred payment agreements)	
Paragraph 9.8 (b), last line	Amend paragraph to 'if someone would like to use wealth tied up in their home to fund more than just their core care costs either before or after the cap has been reached. For instance, purchasing affordable top-ups, daily living costs and/or accommodation costs
Paragraph 9.30 (Information and advice)	Add additional bullet point to say the deferred payment agreements (DPA) will cover care costs based on information in the person's personal or independent personal budget. After the cap is reached, a DPA in existence can be used to cover other costs which a person is still liable to pay, that is, accommodation, daily living costs and affordable top ups.
Paragraph 9.36 (How much can be deferred)	In principle, a person should be able to defer the entirety of their care costs as will be set out in a personal account; subject to any contribution the local authority is allowed to require from the person's income. The local authority will need to consider whether a person can provide adequate security for the deferred payment agreement (see next section entitled 'Obtaining security' – usually this requirement for 'adequate security' will be fulfilled by securing their deferred payment agreement against their property).
Paragraph 9.38 (How much can be deferred?)	Update (b) and (c): instead of referring to 'care costs', this needs to be 'overall costs' (to be inclusive of care, accommodation and any other costs agreed with the local authority).
Paragraph 9.42: (Equity limit) (Case study 3)	Change "£14,250 (for financial year 2015 to 2016, this is in line with the lower capital limit)"to "£20,000 (for financial year 2023 to 2024, this is in line with the lower capital limit)."
Case study 3	Replace £14,250 with £20,000. The calculation should be amended to: £165,000 minus £16,500 minus £20,000 equals £128,500. The text summary showing 'equity limit' for the total amount she could defer would consequently be £128,500 which would leave £36,500 in equity in her home.
Paragraph 9.47	Instead of a reference to 'care costs', this needs to be 'overall costs' (to be inclusive of care, accommodation and any agreed top ups)
Paragraph 9.51	Include a reference to 'first-party top ups' in addition to the third-party information already there.
Case study 4	Update to reflect more realistic care and support charges in 2023.
Paragraph 9.52 (Care costs)	To reflect metering, the following text needs to be reviewed "local authority should have a rough idea of their likely care costs as a result of the care planning

Paragraph number	Update
	process.” Edits required to reflect that local authorities should review care accounts to assess a person's progress towards the cap, assess accommodation costs and agree any top ups with local authorities to work out the full cost of the care package – to be considered in a DPA agreement.
Paragraph 9.53 (Care costs)	To reflect metering, the following text should be amended: “people should be able to defer their full care costs including any top ups” – it’s the outstanding care costs up to £86,000 shown on personal account, accommodation, and any top-ups allowed that would be in a DPA.
Paragraph 9.55 (Sustainability)	Revise this text in relation to what their equity could cover to reflect introduction of the cap, “given their projected care costs, and how their care costs might change over time.” (See paragraph 9.53 on what needs to be included).
Paragraph 9.56	Amend sentence to read ' Local authorities and individuals should also consider the length of time that a person’s intended contribution to care costs, based on information held on a personal account, if they intend to contribute to their care costs from their savings. This should include consideration of the impact on their overall costs of accommodations, daily living costs and any tops if a person’s savings are depleted (normally this would involve adjusting the amount the person is deferring). (See para 9.53).'
Case study 5	To reflect the new lower capital limit, change the amount in case study 3 to £128,500 from £134,250.
Paragraph 9.81 (Making the agreement)	Add additional point to read "k) Explanation of the cap on care costs, a person's progress towards it. When the cap has been reached, the DPA can be used to cover elements of care costs such as first party top-ups and DLCs"
Paragraph 9.82(b)	b) a term to make clear that the purpose of the loan is to pay for costs of care and support, plus any amount allowed for accommodation, daily living costs or top-ups whilst living in a care home or supported living accommodation.
Paragraph 9.83	For 1 a) add in a point about “including amounts accrued toward the cap on care”. Add in point 11 (k) “when notice (18 months) will be provided indicating the person is close to reaching the cap and therefore becomes eligible for local authority support”.
Paragraph 9.89 (The local authority’s responsibilities while the agreement is in place)	Update paragraph to read 'Local authorities must at a minimum provide people with 6-monthly written updates of the amount of fees deferred, where someone is in relation to meeting the cap on care costs and of interest and administrative charges accrued to date, and of the

Paragraph number	Update
	total amount due and the equity remaining in the home (the 'equity limit' discussed in the section entitled at 'how much can be deferred' above). Local authorities should also provide the person with a statement on request within 28 days. Local authorities may provide updates on a more frequent basis at their discretion. The update should set out the amount deferred during the previous period, alongside the total amount deferred to date, and should also include a projection of how quickly someone would deplete all equity remaining in their chosen form of security up to their equity limit.
General	Add reference to what happens to DPAs when people reach the cap. Clarify interaction between disposable income allowance and personal expenses allowance further to the extension to means-tested support.

Chapter 10

Care and support planning

Paragraph number	Update
Paragraph 10.9 (When to undertake care and support planning, and support planning)	As a standalone point after 10.9 as 10.10 to update to reflect that where a person who was arranging their own care and support reaches the cap on care costs, may choose to continue to meet their own needs.
Paragraph 10.16	Remove "and the local authority has agreed to do so" to make it clear that the local authority must meet the needs of anyone who asks
Case study between 10.18 and 10.19	Update to remove reference to discretionary powers. Chapter on the cap on care costs should follow this chapter and should be renumbered to "Chapter 11. Cap on care costs".

Chapter 11

Personal budgets

Paragraph number	Update
N/A	Renumber this chapter from 11 to 12 and following from it, add chapter 13: Independent personal budgets (chapter 1 in the operational guidance)
Paragraph 11.1	Update to reflect the personal budget is not the rate at which someone progresses towards the cap. The total amount which someone contributes towards their care will enable them to progress towards the cap.
Paragraphs 11.2, 11.3,	Update to reflect that the costs of care which are to be

Paragraph number	Update
11.7	set out in a personal budget.
After paragraph 11.9	Add a new paragraph (11.10) to reflect that a personal budget must be prepared as part of a care and support plan for an individual who has been meeting their own needs and reaches the cap on care costs; that the transition may also require a needs assessment and financial assessment and that local authorities should begin planning with the individual before the cap is reached. The paragraph will also reflect the need to ensure that a person's needs continue to be met (should the individual at this point want the local authority to meet their needs) in a manner consistent with the person's views; that a person may prefer to carry on organising their own care and support, with minimal input from the local authority and that a direct payment could be the most beneficial way for a local authority to meet a person's eligible needs on reaching the cap and allowing the person to continue to meet their needs in an independent manner (provided the direct payment conditions are met).
After paragraph 11.10	A new paragraph (11.12) to reflect that where a local authority is meeting needs in a manner that includes daily living costs (for example for people receiving care in a care home setting), the personal budget amount must be broken down to show the current total cost to the local authority (irrespective of any administrative arrangements with providers and so on), how much of that the cost the adult is required to pay, and the balance of the cost to the local authority. Where eligible needs are being met, the personal budget must also say the current cost to the local authority of meeting the person's eligible needs, how much the adult has to pay, and where the cost to the local authority of meeting the eligible needs includes the amount attributable to daily living costs (set down in regulations), the amount attributable to those daily living costs. Only the amount specified as the individual's personal contribution counts towards the cap.
Paragraph 11.12	Reference to 'following the financial assessment' to be amended to reflect the new wording in section 26.
Paragraph 11.13	From "this fee is not part of the personal budget" to the end of that sentence, revise wording for clarity and to make explicit that this fee does not count towards the cap.
Paragraph 11.25	Edits for clarity, or in another suitable place, that the 'cost to the local authority' means the total cost, irrespective of any administrative arrangements with providers and so on.
Paragraph 11.30	Revise wording concerning how a direct payment is one

Paragraph number	Update
	of the ways a personal budget can be 'deployed'

Chapter 20

Continuity of care

Update chapter number to chapter 23

Paragraph number	Update
Paragraph 20.20 (Preparing for the move)	Update bullet points to indicate that the first local authority must provide the second local authority with a copy of any IPB prepared in respect of the person and a copy of any care account they have been keeping in respect of the person.

Chapter 23

Transition to the new legal framework

This section of the CASS guidance will be updated to reflect that not all elements of the Act provisions were implemented. All provisions that were implemented are to be removed and this section should focus solely on preparing for the implementation of charging reforms. This largely consists of updating paragraphs 23.41 onwards.

Paragraph number	Update
Paragraphs 23 to 23.40 (inclusive)	To be deleted.
Paragraphs 23.41 onwards	The rest of the paragraph has been updated in full and will be consulted on in February 2022, finalised by early May.

Annex A: choice of accommodation and additional payments

Paragraph number	Update
Paragraph 3	Update to refer to people who reach the cap on costs and people who can access section 18(3).
Paragraph 8	Insert a new paragraph to make the rules more prominent and to reflect that the restrictions on first-party top ups will be lifted, so that the current rules on third-party top ups provided for by the Choice of Accommodation Regulations 2014 will be applicable to first and third parties. (Update numbering of subsequent paragraphs throughout accordingly.)
Paragraph 13	Update to make clear that those who make use of

Paragraph number	Update
(previously 12)	section 18(3) must be treated no differently than those for whom the local authority is financially supporting.
Paragraph 21 (previously 20)	Update to clarify relationship between top ups and the cap and reflect the lifting of restrictions on first-party top ups.
Paragraph 23 (previously 22)	Addition of the word 'eligible' to make clear that the local authority has the right to refuse the more expensive setting.
Paragraph 24 (previously 23)	Additions to: - Clarify that the local authority can only require a top-up to be paid for preferred accommodation if it is satisfied that the paying party is able and willing to pay. - Iterate that the local authority should warn of the possibility that the care receiver may be moved to a less expensive setting if the top up becomes unaffordable.
Paragraph 25	New paragraph to suggest to local authorities an example of how they may satisfy themselves of a person's ability to pay, reflecting the request for such information at the 2015 consultation.
Paragraph 34 (previously 32)	Update to help local authorities determine when they should require someone to move to a cheaper setting.

Annex B: treatment of capital

Paragraph number	Update
Before Paragraph 1	Insert new paragraph indicating that where a person has reached the cap, the local authority may not charge them for their care and support, and that they cannot charge people in care homes against their capital to cover their DLCs once they have reached the cap.
Paragraph 2	Update to refer to the guidance chapter on the cap on care costs.
Paragraphs 3, 16 (Calculating the value of capital) and 24 (Capital limits or upper and lower capital limits)	Update to reflect the new £100,000 UCL and the £20,000 lower capital limit (LCL) for means-tested support.
Paragraphs 24 and 27 (Tariff income)	Update to refer to the "relevant upper capital limit"
Paragraph 27 (Tariff income)	Update to refer to the "relevant upper capital limit". Update to the "relevant upper capital limit". Update to reflect new LCL for means tested support. Case study on tariff income needs to be revised in full.
Below Paragraph 31 (Notional capital) – Example of diminishing notional capital	Update to reflect the new upper capital limits for means-tested support and update case study below to reflect the new reforms

Paragraph number	Update
Case study below Paragraph 33 (Capital disregarded) – Example of disregarded capital	Update to reflect the new lower capital limit for means-tested support and any calculations following from this.
Paragraph 45 (12-week property disregard)	Update to refer to the “relevant upper capital limit”.

Annex C: treatment of income

Paragraph number	Update
Paragraph 1	Update to indicate that where a person has reached the cap, the local authority may not charge them for their care and support and that a person in a care home remains responsible for their DLCs for which a local authority may charge against the person’s income subject to a financial assessment.

Annex F: temporary residents in care homes

Paragraph number	Update
Before Paragraph 2	Insert a new paragraph indicating that where a person has reached the cap, the local authority may not charge them for their care and support but that a person in a care home remains responsible for their DLCs, if they are able to afford this, in respect of which the local authority may, subject to a financial assessment, charge them out of their income or from their assets.

Annex I: repeals and revocations

Paragraph number	Update
Rename	At 'Repeals, revocations and amendments', Provide details of the Care and Support (cap on care costs and so on.) Regulations and the amendments they make to the Charging Regulations and Choice of Accommodation Regulations in implementing the 2023 reforms.

General amendments

Update the index and references within the guidance to reflect insertion of new chapters and paragraphs.

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