
D R A F T S T A T U T O R Y I N S T R U M E N T S

2015 No. xxx

SOCIAL CARE, ENGLAND

**The Care and Support (Cap on Care Costs, etc.) Regulations
2015**

Made - - - -

Coming into force - -

[xx April 2016]

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 14(5) and (6), 15(4) and (8), 17(8) and (11), 29(4) and (5), 30(2) and 125(7) of the Care Act 2014(a).

A draft of this instrument has been laid before and approved by a resolution of each House of Parliament in accordance with section 125(4)(b) and (c) of that Act.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care and Support (Cap on Care Costs, etc.) Regulations 2015 and come into force on xx April 2016.

(2) In these Regulations—

“the Act” means the Care Act 2014;

“care account statement” means a statement under section 29(4) of the Act.

Cap on care costs

2.—(1) Subject to paragraph (2), the amount of the cap on care costs for the purposes of section 15(4) of the Act is £72,000.

(2) The amount of the cap on care costs is zero in a case where—

- (a) an adult has needs for care and support which meet the eligibility criteria;
- (b) those needs commenced before the adult reached the age of 25; and
- (c) the adult had not reached the age of 25 on or before xx April 2016.

(a) 2014 c.23; see section 125(1) for the powers to make regulations.

Daily living costs

3. The amount attributable to an adult's daily living costs for the purposes of section 15(8) of the Act is £230 per week.

Amendments to the charging regulations

4.—(1) The Care and Support (Charging and Assessment of Resources) Regulations 2014(a) are amended as follows.

(2) After regulation 5 the following regulation is inserted—

“Limitations on power to charge specified residents

5A.—(1) This regulation applies in a case where the amount that would be specified in a resident's personal budget under section 26(1)(c) of the Act (amount which the local authority must pay towards the cost of meeting needs) but for this regulation is—

- (a) more than zero; and
- (b) less than £81.30,

per week.

(2) In a case to which this regulation applies, the local authority must not charge the resident in any week more than the sum of X - £81.30, where—

X is the amount specified in the resident's personal budget under section 26(1)(a) of the Act (cost to the local authority of meeting needs) for that week.”.

(3) In regulation 7 (minimum income guaranteed amount)—

(a) for paragraphs (2) and (3) substitute—

“(2) Where the adult concerned is not a member of a couple and—

- (a) is aged 18 or older but less than pension credit age, the amount of £170;
- (b) has attained pension credit age, the amount of £185.45.”;

(b) in paragraph (4) for “£71.05” substitute “£130”; and

(c) omit paragraphs (5) and (6).

(4) In regulation 12 (financial limit - capital)—

(a) in paragraph (1)—

- (i) at the beginning insert “Subject to paragraph (1A)”;
- (ii) for “£23,250” substitute “£118,000”;

(b) after paragraph (1) insert the following paragraph—

“(1A) In a case to which any of paragraphs 2 to 5 of Schedule 2 (property disregards) applies, if the financial resources of a permanent resident who is provided with accommodation in a care home (in terms of capital) exceed £27,000, the local authority is not permitted to pay towards the cost of the provision of that accommodation.”; and

(c) in paragraphs (2) and (3) for “£23,250” substitute “£27,000”.

(5) In regulation 25 (calculation of tariff income from capital)—

(a) in paragraph (1)—

- (i) at the beginning insert “Subject to paragraph (1A)”;
- (ii) for “£14,250”, in each place where it occurs, substitute “£17,000”; and
- (iii) for “£23,250” substitute “£27,000”;

(b) after paragraph (1) insert the following paragraph—

(a) S.I. 2014/2672.

“(1A) Where an adult is a permanent resident who is provided with accommodation in a care home and—

(a) none of paragraphs 2 to 5 of Schedule 2 (property disregards) applies; and

(b) the adult’s capital calculated in accordance with this Part exceeds £17,000,

the adult’s capital shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £17,000 but not exceeding £118,000.”; and

(c) in paragraphs (2) and (3) for “paragraph (1)” substitute “paragraphs (1) and (1A)”.

Amendments to the choice of accommodation regulations

5. In regulation 5 of the Care and Support and After-care (Choice of Accommodation) Regulations 2014^(a) (the additional cost condition)—

(a) for sub-paragraph (1)(a) substitute—

“(a) the local authority is satisfied that the adult or another person (“the payer”) is able and willing to pay the additional cost of the preferred accommodation for the period during which the local authority expects to meet the adult’s needs by providing or arranging for the provision of that accommodation; and”; and

(b) omit paragraph (5).

Care account statements

6.—(1) Subject to paragraph (2), where a local authority is keeping a care account in respect of an adult, it must provide the adult with a care account statement—

(a) within one year of the date that the authority first began to keep the account; and

(b) subsequently at intervals of no less than one year.

(2) A local authority is not required to provide a care account statement under paragraph (1) in a case where—

(a) the adult’s accrued costs have exceeded the cap on care costs;

(b) there have been no further accrued costs in respect of the adult since the previous statement was provided; or

(c) the amount which the adult must pay towards the cost of meeting their needs (as specified in the personal budget in accordance with section 26(1)(b) of the Act) is nil.

(3) A local authority must provide a care account statement at any time on a reasonable request by or on behalf of the adult in respect of whom the care account is kept.

(4) A care account statement may be provided by any means, including electronic media, provided that—

(a) the means used is appropriate for the adult concerned; and

(b) where the statement is to be provided in electronic form, the adult has consented to this.

(5) A care account statement must include—

(a) the adult’s accrued costs;

(b) the amount of the cap on care costs;

(c) where there is a personal budget in respect of the adult, the amount specified as the cost to the local authority of meeting the adult’s needs under section 26(1)(a) of the Act;

(d) where there is an independent personal budget in respect of the adult, the amount specified in that budget;

(e) any amount attributable to daily living costs specified in the adult’s personal budget or independent personal budget;

(a) S.I. 2014/2670.

- (f) any variation in the adult’s accrued costs under section 16(2) of the Act since the previous statement was provided; and
- (g) an estimate of the date when the adult’s accrued costs are expected to exceed the amount of the cap on care costs in any case where the estimated date falls within 18 months after the date of the statement.

(6) A care account statement may also include any other matter that the local authority considers relevant.

Signed by authority of the Secretary of State for Health

Address	<i>Name</i>
Date	Parliamentary Under Secretary of State Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 15 of the Care Act 2014 (“the Act”) provides that local authorities may not charge for meeting an adult’s care and support needs under section 18 of the Act if the total of the costs already accrued in meeting that adult’s needs exceeds the “cap on care costs”. These Regulations set the amount of the cap on care costs, and make other provision related to the implementation of section 15 of the Act.

Regulation 2 sets the amount of the cap on care costs, and regulation 3 sets the amount of “daily living costs” under section 15(8) of the Act.

Regulation 4 amends the Care and Support (Charging and Assessment of Resources) Regulations 2014; these regulations specify local authorities’ powers to charge for the provision of care and support, and the method by which individuals’ resources should be calculated in order to determine the amount to be charged. The amendments provide for increases to certain elements of the minimum income guaranteed amount, and increases to the capital limits in specified circumstances. They also insert a new regulation 5A which provides for limits on the amount that can be charged in cases where the contribution that the local authority makes to the cost of an adult’s care and support (in accordance with section 26(1)(c) of the Act) is less than a specified amount.

Regulation 5 amends the Care and Support and After-care (Choice of Accommodation) Regulations 2014 to remove certain restrictions on the ability of an individual receiving care and support to pay additional amounts out of their own resources towards the extra cost of their preferred accommodation.

Regulation 6 sets out the requirements for the provision of care account statements under section 29 of the Act. Section 29 requires local authorities to keep records of adults’ accrued costs for the purpose of monitoring progress towards the cap on care costs; this record is known as a “care account”. Regulation 6 specifies the content of care account statements, and how and when these statements are to be provided.

Potential provisions

1. This section is intended to show how the draft regulations and existing regulations might be amended and/or added to if the areas highlighted in this consultation as potential areas for further exploration were to be pursued. We would welcome views on whether these provisions would achieve the intended effect if there was evidence to support their further consideration.

Daily living costs

2. Paragraph 7.6 of the consultation document discusses disregarding capital when calculating what a person who has reached the cap is required to contribute towards their daily living costs, meaning that the person would only have to contribute based on their income.
3. This would involve including a provision in the regulations to implement the cap to amend Schedule 2 (capital to be disregarded) to the Care and Support (Charging and Assessment of Resources) Regulations 2014 as follows:

In Schedule 2 (capital to be disregarded) at the beginning insert the following paragraph—

“A1. In the case of a permanent resident to whom section 15(1) of the Act applies (accrued costs exceeding the cap on care costs), the whole of the adult’s capital.”.

4. Paragraph 7.7 of the consultation document discusses linking daily living costs to the full weekly amount of the new State Pension that will be introduced in 2016 and any relevant benefits. This would involve including the following provision in the regulations to implement the cap:

Daily living costs

3. The amount attributable to an adult’s daily living costs for the purposes of section 15(8) of the Act is £[full weekly amount of new State Pension being introduced in 2016 + weekly amount of relevant benefits] per week.

People receiving care at home in rented property

5. Paragraphs 9.12 and 9.13 of the consultation document discuss the application of the new upper capital limit of £118,000 to people receiving care at home in a rented property.
6. This would involve including a provision in the regulations to implement the cap to replace paragraphs (2) and (3) of Regulation 12 of the Care and Support (Charging and Assessment of Resources) Regulations 2014:

for paragraphs (2) and (3) substitute the following—

“(2) Subject to paragraph (2A) if the financial resources of—

- (a) an adult who has needs for care and support other than as a permanent resident; or
- (b) a carer whose needs involve the provision of support,

(in terms of capital) exceed £118,000, the local authority may (but need not) pay towards the cost of that care and support.

(2A) In a case to which paragraph 6 of Schedule 2 (disregard of the value of the home) applies, if the financial resources (in terms of capital) of a person referred to in paragraph (2) exceed £27,000, the local authority may (but need not) pay towards the cost of that care and support.”.

7. It would also be necessary to make consequential amendments to tariff income provisions. This would involve including a provision in the regulations to implement the cap to amend Regulation 25 of the Care and Support (Charging and Assessment of Resources) Regulations 2014:

after paragraph (1) insert the following paragraph:

“(1B) Where an adult has needs for care and support other than as a permanent resident, or a carer has needs for support, and—

(a) paragraph 6 of Schedule 2 (disregard of the value of the home) does not apply; and

(b) the adult’s or carer’s capital calculated in accordance with this Part exceeds £17,000, that capital shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £17,000 but not exceeding £118,000”