

The draft Care and Support Bill

– Charging and financial assessments

"All councils should have transparent charging policies ... service users, carers and the public should understand the purpose of local charging policies and the criteria used to determine levels of charging for particular services"
(Standing Commission on Carers)

This factsheet describes the provisions in draft Bill which create a clear, consistent and fair system for assessing what people can afford to pay for care and support.

What is the charging process?

Care and support is not a free, universal service. Whilst some types of care and support are provided free (for instance, information and advice), many types will be subject to a **charge** that the person will have to pay. People will only be asked to pay what they can afford. Sometimes the person will pay the full cost of providing the care and support; sometimes the cost will be shared between the person and the local authority.

The local authority decides what a person can afford to pay by carrying out a **financial assessment**. The local authority will consider a person's financial resources (such as their income, or any assets they own like investments or a house), and calculate how much they can afford to contribute towards the cost of their care and support.

When a person owns their own home, in certain circumstances, they may want to enter into a **deferred payment** agreement with the local authority. This is an arrangement where the person does not sell their home, during their lifetime, to pay the charges for their care. Instead, the local authority pays a larger share of the costs, and recovers the money at a later date.

Why do we need to change the law?

Charging for care and support is not new. People have always had to pay for, or contribute towards, the costs of care and support. However, the care

and support charging rules have grown up in a piecemeal way over a number of years. The current law spans across a number of different Acts and sets of regulations and is hard to follow.

The various rules have also created separate systems for charging, depending on what type of care and support someone receives. There are different charging arrangements for care homes and for other types of care and support, based on different pieces of legislation. This makes the system even more confusing, and potentially unfair in that it treats people, and their financial resources, differently based only on the care they receive.

The new legal framework for adult care and support should set out a clear approach to charging. As a core part of the system, this needs to be easily understood so that people know when they have to contribute towards costs, and decisions are fair and transparent.

What does the draft Bill do?

The draft Bill creates a comprehensive and consistent framework for care and support charging.

After completing a needs or carer's assessment, and deciding whether the adult has eligible needs, the local authority will then think about what type of care and support they might benefit from to meet those needs.

The draft Bill gives local authorities the power to charge for any type of care and support. However, local authorities may not charge for those services which regulations say must always be provided free.

If the local authority thinks that the adult's needs might call for a type of care and support for which it charges, it must then carry out a financial assessment of the adult to determine whether or not they can afford to pay the charge (clause 15). The rules on financial assessments, including how to calculate a person's income and capital (their assets, such as a property) will be set out in regulations, so that this is determined in the same way for everyone.

These regulations will also set a "**financial limit**". If the adult's total finances (as calculated in the financial assessment) are above this limit, then the local authority will not be required to contribute towards the cost of their care and support and the person will have to pay the full cost. If they have less than this, then they will still pay for some of the cost (depending on the amount of their finances) but the local authority will also contribute.

When the adult does not pay the full cost, but contributes towards their care and support costs, they must still be left with a certain amount of money for themselves after the local authority has charged them. This amount may also be set out in the regulations, so it can be included in the calculations.

The draft Bill also provides for **deferred payment** arrangements. These can be offered in certain circumstances where an adult owns their home, which will be set out in regulations. Under these arrangements, the local authority pays the adult's care charges on condition that they are repaid at a later date. The local authority secures repayment of the charges by placing a legal charge on the adult's interest in their home.

The new provisions also allow local authorities to charge interest on deferred payments arrangements for the first time. This is to allow local authorities to recoup their costs of operating such agreements. The situations in which interest can be applied, and the interest rate, will be detailed in regulations.

The Government plans to ensure that all people who own their own home and receive care and support from the local authority are offered the option of a deferred payment arrangement in the future.

These new provisions have been created to be fair and consistent, but also flexible enough to adapt to any changes in the arrangements for funding care and support over time.

FURTHER INFORMATION

- Statutory guidance on charging for care home placements: *Charging for Residential Accommodation Guide* (April 2011)
- Statutory guidance on charging for other services: *Fairer charging policies for home care and non-residential services* (September 2003)
- Regulations on charging: *National Assistance Act (Assessment of Resources) Regulations 1992*
- See also *factsheet 1* on assessments and eligibility, *factsheet 3* on how charging relates to the core entitlement to care and support, and *factsheet 5* on the law for carers.