



Department
of Health

Local Authority Circular

LAC(DH)(2014)1

To: The Chief Executive
 County Councils }
 Metropolitan District Councils } England
 Shire Unitary Councils }
 London Borough Councils
 Common Council of the City of London
 Council of the Isles of Scilly

Copy to: The Director of Social Services
 Chief Executive - Care Trusts
 Chief Executive - Strategic Health Authorities

Date: March 2014

SOCIAL CARE – CHARGING FOR RESIDENTIAL ACCOMMODATION

1. Summary

This circular:

- I. Sets out the revised Personal Expenses Allowance (PEA) of £24.40, which came into force on 7th April 2014.**
- II. Confirms that the capital limits remain at their current level (i.e. lower capital limit £14,250 and upper capital limit £23,250).**
- III. Confirms that the savings credit disregards remain at their current level (i.e. up to £5.75 per week for individual supported residents in receipt of savings credit and up to £8.60 per week for couples).**
- IV. Reminds local authorities about the Directions on Choice of Accommodation and top-up fees, and statutory guidance on these.**

The Annex to this circular contains fuller details.

- V. A revised Charging for Residential Accommodation Guide (CRAG) is being issued at the same time as this circular.**

2. Action

This circular is issued under section 7(1) of the Local Authority Social Services Act 1970.

3. Enquiries

Enquiries about this circular should be made by email to:

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ANNEX TO THE CIRCULAR

I. PERSONAL EXPENSES ALLOWANCE (PEA)

Legal basis

1. The PEA is the weekly amount that councils must, in the absence of special circumstances, assume residents need for their personal expenses. The PEA is specified in regulations made under section 22(4) of the National Assistance Act 1948 ("the 1948 Act"). This amount is updated each April, usually in line with the increase in average earnings.
2. The PEA applies in relation to all persons whose accommodation is arranged by a council under Part 3 of the 1948 Act, including residents of care homes with nursing on the premises, residents of council run homes and homes run by the private and voluntary sector.

New PEA amount from 7th April 2014

3. The Regulations were amended to provide for PEA to increase from £23.90 to £24.40 with effect from 7th April 2014. Paragraph 5.002 of CRAG has been amended accordingly.
4. This is larger than the usual formula increase (50p per week rather than 30p per week). This is because DWP is making a number of increases to pensioner benefits from April 2014. The increase in benefits to pensioners should result in a gain for councils in income from charging.
5. The intention of the above formula increase in PEA is to enable residents to keep some of the increase they are receiving in benefits, for their personal use. The increase to PEA has been set at a level that is expected to keep broadly constant the proportion of care home costs met from charges on residents.

The purpose of the PEA

6. The PEA is intended to allow residents to have monies for personal use. Councils, providers of accommodation and residents are again reminded that the PEA should not need to be spent on aspects of board, lodging and care that have been contracted for by the council and/or assessed as necessary to meet individuals' needs by the council or the NHS. Councils should therefore ensure that an individual resident's need for continence supplies or chiropody is fully reflected in their care plan. Neither councils nor providers have the authority to require residents to spend their PEA in particular ways and, as such, should not do so. Pressure of any kind to the contrary is extremely poor practice. See LAC(2002)11 for fuller guidance.

II. CAPITAL LIMITS

Residential care charges

7. As set out in LAC(DH)(2011)1, in the context of the Spending Review 2010 and the Spending Review 2015, the capital limits will remain at their current level, £23,250 for the upper capital limit and £14,250 for the lower capital limit until April 2016.
8. The intention is to help protect the level and quality of social care services by enabling councils to raise additional revenue to pay for these services, from residential care charges. This extra revenue should help ensure councils can maintain the existing quality and quantity of social care.
9. However, as part of the implementation of the recommendations of the Dilnot Commission on funding reforms the Treasury has agreed to uprate the Capital limits in April 2016. As part of the extended means test, for people receiving care in a care home the upper capital limit will rise to £118,000. For people receiving other types of care and support the upper capital limit will rise to £27,000. The lower capital limit will rise to £17,000.

Home care charges

10. With respect to charging for home care, savings and capital should be treated no less generously than under the rules for assessing residential care charges. Councils should note that the capital limits set out in this circular apply automatically as minimum requirements for home care charges.

III. SAVINGS CREDIT DISREGARD

11. LAC 2003(22) mentioned the introduction of a new savings credit disregard from October 2003, in response to the introduction of Pension Credit.
12. DWP is, once again, making changes to the Savings Credit threshold. However, as mentioned above, DWP is making a number changes to benefits for pensioners. These changes to benefits should result in a gain for councils in income from charging. Therefore, Ministers have decided to make no change to the savings disregards. These remain unchanged at up to £5.75 a week for individual supported residents aged 65 and over, and up to £8.60 a week for couples.

IV. CHOICE OF ACCOMMODATION AND TOP-UP FEES

13. Concerns were raised last year about good practice in relation to top-up fees for local authority supported residential care. Local authorities

are reminded that Directions, regulations and statutory guidance have been issued related to top-up fees, as follows.

14. Direction on top-up fees are contained in The National Assistance Act 1948 (Choice of Accommodation) Directions 1992, as amended.
15. In certain circumstances residents can top-up their own fees. The situations in which this can be done are set out in The National Assistance (Residential Accommodation) (Additional Payments and Assessment of Resources) (Amendment) Regulations 2001.
16. The Department issued statutory guidance to local authorities concerning the above in local authority circular LAC(2004)20.
17. The above are all still in force. Links to these documents are at the bottom of this circular.

V. REVISED CHARGING FOR RESIDENTIAL ACCOMMODATION GUIDE (CRAG)

18. A revised CRAG is being issued at the same time as this circular. The revised CRAG is available on the UK.GOV website at [add link].

The National Assistance Act 1948 (Choice of Accommodation) Directions 1992

http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4012419.pdf

The National Assistance Act 1948 (Choice of Accommodation) (Amendment) Directions 1993

http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4012420.pdf

The National Assistance (Residential Accommodation) (Additional Payments and Assessment of Resources) (Amendment) Regulations 2001

http://www.legislation.gov.uk/uksi/2001/3441/pdfs/uksi_20013441_en.pdf

LAC(2004)20

http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4090987.pdf