



LIFE MATTERS

sia spinal
injuries
association
for life after spinal cord injury

ADULT SOCIAL CARE CHARGING

FACTSHEET



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Adult social care charging

The following applies to charges by local councils for social care in England. The rules in Wales are similar, but somewhat more generous.

Unlike Continuing Healthcare from the NHS, which is free, local Authorities have the power to charge for social care. There are limits to what they can charge, set by regulations under the Care Act 2014). Local authorities have discretion to be more generous than the regulations allow, but they cannot be less generous.

These are the key elements of framework for financial assessment which are most likely to affect SIA members:

- Financial assessment should only be carried out after assessment of care and support needs
- Local authorities have discretion to be more generous than the regulations allow, but they cannot be less generous; this applies both to their local charging policy for everyone, and also to an individual who, due to their particular circumstances, is in hardship despite the calculation being done lawfully.
- The assessment starts with a "Minimum income guaranteed amount" (given in a Local Authority Circular each year): this used to be defined by taking a basic benefits amount (i.e. income support or state pension) including any premiums except severe disability premium, then adding 25% again. Now the levels are set by regulation and revised annually by Local Authority Circular, but they are arrived at in the same way. This is understood to cover basic everyday living costs. Councils cannot reduce income below this through contributions to care costs; but anything above this level may be taken in social care charges.
- Attendance Allowance (or DLA/PIP care or daily living component) is counted: up to the AA lower rate or the DLA Middle rate if you only get care through the LA by day or only by night; up to highest rate if by day and night. The whole of the PIP daily living component can be counted, regardless of what care you get, although local policy may vary. Some councils are starting to count highest rate of the daily living component of DLA, regardless of what care you get: this may perhaps be unlawful and open to legal challenge.
- The mobility component of DLA/PIP cannot be counted.
- The severe disability premium (SDP) on other benefits can also be counted. (Subject to a means test, SDP is for people who get AA, DLA middle or higher rate care or PIP higher rate daily living, as long as no one claims Carers Allowance for their care, and no one over 18 lives with them who doesn't also get AA, DLA mid/high care or PIP high daily living.)
- Housing costs and disability related expenditure (DRE) are offset against the charge. DRE is often missed, or unlawfully disallowed due to overly rigid rules about evidence; DRE is any necessary expense due to disability, which can include major items (cost spread over time) and extra costs necessitated by having to take personal assistants or other care staff on holiday.

- Savings above £14,250 (the “lower capital limit”), may be treated as equivalent to a weekly income of £1 for each £250 or part of £250; if you have over £23,250 (the “upper capital limit”) you may be charged up to the full cost of care provision (not including costs to the council for assessment, monitoring etc.). These figures were set to get much higher in October 2023, but this is likely to be postponed.
- Your capital is understood to diminish over time. Please note that if your savings are in a joint account, your share of those savings will diminish more slowly, and it will take longer for the capital to reduce towards the capital limits than if it was in an account belonging entirely to you.
- If you deliberately dispose of capital in order to reduce your charges, the council can treat you as if you still have that capital.
- Personal injury compensation in a Personal Injury Trust is not counted as savings or income.
- Income earned from employment or self-employment is not counted (although it will be counted if it becomes savings), but private pensions are counted in full. This can mean that someone who pays no charges while they are working suddenly has to start paying when they retire.
- There are other disregards which are not listed here. There is more information in the [Care Act guidance Annexes](#) about how income and capital should be treated.
- The assessment must be of your income and outgoings as an individual, not those of your partner (although there can be something of a grey area where you have access to resources held in your partner's name); and just as the contribution you are charged should not bring your individual income below a certain threshold, similarly it should not bring you and your partner's joint income as a couple below a certain threshold for the two of you as a couple.
- There are various additional rules for particular circumstances.

Councils make their own policies, which you should be able to see. They are increasingly tending to charge the most that is allowed. They cannot lawfully change their policy without proper consultation of those affected, giving accurate and comprehensible information about the changes, and they must properly weigh up what they learned in the consultation. They must, in the legal phrase, have “due regard” to the impact on the equality of protected groups under the Equality Act, which includes disabled people and carers. Following a decision there is a 3 months’ time limit to bring a judicial review (legal challenge) against the change of policy, and even before this has elapsed it is difficult to overturn a policy once that policy has been implemented. A challenge may be brought by an individual who is likely to be affected by a policy change, but before they have been reassessed under the policy. If an individual brings a challenge and loses, they may have the local authority legal costs awarded against them (and this can be very expensive) - but for those who qualify for full legal aid, these costs are covered so the individual is not at risk.

More information

Here is a link to [Chapter 8 of the Care Act statutory guidance \(strong guidance that cannot be lawfully ignored and can only be over-ridden with good clear reasons\)](#), which covers charging, and a link to the [annexes to the statutory guidance](#), of which annexes [B](#), [C](#), [D](#) and [E](#) relate to charging. The guidance is only available online. Here again is the [link to this year's Local Authority Circular giving the 'Minimum Income Guarantee' \(MIG\) rate](#).

Charging reforms

The government intends to introduce charging reforms. These were originally planned for 2016 but were postponed. They were subsequently planned to be implemented, with slight changes, in October 2023, but in November 2022 they were postponed again, for a further two years until October 2025, following lobbying by local authorities. The Care Act statutory guidance's new Chapter 23 on preparing for the reforms was deleted in January 2023. Pilot schemes to test the reforms had been agreed in Blackpool, Cheshire East, London Borough of Newham, North Yorkshire, Oxfordshire and Wolverhampton.

However, from April 2022, the MIG was unfrozen and was now rising with inflation (albeit at the lower rates that result from it having been frozen for a number of years). Hopefully this will continue.

Under the postponed reforms, the lower capital limit was going to go up to £20,000 and the upper to £100,000, and there was to be a "cap on personal care costs" limiting what people will need to spend to meet their eligible care and support needs in their lifetime. The cap would only apply to care needs assessed as eligible by the local authority and paid for by the person with the needs. (And originally it was to include money spent on meeting needs by the local authority as well, but the government was planning to amend the Care Act to prevent this.) Money spent before October 2023 would not have been counted. The cap would not have covered the "daily living costs" for people in care homes.

You can get further advice and information about assessments and other social care matters from SIA's care advice service - email advocacy@spinal.co.uk or ring our support line on [0800 980 0501](tel:08009800501).

For more information, contact us at:

Spinal Injuries Association, SIA House,
2 Trueman Place, Milton Keynes, MK19 6HY

0800 980 0501 (freephone support line open Mon-Fri 10.00am-4.30pm)

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About SIA

Spinal Injuries Association (SIA) is the leading national charity for anyone affected by spinal cord injury. We have specialist support available, for free, to support you through the mental and physical challenges you may face, both now and for the rest of your life.

Our support network is coordinated by a team of people, across the UK, who can put you in touch with our network of experts and trusted partners, covering all aspects of mind, body and life, to help you move forward with life. Our partners specialise in services such as legal, care, housing, finance, mental health and much more.

We are the voice of spinal cord injured people, through our expertise and we can connect you to the services and organisations you need through our network for all.

You can join the SIA community by signing up for free online at www.spinal.co.uk.

Disclaimer

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