



# **YOUR GUIDE TO THE CARE ACT**

**What you need to know about social care in England**

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## 1: Introduction

### What is the Care Act?

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The Care Act became law in 2014. It puts together all the previous pieces of law about social care as well as setting out some new duties and rights. The biggest part of the Act, part one, is about how local authorities should provide social care. This part of the Act has been in force since April 2015.

### The purpose of this guide

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This guide is intended to be used by disabled people and people with long-term health conditions who have support needs. The guide does not cover everything that is in the Act but concentrates on those parts of the legislation that are most relevant to people of working age. Links to other information are provided at the end of this guide.

The guide starts by explaining some general principles that should apply to social care, then takes you through what should happen when you have an assessment, who can get social care support from their local authority, how to plan meeting your care needs, personal budgets and direct payments, how much you might have to pay, what to do if you want to move to another area, and some further information at the end.

## 2: General Principles of Social Care

### Promoting Wellbeing

The Care Act states that in all their social care work and decision making local authorities must take into account a person's wellbeing.

This includes:

- Treating you with respect;
- Considering your physical, mental health, and emotional needs;
- Protecting you from abuse or neglect;
- Ensuring that you are in control of your day-to-day situation and the services you use;
- Making it possible for you to have a job, be in education or training, or can take part in leisure activities;
- Be aware of your economic and social needs;
- Think about your domestic, family and personal needs;
- Consider the suitability of your living accommodation;
- What you can contribute to society.

This is a very important principle and means that you can challenge your local authority if you think they are not taking any notice of you and how you want to live your life or are not treating you with respect and dignity.

## Person Centred

The Care Act is different to previous legislation in that it is about what is best for the individual and how your needs can be met rather than about what services are to be provided.

This means that local authorities should:

- Begin with the assumption that you are the person best placed to know your own needs and not to make assumptions about you;
- Take into account your views, feelings, wishes and beliefs in thinking about how your needs are to be met. For example, if you have particular religious beliefs these should be considered. This is especially important if you are no longer able to make your own decisions whether temporarily or permanently;
- Recognise the importance of delaying needs developing or reducing needs so for example, providing an aid to communication will prevent depression and isolation;
- Make decisions based on your real circumstances not assumptions;
- Ensure you are fully involved in all decisions taken about you;
- Take into account your family and friends. This does not mean considering them and not you. It means not seeing you as just an isolated individual;
- Not restrict your rights and freedom of action unless absolutely necessary and then only take the least restrictive action.

## Independent Living

Although the term 'independent living' is not specifically used in the Care Act the concept of 'wellbeing' does cover the essentials of independent living such as the right to choose how your support needs are met, control over your day-to-day life, that you are your own expert on your life, that you should have choice in deciding how your support needs are met, and that you should be able to play a part in society.

The UK Government is a signatory to the UN Convention on the Rights of People with Disabilities so what it says also influences social care especially Article 19 on independent living that is about how you can live your life independently in the community as an equal citizen with everyone else.

## Human Rights

The Human Rights Act means that all public bodies, including local authorities, have to comply with the European Convention on Human Rights for example the right to life, the right not to be treated in a degrading way, freedom of expression, respect for your private and family life, and right to marry and start a family.

Under the Care Act this also applies to any service or provider that has been arranged by a local authority or paid for by them. This means, for example, that if you live in a community living house provided by a charity and your place is paid for by the local authority if you think your right to a private and family life is not being respected you might be able to bring a case under the Human Rights Act

### 3: Advice and Information

#### Advice and Information Service

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Local authorities have to provide a service in their area that gives people information and advice about care and support and what is available. This service should not just be for people getting care and support from the local authority but anyone who needs the information including self-funders. Information should be clear and accessible. The information offered by the local authority should include:

- How the care and support system works locally;
- How to access the local system;
- The choice of different types of care and support and what providers are available locally;
- How to get independent financial advice about care and support;
- How to raise concerns about care and support.

#### Independent Advocacy

With the implementation of the Care Act, individuals who require support with the process of the care and support assessment and planning can get independent advocacy arranged for them by their local authority. The Care Act emphasizes the importance of advocacy services by extending the range of people who are eligible for independent advocacy to enable them to be involved in every decision about their care and support. Those who qualify for advocacy under the Care Act should qualify for advocacy under the Mental Capacity Act 2005 as well.

Your local council has a legal duty to provide an independent advocate if you do not have an appropriate person to represent your wishes (such as a family member or friend) and you need assistance to understand information, express your concerns and goals, understand the issues related to assessment and review of your care, get the care and support you need and make decisions about your care.

Local authorities must make sure that there is adequate provision of independent advocacy to meet their duties in line with the Care Act regulations. The Care Act highlights four situations, any one of which may result in difficulty in being involved:

- 1 Understanding relevant information
- 2 Retaining information
- 3 Using or weighting up the information
- 4 Communicating views, wishes and feelings

The advocate will help you to express your ideas to make informed choices about the services you wish to have to meet your care and support needs, speak on your behalf or support you to make your voice heard and ensure that your support plan is properly drafted, reviewed and is working for you.

## 4: Assessing your Needs

It is now a legal duty on the local authorities to assess any adult (including carers) who appears to have any level of needs for care and support, regardless of whether the council thinks your needs will be eligible for its support. It is your right to get this assessment from your local council.

The Care Act regulations mean that councils must carry out a needs assessment that is built around you and focused on what you want to achieve. The assessment should be appropriate and proportionate. You should not be denied an assessment due to your financial situation.

### The purpose of the assessment

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The purpose of the needs assessment is to identify the areas you need support with to carry out your everyday activities. It looks at the extent of your care and support needs before eligibility (whether the Council will meet your needs or not) is determined. Additionally, the assessment seeks to establish how those needs impact on your wellbeing (in day-to-day life) and the range of outcomes you wish to achieve to improve your quality of life.

During the assessment you should:

- Be given the opportunity to outline the kind of support that is best for you.
- Be involved in decision making at every stage.
- Be in the driving seat during the assessment able to express your own wishes and preferences about your care.

In doing this, you may wish to be supported by an independent advocate, family member or other representative.

The assessment process will then help social services to get a full picture of the range of your care and support needs so that they can decide on your eligibility for social care funding. Your local council will consider whether any of the needs identified are eligible for support.

### Conducting the Assessment

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The assessor should not take into account any care provided to you by a friend or family member when considering your care and support needs. In other words, the local authority must record all your needs regardless of any support already being provided by a carer until it is decided that you have eligible needs.

If you have fluctuating needs the assessor should look at your support needs over a period of time not just your needs on the day.

Assessments are carried out by assessors who must have the relevant training and appropriate skills including social workers, occupational therapists (OT's), and care managers, or by professionals who carry out complex assessments such as in cases of a deafblind person.

### **Format of the Assessment**

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Local authorities have different assessment formats so there is not a standard form. They can do the assessment in various ways, either:

- a face-to-face assessment,
- online,
- or over the phone where appropriate depending on people's circumstances.

Provided you have capacity (you are able to decide things for yourself), you can also request a Supported Self-Assessment Questionnaire (SSAQ) from your local council, this can give you more control in taking the lead in identifying your care and support needs yourself by filling it in. The assessor will still be involved to help support the process so as to be satisfied that you have identified the full range of your needs.

## **5: Who is Eligible for Social Care Support from the Local Council?**

The Care Act sets the national minimum threshold for eligibility that is consistent across England. Councils must follow these regulations when assessing adults with care and support needs. Local authorities should consider all your needs as a disabled person or person with long-term health conditions not just your personal care needs. Even if the council decides not to offer any assistance (for example if you do not meet the eligibility criteria), they should support you to identify the support you need and how to get it.

### **National Eligibility Criteria**

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The eligibility threshold consists of three criteria, all of which must be met for a person's needs to be eligible. Your needs will be considered eligible; that is to say you will qualify for social care support, if the response is 'yes' to all the below three questions:

- 1** Does your need arise from a physical or mental condition or illness?
- 2** As a result, are you unable to achieve two or more of the specified care outcomes? (see below)
- 3** As a consequence, is there likely to be a significant impact on your wellbeing?

During your needs assessment, the social worker or assessor will discuss with you whether or not you are able to achieve at least two of the following outcomes:



- Managing and maintaining nutrition: the assessor will look at whether you are able to prepare and eat food and get enough to drink to maintain nutrition.
- Maintaining personal hygiene: the assessor will consider your ability to dress, wash yourself and clean your clothes.

- Maintaining toilet needs: your assessor will take into account your ability to get to and use a toilet.
- Being able to move around the home safely: the assessor will look at your ability to live in your home safely, such as getting up steps, using kitchen facilities or getting into the bathroom
- Maintaining a habitable home environment: the assessor will consider your ability to keep your home clean and safe and that it has necessary amenities.
- Developing and maintaining family or other personal relationships and having sufficient contact with other people.
- Engaging in work, accessing training and education or taking part in volunteering: your assessor will consider whether you are able to be active in your community through work, training, education or volunteering subject to your own wishes
- Using facilities or services in the local community including using public transport and recreational services: your assessor will consider your ability to get around in the community safely, to use leisure facilities, or attend appointments.
- Carrying out any caring responsibilities you may have for a family member: your assessor will consider any parenting or other caring responsibilities you may have.

The assessor must also be aware that the regulations provide that ‘being unable’ to achieve an outcome includes any of the following circumstance:

- You are unable to achieve the outcome without assistance. This would include where you are unable to do so even when assistance is provided. It also includes where you may need prompting for example, some people may be physically able to wash but need reminding of the importance of personal hygiene
- You are unable to achieve the outcome with or without assistance, including where you may need prompting
- You are unable to achieve the outcome even when assistance is provided
- You may be able to achieve the outcome without support but doing so causes you significant pain, distress or anxiety.
- You may be able to achieve the outcome but this endangers or likely to endanger your health and safety or putting others’ health and safety at risk
- You are able to achieve it without support but takes you a lot longer than it would normally take to carry out this specific task

As a consequence of being unable to achieve two or more of the above outcomes, councils then decide whether your care needs are having a significant effect on your daily life. The impact will vary from one person to another even if they both have similar circumstances.

During the assessment, it is essential that you fully explain your situation outlining to your assessor how your inability to carry out certain outcomes is having a

‘significant’ impact on your total wellbeing and quality of life and on your family.

Wellbeing includes many aspects of your life. Assessors should consider the following when deciding the impact of your needs:

- Your personal and family relationships
- Your personal dignity (including treating you with respect)
- Your physical, mental health and emotional wellbeing
- Your safety – to be protected from abuse and neglect
- Your finances and your economic wellbeing
- Your social contribution and participation in society
- Your housing situation in terms of the suitability of your living accommodation
- The control you have over your daily life and day-to-day activities

### **Meeting needs**

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Once your council has decided that you have eligible needs, they must agree with you how best to meet those needs. The local authority must put their decision in writing and the reasons for it.

## **6: Person Centred Care and Support Planning**

Once your local council has decided that you have eligible needs, they must assist you in planning how those needs are to be met by preparing a care and support plan.

The care and support planning process is meant to help you decide the best way to meet your care and support needs by looking at your needs, what you want to achieve (often called ‘outcomes’), how you want to be supported and what types of care and support is available in your local area.

You need to properly plan your support to best suit your needs. You could get support from an advocate, broker, or family member if you need it. The Care Act gives you the right to seek an independent advocate to assist you with the planning process.

The care and support plan must state the following:

- What support needs you have
- The range of your outcomes – what you want to achieve in your day to day life
- How you are going to meet those needs in terms of the kind of services you are going to purchase to best meet those needs and the cost of those services
- The type of needs that the local authority will fund
- Information about ways to prevent your support needs increasing

The support plan should contain the answers to key questions such as:

### **1 What is important to you?**

The local council should get a sense of your lifestyle, an understanding of who you are, your interests and wishes for the future.

### **2 What do you want to change?**

You need to include in your plan any changes you wish to make in terms of changing services or any long-term changes you want to do about your lifestyle. Changes must be achievable and realistic.

### **3 How you will be supported**

Your plan should say what kind of support you want, when you need it, and how you want this to be provided.

### **4 How you will use your personal budget**

Your plan should say how you want to spend your personal budget. You need to specify the cost of services you will purchase. For example, this may include the cost of employing a personal assistant.

### **5 How your support will be managed**

The plan should state who is going to manage the money, is it yourself or another 'suitable person'? You can have your personal budget as a direct payment and arrange your own support, or as a managed budget either managed by the local council or an organisation working on their behalf, or by setting up a trust which you still can control, or as an individual service fund (that is your personal budget is managed by the organisation that provides most of your support).

### **6 How you will stay in control of your life**

Your care plan should describe the kind of decisions you will be making for yourself so that you can stay in control. Think about what decisions you will make yourself and whether you want others (for example a family member) to be involved.

### **7 How your support plan will be put in place?**

Your plan also needs to say what will happen when, and who is responsible for making sure everything in your plan happens as you want it to.

## 7: Personal Budgets

### What is a Personal Budget?

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A 'Personal Budget' is a statement that sets out the total agreed amount of money allocated to cover the costs of your assessed care and support needs. You can decide how the money is spent to meet the outcomes in your plan.

It can enable you (or your representative) to have more control over the way that support is delivered, and if you choose, you can control the financial resources and pay for what you need yourself.

A personal budget is the route to achieving independent living based on the social model of disability. It allows disabled people and people with long-term health conditions to live an active life and participate in society. It aims to enable you to achieve your outcomes as stated in your care and support plan.

#### **How a personal budget can change your life**

Personal budgets promote flexibility, choice, control and quality of life. By seeing how much money is available from the council, it gives you the ability to take charge of the support you need so that you live independently and be in control of the care you choose that best meets your needs.

### Personal Budgets: the council's duty

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Your local council must:

- inform you in writing how they calculated your personal budget;
- ensure that the budget is sufficient to meet your eligible needs;
- consider the local cost for the type of services you require, and that care may cost more if your needs are complex;
- let you know what your budget is in good time.

### Indicative Personal Budget

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Once you have had an assessment and the local council have told you if your needs are eligible for support they will tell you what your indicative budget is. This is the amount that the local council estimate will be needed to meet your eligible needs. You can then plan how your care and support needs will be met.

Once your plan has been agreed by the local council they will confirm how much your final personal budget will be. The final amount could be more than was estimated in the indicative budget or it could be less.

If you are unhappy with the amount in your final personal budget, you can ask the local council to look at it again.

## Different ways to receive a personal budget

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People's needs do vary and your assessment will reflect the areas you need support with. You need to think carefully about how you want your care and support arranged to achieve the outcomes in your care and support plan. The local council has a duty to provide relevant information and advice about local care and support services.

You can receive your personal budget in a number of ways:

- **As a direct payment** – your local council pays some or all of your personal budget into your bank account or a separate bank account held by a person (e.g. third party agent, support broker) nominated by you. You use your direct payment to buy your own support.
- **As an account managed by the council** – the council will manage your budget and will arrange services you need on your behalf;
- **As an Individual Service Fund (ISF)** – the local authority pays an organisation that provides support services who look after your budget on your behalf but you decide how and on what the money is to be spent.

You can use your personal budget to buy from service providers various types of support services to meet your care and support needs as outlined in your support plan.

Some examples of what you can spend your budget on:

- > To recruit staff as personal assistants (PA's) or buy care and support services from care agencies to help you to meet your eligible and assessed needs in your own home for instance with your personal care, social need, pursuing indoor/outdoor activities or be part of the local community
- > Short stays in a care home or respite care (applicable for carers who are given a break from their caring role)
- > Accessing a wide range of local community social and education activities and mainstream services such as being involved in sports, horse riding, day trips, going to clubs and leisure or learning centres and education sessions
- > To purchase particular aids and equipment (not provided by the NHS) that you require and are stated in your support plan as an outcome that needs to be met to promote your independence. You cannot use direct payments to buy equipment already provided by the NHS
- > To pay towards transport costs to do a variety of outdoor activities (or attending day centres) identified in your care and support plan
- > Attending day services and going to day centres – you can arrange for a short trial to visit different day centres to find out about their services and whether you would like to attend these centres

## Managing your support

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Your local council worker should provide you with relevant information about the options you can choose from to manage your money. Each local authority area has different systems in place to help you manage your budget and it is important that you find out what is available to you in your area.

### Direct Payments

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If you decide you want to control some or all of your care and support needs yourself, you can choose to receive 'direct payments' from your local council. The agreed amount of money is paid directly to a bank account opened by you, specifically to receive the direct payment. Most local high street banks will offer a basic current account for this purpose. It may be helpful to provide the bank with confirmation about your personal budget such as a remittance notice or letter from the local council.

The account should have no other funds credited to it unless it is agreed for example that it could include your own contributions or other public funding. The cash payments that the local council credit to your bank account could be weekly, four weekly, monthly or otherwise. Make sure you know when the local council credits the payments to you, so you can pay for your services appropriately (for instance paying your personal assistant's wages). Most local council pay direct payments every four weeks.

Following a financial assessment, you may have to put your contribution towards the total amount of your Personal Budget. Most local councils will pay your direct payment minus the amount you are expected to contribute yourself into your bank account. This is known as the net amount. If they make net payment, you will need to pay your personal contribution into your own direct payment bank account before you pay for any services. This will ensure that you have sufficient money in the account to pay for your assessed needs that have been agreed on the Support Plan. If the local council credits you the full (gross) amount into your direct payment bank account, they may periodically send you an invoice which you will have to arrange to pay if you have been assessed as needing to make a financial contribution.

Choosing to take your allocated personal budget as a direct payment means you will have greater choice and control, but you will have further responsibilities as well. You will have to provide the local authority with information about how you spend your direct payment, and you may be asked to report to them (sending return forms) every four weeks, quarterly, or annually depending on each council's policy. Your local council will provide you with information about what you need to send to them. On occasions you may consider having a joint signatory on the bank account; this is helpful if you have a fluctuating condition or may not always be well enough to make payments.



## Nominated Person

You may not want the responsibility of managing the money yourself but wish to take on the responsibility of employing a Personal Assistant or contracting with a domiciliary care agency or using other forms of support. You may have a friend or family member or someone you trust that is willing and able (with support) to open a bank account on your behalf, this is called a 'nominated person'.

The nominated person would be in charge of making all the payments from the bank account for the services you opt to purchase – again these would be highlighted and agreed on your support plan. Remember any contributions you may have been financially assessed as needing to pay will have to be paid either into the bank account or the local council may invoice you for any contribution you have to pay.

## Supported/Managed Accounts

In some local council areas, you may have the option of being able to use the services of a supported or managed account. It is important to recognise that each local authority area will have different options, there are some national organisations that provide supported or managed bank accounts.

A supported/managed account is when your allocated personal budget is paid to an organisation on your behalf. Sometimes this is referred to as a 3rd party payment. In many cases, Disabled People's User Led Organisations (DPULO's) provide this type of service. The organisation will arrange to make all the payments for the services you are receiving on your behalf.

You may have chosen to employ a Personal Assistant or contract with a Domiciliary Care Agency, you will still have to take on the responsibility as an employer or contractor, and the organisation will simply process the payments. It is likely the organisation will charge you for using a supported/ managed bank account. The amount charged for a supported/managed account may be a set amount or it could vary dependent upon how many payments are made out of the supported/managed account.

The organisation providing this service will ask you to sign an agreement or contract for the service which should set out what the terms and conditions of using the service covers. It would be useful to check out the below:

- How you authorise payments – your managed/supported account service will still require you to authorise payments – this may be in the form of a signed invoice from you or a signed timesheet from you.
- How payments are made to your employee(s) or contractors (for example through a bank transfer (BACs) or cheque.
- When payments are made to your employee(s) or contracted service.
- How you pay for any contributions you have been financially assessed as required to contribute towards your personal budget.



- What records you need to keep for future reference
- What your responsibilities are for checking information on the account and payments made from the account
- How you terminate the services should you change how you wish your money to be managed.

### **Direct Payment Managed by a Suitable Person**

A 'Suitable Person' can be appointed by the local council to receive a direct payment and manage the money on your behalf. However, this is only when the individual who will be receiving the service lacks the capacity to make the decision to receive a direct payment.

Appointing the 'Suitable Person' will mean they have to take on the responsibility of being either the employer or contractor or responsible for buying the appropriate services. The 'Suitable Person' will often be (but not always) given a lasting Power of Attorney or have been appointed by the Court of Protection as a Deputy under the Mental Capacity Act 2005. Usually the 'Suitable Person' will be a family member or friend who may have previously been involved in the support of the person eligible for services.

### **Managing a Direct Payment through an Independent Living Trust**

Where people lack the capacity to receive direct payments in their own right, an Independent Living Trust can be set up to manage the money, employ Personal Assistants (PA's), contract with Domiciliary Care Agencies or buy relevant services. Some Independent Living Trusts have been set up for a small group of people. Their direct payments are paid into the Trust's bank account and pooled to be used to meet the needs of all the beneficiaries.

The Independent Living Trust is made up of Trustees who are responsible for the best interests of the beneficiaries of the Trust. The same issues apply about any financially assessed contributions the individual(s) may have to contribute to the personal budgets and payments will need to be made into the Independent Living Trust's bank account or the local council will invoice individual's separately for contributions.

### **Paying Direct Payments into a User Controlled Trust**

A User-controlled Trust is a legal arrangement similar to an Independent Living Trust but one where the person who is getting the direct payment is also a Trustee.

### **Individual Service Funds (ISF)**

Individual Service Funds are still not available in all local council areas and you will need to find out from your social worker whether you are able to have this option. An Individual Service Fund (often referred to as an ISF) offers the individual the choice and control as well as avoiding the need for people managing the financial aspect of their care services.

The Individual Service Fund is where a provider manages a person's personal budget in addition to providing the direct support. A contract or agreement is often arranged between the Provider and the local council, however, the contract or agreement may also be a three-way contract involving the person who is going to be receiving the services. The provider is responsible for ensuring the personal budget is spent on the individual's personal needs and reflects the support plan.

It may be that the provider holding the funds also makes payments to other providers by contracting separately with them for a service on behalf of the person receiving the service. An example of this would be where a provider pays for a gym membership or group activity from the Individual Service Fund on behalf of the individual receiving the services. The Individual Service Fund holder however is responsible to the Commissioning local authority and needs to ensure an open and transparent accounting system.

### **Prepayment Cards/Pre-Paid Cards**

Prepayment cards have been introduced by some local councils to pay direct payments. So if you choose to receive direct payments, your local council could give you a card, similar to a bank card, which you can use to pay for services that meet the assessed needs stated in your support plan. Your council will 'load' your card with the money allocated in your personal budget.

Other local authorities may have not yet introduced this option for direct payments recipients, so you will have to check with your local authority social worker whether the prepaid cards are available in your local area. The local councils have introduced prepaid cards to make it simple for you to pay for services and easier for them to account for and monitor what you have spent. The advantage is that if you have a prepayment card you would not need to give receipts or provide quarterly return forms. The disadvantage is that the local council knows more about your life than you may want them to know.

<p>The local council cannot insist that you use a prepayment card.</p>
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You can make payments in the same way as other bank cards, to pay for care and support services. You can for instance use it to pay your PA by BACS transfers to the PA's bank account. You can do this online, via direct debits or make payments over the phone.

The card only allows you to use the amount of money that is paid into the card account via the local council. You cannot go 'overdrawn' on a prepayment card, therefore you cannot get into debt with one. The cards are provided by a bank and it is important to remember you do not need to open a bank account to be able to use a prepayment card. So if you have experienced difficulties in opening bank accounts in the past or do not want the worry of having a separate bank account, this may be a solution for you.

You will generally only be able to use your prepayment card at outlets that display that the card is accepted so you will need to check that you can use the card to make a payment for the services you want to use.

If you have been financially assessed as having to pay a contribution (charges) towards your social care, your contribution will also need to be loaded on to the card, unless you have agreed otherwise. In other words, the amount that the council pays to you will be the amount less your contribution and you will need to top up the rest. You can top up the card if you want to spend additional money on similar services.

The local council will still need to check that the personal budget allocated to you is being used to meet your support needs and regular statements will be automatically sent to your local council. There may be an additional charge for you to use a prepayment card and you should check with your local council what charges are in place. Statements will show payments in and payments out and will usually go direct to the local council, although you could also request a copy of statements for your own purposes. Any invoices or receipts you receive should be kept in accordance with any monitoring arrangements your Local council has in place.

## **8: Moving between Areas**

The Care Act specifies the local council's duty if you decide to move to another locality. Both your current council and the council where you are moving to now have a legal duty to liaise together to ensure that you will continue to receive support without disrupting your care. Your current council needs to ensure that information about you is transferred to the new council where you will move to.

You will need to inform the council in the new area you want to move to of your intention to move so that they request all the necessary data about your care and support from your existing council – this gives them an idea about your needs. Make a note of the people you are contacting from each council and who is responsible for supporting your move as you may need to contact them again if something goes wrong.

Prior to moving, the council in the area you wish to move to will conduct a person-centred assessment based on the information given by your previous council; you will be involved in this process. The new local council will work with

you to produce a new care and support plan that will be implemented from the day you move to the new council.

If, however, this is not done before you move, then the new council should arrange relevant support to meet your care needs in line with your previous care and support plan until a new needs assessment takes place. Following the care needs assessment, if the amount you receive from the new council is less than you used to get from the previous council despite your care needs not changing, then you should be given valid reasons by the new council and you should be able to appeal against the decision.

## **9: Safeguarding**

Safeguarding means protecting your right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that your wellbeing is promoted including taking into account your views, wishes, feelings and beliefs in deciding on any action.

Abuse is harm caused by a person who has power over another person. It can include physical harm or neglect, verbal or emotional abuse, sexual abuse, or financial abuse – taking money from you when you have not agreed to it.

Every local council must have an Adults Safeguarding Board. Their role is to make sure that ‘vulnerable’ residents in their area are kept safe even if they do not receive support from the Council. They also review instances where individuals have experienced abuse. The individual concerned must be fully involved in the review and have an independent advocate if they need to so that they can have their say.

## **10: Charging and Financial Assessment**

Unlike NHS healthcare, care and support is not a free service, so your local council has the right to request a contribution from you depending on your financial circumstances. Whilst councils have the power to charge individuals receiving social care, the Act specifies that you can only be asked to pay what you can afford.

The new framework for charging set out in the Care Act is intended to make charging fairer and more clearly understood by everyone. The overarching principle is that you should only be required to pay what you can afford. You will be entitled to financial support based on a means test and maybe entitled to free care in particular circumstances. The framework is based on the following principles that local councils should take into account when making decisions on charging.

The principles are that the approach to charging for care and support needs should:

- ensure that you are not charged more than it is reasonably practicable for you to pay;
- be comprehensive, to reduce variation in the way people are assessed and charged;
- be clear and transparent, so you know what you will be charged;
- promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control;
- support carers to look after their own health and wellbeing and to care effectively and safely;
- be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet your needs;
- apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings;
- encourage and enable you to stay in or take up employment, education or training or plan for the future costs of meeting your needs;
- be sustainable for local authorities in the long-term.

Local authorities should ensure there is sufficient information and advice available in a suitable format for your needs, in line with the Equality Act 2010 (in particular for those with a sensory impairment, with learning disabilities or for whom English is not their first language), to ensure that you or your representative are able to understand any contributions you are asked to make. Local councils should also make you aware of the availability of independent financial information and advice.

Your local council cannot charge you if:

- your support is arranged under section 117 aftercare of the Mental Health Act;
- you are eligible for NHS continuing health care the costs of care are met by NHS and are free, irrespective of your financial means;
- you are receiving intermediate care which must be provided free for up to six weeks, and can be longer depending on your circumstances;
- for community equipment (aids) and minor adaptations (up to £1000);
- you are receiving care and support because you have Creutzfeldt-Jakob disease.

The local authority should work out how much you can afford to pay for your care and support before they decide to collect any money from you. You cannot be charged more than the actual cost to the local authority.

It is up to each local council to draw up their own charging policy however they must not charge more than is allowed in the regulations and guidance that are in the Care Act. Local councils have powers not to charge at all or they can design

policies that are more generous than the Care Act guidance. In practice nearly all local councils do charge for care and support. You should make sure your local council gives you a copy of their charging policy. The local council will decide how much you have to pay towards your care and support costs through a financial assessment.

## Financial Assessment Process

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The financial assessment is based on your income and capital.

The Care Act provide that:

- Those with savings over £23,250 are not eligible for state funded care.
- If you have less than £14,250, you are eligible for state funded care but may have to pay a contribution based on your income (excluding earned income)
- If you have savings between £14,250 and £23,250, you are eligible for state funded care but may be asked to pay a contribution from your savings as well as from your income (excluding earned income) towards the costs of your care and support. This is assessed as being £1 for every £250 over the threshold of £14,250.

When the local council carries out a financial assessment they will look at:

- Your income such as the benefits you receive. Remember they cannot take into account income you receive from paid employment or if you have a partner any income that they receive.
- Your savings

The local council should give you written details of how much you will be charged.

This should include:

- How the charge has been worked out.
- What you can do if you think you cannot afford the charge.

The council cannot withdraw a service or take away your personal budget because you fail to pay the charge. This is because the decision to meet a need for care and support comes before any decision on how much to charge.

**Note:** The local council will be treated as having carried out an assessment if you refuse to have a financial assessment, or do not co-operate with the assessment



## What is the minimum that you should be left with after paying charges?

Guidance in the Care Act tells councils what the minimum income is that you should be left with after paying charges. This is called the 'minimum income guarantee'.

Current rates are as follows:

<b>Basic allowances</b>		<b>per week</b>
Single person	18-24	£72.40
	25 to pension credit age	£91.40
	pension credit age	£189.00
Lone parent	18 or over	£91.40
Member of couple	one or both 18 or over	£71.80
	one or both pension credit age	£144.30
Child dependant		£83.65
<b>Premiums</b>		<b>per week</b>
Disability	single	£40.35
	member of couple	£28.75
Enhanced disability	single	£19.70
	member of couple	£14.15
Carer		£43.25

### Disability Related Benefits

The following disability-related benefits may be taken into account as income:

- disability living allowance (DLA) care component;
- personal independence payment (PIP) daily living component;
- attendance allowance;
- constant attendance allowance; and
- exceptionally severe disablement allowance.

DLA or PIP mobility component, the war pensioner's mobility supplement and armed forces independence payment are disregarded.

### Disability Related Expenditure

In addition, the local council should allow you have enough income to pay for disability related expenditure. This includes things like the cost of extra heat, specialist clothing, or particular food.

Some councils have a checklist of items that they consider to be disability related expenditure with specified costs. You can ask for other disability related items to be taken into account if they are not on the list.

Your local council should also count as disability related expenditure any care you need that they are not helping with for example if they are only supporting

you with daytime care but you also need night time care, the cost to you of that care should be taken into account as part of your disability related expenditure.

### **If you disagree with what you are being asked to pay**

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You can complain about the amount you are being asked to pay by using the local council's complaints process. You should complain in writing either in a letter or e-mail. The council should get in touch with you within three working days. Your complaint will then be looked into and the council will let you know their conclusion. If you are still not happy with the result you can appeal. If you are still unhappy after the appeal, you can complain to the Ombudsman service.



## Links to Further Information

### **For more information about:**

#### **The Care Act:**

- > [www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance](http://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance)

#### **Personal budgets and direct payments:**

- > [www.carersuk.org/?gclid=CKaZhd3E\\_c4CFEep0wod4w4N9g](http://www.carersuk.org/?gclid=CKaZhd3E_c4CFEep0wod4w4N9g)
- > [www.in-control.org.uk/resources.aspx](http://www.in-control.org.uk/resources.aspx)
- > [www.thinklocalactpersonal.org.uk/Latest](http://www.thinklocalactpersonal.org.uk/Latest)

#### **Carers:**

- > [www.carersuk.org/?gclid=CKaZhd3E\\_c4CFEep0wod4w4N9g](http://www.carersuk.org/?gclid=CKaZhd3E_c4CFEep0wod4w4N9g)

#### **Older people and personal budgets:**

- > [www.independentage.org/information/advice-guides-factsheets-leaflets](http://www.independentage.org/information/advice-guides-factsheets-leaflets)

#### **Mental health and personal budgets:**

- > [www.nsun.org.uk/about-us/our-work/personalisation](http://www.nsun.org.uk/about-us/our-work/personalisation)

#### **Learning disability and personal budgets:**

- > [www.peoplefirstinfo.org.uk](http://www.peoplefirstinfo.org.uk)

#### **Your legal rights under the Care Act:**

- > [www.disabilityrightsuk.org/how-we-can-help/irwin-mitchell-services](http://www.disabilityrightsuk.org/how-we-can-help/irwin-mitchell-services)
- > [www.inclusionlondon.org.uk/campaigns-and-policy/facts-and-information/independent-living-social-care-and-health/rights-social-care-support](http://www.inclusionlondon.org.uk/campaigns-and-policy/facts-and-information/independent-living-social-care-and-health/rights-social-care-support)
- > [www.ageuk.org.uk/home-and-care/help-at-home/self-directed-support/making-care-personalised](http://www.ageuk.org.uk/home-and-care/help-at-home/self-directed-support/making-care-personalised)

#### **Residential Care**

- > <http://www.which.co.uk/elderly-care/care-services-directory?gclid=CMrR9bjC1c8CFesp0wodmGglBw>

## Glossary

Think Local Act Personal have compiled a guide to social care words and phrases. Some of the most common terms are defined below. You can find the complete guide at [www.thinklocalactpersonal.org.uk/Browse/Informationandadvice/CareandSupportJargonBuster](http://www.thinklocalactpersonal.org.uk/Browse/Informationandadvice/CareandSupportJargonBuster).

**Adult social care:** Care and support for adults who need extra help to manage their lives and be independent – including older people, people with a disability or long-term illness, people with mental health problems, and carers. Adult social care includes assessment of people's needs, provision of services or allocation of funds to enable you to purchase your own care and support. It includes residential care, home care, personal assistants, day services, the provision of aids and adaptations and personal budgets.

**Advocacy:** Help to enable you to get the care and support you need that is independent of your local council. An advocate can help you express your needs and wishes, and weigh up and take decisions about the options available to you. They can help you find services, make sure correct procedures are followed and challenge decisions made by councils or other organisations. The advocate is there to represent your interests, which they can do by supporting you to speak, or by speaking on your behalf. They do not speak for the council or any other organisation. If you wish to speak up for yourself to make your needs and wishes heard, this is known as self-advocacy.

**Aids and adaptations:** Help to make things easier for you around the home. If you are struggling or disabled, you may need special equipment to enable you to live more comfortably and independently. You may also need changes to your home to make it easier and safer to get around. Aids and adaptations include things like grab rails, ramps, walk-in showers and stair-lifts.

**Assessment:** The process of working out what your needs are. A community care assessment looks at how you are managing everyday activities such as looking after yourself, household tasks and getting out and about. You are entitled to an assessment if

you have social care needs, and your views are central to this process. See also Pre-assessment Self-assessment.

**Benefits:** Payments from the Government that you may receive because of your age, disability, income or caring responsibilities. Some benefits are universal – paid to everyone regardless of their income. Others are paid to people who have particular types of needs, regardless of their income. And others are means-tested – only paid to people whose income or savings fall below a certain level. Benefits in England are paid by the Department of Work and Pensions, not your local council.

**Broker:** (also called 'care navigator') Someone whose job it is to provide you with advice and information about what services are available in your area, so that you can choose to purchase the care and support that best meets your needs. They can also help you think about different ways that you can get support, for example by making arrangements with friends and family. A broker can help you think about what you need, find services and work out the cost. Brokerage can be provided by local councils, voluntary organisations or private companies. See also Advocacy, Signposting

**Care plan:** A written plan after you have had an assessment, setting out what your care and support needs are, how they will be met (including what you or anyone who cares for you will do and what services you will receive. You should have the opportunity to be fully involved in the plan and to say what your own priorities are. If you are in a care home or attend a day service, the plan for your daily care may also be called a care plan. See also Support plan

**Carer:** A person who provides unpaid support to a partner, family member, friend or neighbour who is ill, struggling or disabled

and could not manage without this help. This is distinct from a care worker, who is paid to support people.

**Care Worker:** A person who is paid to support someone who is ill, struggling or disabled and could not manage without this help.

**Client contribution:** The amount you may need to pay towards the cost of the social care services you receive. Whether you need to pay, and the amount you need to pay, depends on your local council's charging policy, although residential care charges are set nationally. Councils receive guidance from the Government on how much they can charge. See also Self-funding

**Community care services:** Social care services that can help you live a full, independent life and to remain in your own home for as long as possible.

**Community health services:** Health services that are provided outside hospitals, such as district nursing.

**Continuing health care:** Ongoing care outside hospital for someone who is ill or disabled, arranged and funded by the NHS. This type of care can be provided anywhere, and can include the full cost of a place in a nursing home. It is provided when your need for day to day support is mostly due to your need for health care, rather than social care. The Government has issued guidance to the NHS on how people should be assessed for continuing health care, and who is entitled to receive it.

**Direct payments:** Money that is paid to you (or someone acting on your behalf on a regular basis by your local council so you can arrange your own support, instead of receiving social care services arranged by the council. Direct payments are available to people who have been assessed as being eligible for council-funded social care. They are not yet available for residential care. This is one type of personal budget. See also Personal budget

**Eligibility:** When your needs meet your council's criteria for council-funded care and support. Your local council decides who should get support, based on your level of

need and the resources available in your area. The eligibility threshold is the level at which your needs reach the point that your council will provide funding. If the council assesses your needs and decides they are below this threshold, you will not qualify for council-funded care.

**Home care:** Care provided in your own home by paid care workers to help you with your daily life. It is also known as domiciliary care. Home care workers are usually employed by an independent agency, and the service may be arranged by your local council or by you (or someone acting on your behalf).

**Independent living:** The right to choose the way you live your life. It does not necessarily mean living by yourself or doing everything for yourself. It means the right to receive the assistance and support you need so you can participate in your community and live the life you want.

**Indicative budget:** An amount that the local authority estimates would be sufficient to meet your care and support needs/

**Occupational therapist:** A professional with specialist training in working with people with different types of disability or mental health needs. An OT can help you learn new skills or regain lost skills, and can arrange for aids and adaptations you need in your home. Occupational therapists are employed both by the NHS and by local councils.

**Older people:** Older people are the largest group of people who use adult social care services. Many councils define people over the age of 50 as 'older', but social care services for older people are usually for people over the age of 65 – unless you have particular needs that make you eligible before this age.

**Outcomes:** In social care, an 'outcome' refers to an aim or objective you would like to achieve or need to happen – for example, continuing to live in your own home, or being able to go out and about. You should be able to say which outcomes are the most important to you, and receive support to achieve them.

**Personal assistant:** Someone you choose and employ to provide the support you need,

in the way that suits you best. This may include cooking, cleaning, help with personal care such as washing and dressing, and other things such as getting out and about in your community. Your personal assistant can be paid through direct payments or a personal budget.

**Personal budget:** The money that is allocated to you by your local council to pay for care or support to meet your assessed needs. The money comes solely from adult social care. You can take your personal budget as a direct payment, or choose to leave the council to arrange services (sometimes known as a managed budget – or a combination of the two. An alternative is an individual service fund, which is a personal budget that a care provider manages on your behalf. A personal health budget may also be available if it is a plan for your health care that you develop and control, knowing how much NHS money is available.

**Personalisation:** A way of thinking about care and support services that puts you at the centre of the process of working out what your needs are, choosing what support you need and having control over your life. It is about you as an individual, not about groups of people whose needs are assumed to be similar, or about the needs of organisations.

**Primary care:** The part of the NHS that is the first point of contact for patients. This includes GPs, community nurses, pharmacists and dentists.

**Referral:** A request for an assessment of a person's needs, or for support from a social care organisation. A referral to adult social care may be made by your GP, another health professional or anyone else who supports you. You can also refer yourself, or a member of your family, by contacting the adult social care department at your local council.

**Residential care:** Care in a care home, with or without nursing, for older people or people with disabilities who require 24-hour care. Care homes offer trained staff and an adapted environment suitable for the needs of ill, frail or disabled people.

**Resource Allocation System:** The system

some councils use to decide how much money people get for their support. There are clear rules, so everyone can see that money is given out fairly. Once your needs have been assessed, you will be allocated an indicative budget – so that you know how much money you have to spend on care and support. The purpose of an indicative budget is to help you plan the care and support that will help you meet your assessed needs – it might not be the final amount that you get, as you may find that it is not enough (or is more than enough to meet those needs).

**Respite care:** A service giving carers a break, by providing short-term care for the person with care needs in their own home or in a residential setting. It can mean a few hours during the day or evening, 'night sitting', or a longer-term break. It can also benefit the person with care needs by giving them the chance to try new activities and meet new people.

**Review:** When you receive a re-assessment of your needs and you and the people in your life look at whether the services you are receiving are meeting your needs and helping you achieve your chosen outcomes. Changes can then be made if necessary.

**Rights:** What you are entitled to receive, and how you should be treated, as a citizen. If you have a disability or mental health problem, are an older person or act as a carer for someone else, you have the right to have your needs assessed by your local council. You have a right to a service or direct payment if your assessment puts you above the eligibility threshold your council is using. You and your carers have a right to be consulted about your assessment and about any changes in the services you receive.

**Risk assessment:** An assessment of your health, safety, wellbeing and ability to manage your essential daily routines. You might also hear the term risk enablement, which means finding a way of managing any risks effectively so that you can still do the things you want to do.

**Safeguarding:** The process of ensuring that adults at risk are not being abused, neglected or exploited, and ensuring that people who

are deemed 'unsuitable' do not work with them. If you believe that you or someone you know is being abused, you should let the adult social care department at your local council know. They should carry out an investigation and put a protection plan in place if abuse is happening. Councils have a duty to work with other organisations to protect adults from abuse and neglect. They do this through local safeguarding boards.

**Self-assessment:** A form or questionnaire that you complete yourself, either on paper or online, explaining your circumstances and why you need support. A social care worker or advocate can help you do this. If your council asks you to complete a self-assessment form, it will use this information to decide if you are eligible for social care services or if you need a full assessment by a social worker. See also Pre-assessment

**Self-directed support:** An approach to social care that puts you at the centre of the support planning process, so that you can make choices about the services you receive. It should help you feel in control of your care, so that it meets your needs as an individual. See also: Personalisation

**Self-funding:** When you arrange and pay for your own care services and do not receive financial help from the council.

**Personal care:** Help with personal matters such as eating, drinking, washing, going to the toilet, getting up, getting dressed, going to bed, taking medicines and other things.

**Social care:** Any help that you need, such as personal care or practical assistance, to live your life as comfortably and independently as possible, because of age, illness or disability.

**Social worker:** A professional who works with individual people and families to help improve their lives by arranging to put in place the things they need. This includes helping to protect adults and children from harm or abuse, and supporting people to live independently. Social workers support people and help them find the services they need. They may have a role as a care manager, arranging care for service users. Many are employed by councils in adult social care teams; others work in the NHS or independent organisations.

**Support plan:** A plan that you develop to describe how you will spend your personal budget to get the life you want. The plan will define outcomes you hope to achieve and show how the money will be used to make these happen. Your local council must agree the plan before it makes money available to you.