

# What do you need to think about now that the Care Act is here

## About this factsheet and who it is for

The Care Act 2014 represents the biggest change to the social care system for more than 60 years.

This factsheet aims to cover the key changes that might affect you and what information and advice is available to help you make the right decisions for your care.

The artwork on the front of this factsheet was done by an older artist as part of the EAC Art Awards competition



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## 1. The Care Act 2014

The Care Act 2014 introduces new responsibilities for local authorities. It makes clear what local authorities must do and what people can expect so that everyone knows where they stand. It has major implications for adults needing care and support and their carers. It sets out how a person's needs should be assessed, how to determine who is eligible for help and the rules around charging for care, at home or in residential care.

There are some strong themes in the care act such as, promoting wellbeing, choice and control, preventing needs, providing information and advice, advocacy and keeping people safe.

There is a 2 stage plan for local authorities to implement the new Care Act, the first stage was introduced in April 2015 and mainly covered the assessment process and eligibility. The second stage will be from April 2020 and will mainly cover changes to the way in which care is paid for, including introduction of the care cap. You can read more about these proposals later in this factsheet.

The care cap will replace the current system which is felt to be unfair because only those with minimal assets and a low income receive any financial help from

the State, whilst those with more, stand to lose almost everything they may have worked hard and saved for.

It is likely that 1 in 8 people will develop the need for high costing care. These reforms will give everyone the peace of mind that they will be protected should they develop severe care and support needs.

The care cap will limit the amount older people have to pay towards their eligible care and support costs; this is due to be set at £72,000.

### The care needs assessment

The purpose of the local authority assessment is to identify a person's needs and how these needs impact on their wellbeing and the outcomes they wish to achieve in their day to day life.

Consideration must also be given to preventing the development of needs and it can be done in a variety of ways: by telephone, face to face, online or by self-assessment, but it must be appropriate and proportionate to the needs of the individual.

The assessment process must be free of charge and available to all adults that appear to have a need for care and support, regardless of their financial means. It must also be person centred

throughout, involving the person and supporting them to have choice and control.

If a person is unable to request an assessment or express their needs, then the local authority must carry out supported decision making, helping the person to be as involved as possible in the assessment process. For example, this may include access to an Independent Advocate if needed.

From this assessment the local authority will determine if those needs meet the eligibility criteria set out in the Care Act 2014. If the assessment identifies no eligible needs at that time then the local authority must consider providing information and advice or other preventative services.

If the assessment identifies needs that do meet the eligibility criteria then the local authority may means test you to see if you can pay for any care or support yourself in full or how much you will need to contribute towards the costs.

### What is 'wellbeing'?

Wellbeing is at the heart of The Care Act 2014 and local authorities must act to promote it. It's about what is important to you and must be a focus when

considering your needs and goals. It includes areas such as:

- Personal dignity
- Physical and mental health and emotional wellbeing
- Protection from abuse and neglect
- Control by the individual over day-to-day life
- Participation in work, education, training or recreation
- Social and economic wellbeing
- Domestic, family and personal
- Suitability of living accommodation
- The individuals contribution to society

### What are 'eligible needs'?

Your care and support needs including the outcomes you wish to achieve as identified from the assessment will be eligible needs if they meet all three of the following conditions:

1. The needs arise from or are related to a physical or mental impairment or illness.
2. As a result of those needs the adult is unable to achieve two or more of the specified outcomes
  - without assistance
  - without assistance but doing so causes the adult

significant pain, distress or anxiety

- without assistance but doing so endangers or is likely to endanger the health or safety of the adult, or of others
- are able to achieve it without assistance but take significantly longer than would normally be expected

3. As a consequence of being unable to achieve these outcomes there is, or there is likely to be, a significant impact on the adult's wellbeing.

### Care and support planning

Following a care needs assessment and determination of eligibility a care and support plan should be developed. You should have every opportunity to be involved in planning how your care needs will be met.

## 2. Who will pay for my care?

### Care at home – the current system

If you live in your own home with care and support needs and have capital and assets over £23,250 (excluding the value of your home) you are likely to have to

pay for any associated costs yourself. If you have less than £23,250 you are likely to have to make a contribution towards the costs or depending on your income you may have to pay them in full.

If you qualify for financial help from the local authority you will be told what your 'Personal Budget' is, this is the total costs for the care and support needed to meet your eligible assessed needs. If you prefer you (or a third party acting on your behalf) may be able to receive the local authority's contribution towards the cost of meeting your needs by way of a 'Direct Payment', enabling you to have control of the money. Alternatively you may prefer to let the local authority manage this budget for you and provide the care and support services directly to you.

### In a care home – the current system

If you live in a residential care home or nursing home and have capital and assets over £23,250 (including the value of any former home) you are likely to have to meet the costs in full yourself. In some cases the value of your former home can be disregarded, for example if it is still occupied by your partner or spouse, a relative over 60, a younger relative who is incapacitated or a child of yours under 16.

If you have less than £23,250 in capital

and assets you may qualify for financial help from the local authority towards the costs. The amount they will pay will be determined after the means testing to see what they feel you can afford from your income and any capital and assets you may have.

### **NHS Funding**

Help with meeting the cost of care or nursing may be available through payments from your local NHS Clinical Commissioning Group (CCG), this funding is non-means tested. Subject to assessment there are two main sources of NHS funding to help meet the cost of care at home or in a care home, NHS continuing healthcare and NHS-funded nursing payments.

NHS Continuing Healthcare is a package of on-going care that is arranged and funded solely by the NHS where the individual has been found to have a 'primary health need'.

Since October 2014 you have a right to a personal health budget. A personal health budget is the amount of money needed to support your identified health and wellbeing needs as planned between you and your NHS team, if you prefer you may be able to receive the money as a direct payment, allowing you to buy the care and support you need.

If you are not entitled to NHS Continuing healthcare and you are in a care home with nursing you could be entitled to NHS-funded nursing care which is a weekly contribution of £155.05 paid by the NHS direct to the nursing home towards your fees.

If you have need of a care and support package which is supported by the NHS and local authority they should work together, with you, to agree this. If you do not qualify for NHS Continuing healthcare or the funded nursing care contribution (for those in a care home with nursing), there still may be other NHS services you may be entitled to, for example, rehabilitation, respite health care and community health services.

Under Section 117 of the Mental Health Act 1983 the NHS and local authority jointly have a duty to provide after-care services if you have been detained under certain provisions of the Mental Health Act 1983, until such time that they are satisfied that you are no longer in need of these services. All services provided under Section 117 are free and you cannot be charged for them.

### **State Benefits**

Everybody with care or support needs living in their own home, or those in

residential care homes who are self funding their care should consider applying for a state disability benefit for help with care and support costs if they do not already receive one. You may be entitled to Attendance Allowance, Disability Living Allowance or Personal Independence Payments, these are all non-means tested.

### **Council Tax Exemption**

If moving into a care home leaves your former home unoccupied you can apply to the Council Tax department of your local authority for an exemption, you could receive full exemption from Council Tax until it's sold.

## **3. Further information for those who are self funding their care**

### **12 week property disregard rule**

If, apart from your property, your other capital is below £23,250 and your income is insufficient to meet the care home's fees, the local authority, if assessing you as needing a care home place, can assist with the costs for the first twelve weeks of permanent care as if you were funded by them. Beyond that period any financial help will be via a deferred payment agreement.

### **Deferred payment agreements**

Deferred payment agreements are a 'loan' from the local authority to help people to meet the costs of their care in a care home (or other setting such as supported living accommodation) without the need to sell their property.

Since April 2015 local authorities must offer a deferred payment agreement to those that are eligible and have discretion to offer them to those that do not meet the criteria in full.

Local authorities can also charge interest on the loan and include any reasonable administration costs. Where local authorities do decide to charge interest this must not exceed the maximum specified in the regulations. The maximum interest rate will be set every 6 months in January and June.

It is likely that a person will have to contribute towards the cost of their care from their income and any other capital and assets they have, with the deferred payment agreement meeting the shortfall. The local authority must allow a person to keep up to £144 per week of their income if they choose to.

## 4. Care funding from April 2020

The following changes to the way in which care and support is funded was due to be implemented in April 2016, but has now been postponed until 2020 by Government.

**Note:** The figures given below are based on those proposed for the postponed 2016 reforms; these figures may therefore change before the introduction of these reforms in 2020.

### A £72,000 cap on care costs

This will come into effect from April 2020 and effectively ‘caps’ the amount you should spend on *care* in your lifetime.

Every person receiving care will have a ‘care account’ managed through social services which will ensure that contributions you make towards your care from April 2020 are counted towards the cap. It is important to be aware that only care you have been assessed as needing, up to the cost of what the local authority would usually pay for this service, will contribute to the £72,000.

For care home residents, it is important to note that only the ‘care’ element of your bill will contribute towards this cap. You will always be expected to pay towards the care home’s ‘hotel costs’ (such as bed & board), which do not

count towards the £72,000 cap. These costs are likely to be set at a figure of £12,000 per year (£230 a week).

### An increase in the upper capital limit from £23,250 to £118,000

This will come into effect from April 2020 and effectively means you may be entitled to financial assistance from your local authority sooner than you would be under the current system.

The current lower capital limit of £14,250 is also rising in April 2020 to £17,000. This is the minimum figure that must be disregarded when calculating your assets.

However, it is important to remember that your capital between £118,000 and £17,000 is still taken into account to form an ‘income’ at a rate of £1 for every £250 that you have (this is equal to £404 per week for those with assets of £118,000); this is then combined with your actual income from pensions and state benefits. If this total income figure is higher than the council’s personal budget for you, then you may not be entitled to any financial support.

## Will I run out of money?

The reforms aim to give everyone the peace of mind that they will be protected from catastrophic care costs by means of a cap on costs that will limit the amount people have to pay towards their eligible care and support. Along with an extension to means-tested financial support which will work in conjunction with the cap to ensure that people retain more of their assets, and that more people will receive help with the costs of their care from the state.

## 5. Financial advice

Financial information and advice is fundamental to enabling people to make well-informed choices about how they pay for their care, it can help navigate a complex care funding system, widening your choices by understanding how income and assets can be used flexibly to fund a range of care options and that they will be affordable both now and in the future.

Regulated financial advice can only be given by providers regulated by the Financial Conduct Authority (FCA). All regulated financial advisers must have a level 4 financial planning qualification and hold a Statement of Professional Standing (SPS). However, not all FCA-regulated

Examples of different types of financial information and advice	
Unregulated	Regulated
Welfare Benefits	Care Fees planning
NHS Care Funding	Tax Planning
Budgeting	Pensions/Pension Transfers
Local Authority Care Funding	Financial Planning
Housing Options	Investments/Savings
Deferred Payment Agreements	Wealth Management
Understanding Ways to pay	Equity Release
Money Management	Mortgages
Understanding Care Charges	Property Options
Debt Management	Health/Life Insurances

advisers will have an in-depth understanding of the care and support system unless they have chosen to specialise in this area of advice.

Where an adviser chooses to specialise, then specific additional regulatory qualifications and permissions from the FCA are required. This is the case for advising on long term care insurance and care fees planning and other areas such as equity release advice. A list of the qualifications that a regulated financial adviser must have depending on the areas they advise on and can be found on the [FCA's website](#).

### Accreditation

Accreditation is not a mandatory requirement of the FCA in order for a regulated financial adviser to give advice. Accreditation relates to an individual adviser not a financial services firm and should be seen as an added layer of quality assurance, provided by a recognised organisation and help to identify those regulated financial advisers who have made a voluntary commitment to higher standards.

The [Society of Later Life Advisers](#) (SOLLA) offers accreditation to financial advisers who can prove they have specialist knowledge in the later life sector. Their aim is to ensure that consumers are

better informed about the financial issues of later life and can find a fully accredited adviser quickly and easily.

### How do I find out more?

Your local authority must ensure that there is an accessible information and advice service that meets the needs of its population. Information and advice must be open to everyone who would benefit from it, covering areas such as;

- Prevention of care and support needs
- Finances
- Health
- Housing
- Employment
- Safeguarding (abuse and neglect)

Local authorities must also have regard to identifying people that contact them who may benefit from independent financial information and advice and assist those people in accessing it.

## About FirstStop Advice

FirstStop is a free information and advice service designed to help older people decide how best to meet their needs for support, care and suitable housing. It is provided jointly by a growing number of national and local organisations and it is led by the charity, Elderly Accommodation Counsel (EAC).

## About FirstStop Financial Advice

Working together, EAC and its partners in FirstStop Advice provide comprehensive information and guidance to help you afford the care, accommodation or services you need.

FirstStop's national Advisors are trained to advise on:

- What you may be entitled to in state benefits and financial help from your local authority;
- Whether you may be entitled to help with your care costs;
- Ways of making your income and capital go further;
- Services that are provided free by local and national voluntary organisations;
- Homesharing, co-housing and other mutual support networks.

A key FirstStop partner organisation is the *Society of Later Life Advisers (SOLLA)*.

SOLLA's members are regulated Financial

Advisers who specialise in providing financial advice to older people, they also adhere to the Society's Code of Best Practice.

If you decide, after speaking to us, that you would like advice from a SOLLA member, we can provide local details to you.

*(Neither EAC or FirstStop has any financial interest in SOLLA or its member IFAs)*

## Contact us

- Visit us online: [www.housingcare.org](http://www.housingcare.org)

*The information contained in this factsheet is intended to be, and should be regarded as, a brief summary and is based on our understanding of present legislation, regulations and guidance. No responsibility can be accepted for action based on this information.*

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