

Care Charging and Disability Related Expenditure

The government says that councils can choose to charge for care services - most do.

Charging rules and regulations:

Councils have to look at:

1. money you have saved and any investments you have (capital)
2. money that you have coming in (income)
3. money you spend because you are disabled (disability related expense)

1. If someone has **capital** of more than £23,250 - they have to pay for all of their care. If they have capital of more than £14,250, there is an assumption that interest on this will give you a bit of income, but they MIGHT still be entitled to help.

2. Even if someone has no savings or is overdrawn, they might still have to pay for some or all of their care - this is because the council also has to look at the **income** - the amount of money the person has coming in on a weekly basis, including through benefits, pensions, money they get from a lodger etc.

The Government decides how much a person needs to have to be able to meet their regular living costs (bills, food, regular expenses). This is called the **Minimum Income Guarantee**. This figure is based on whether you are a single person, a couple, whether you have children or not, whether you are under or over pensions age and whether you are / or would be entitled to disability benefits. Every year this "minimum income guarantee" changes.

When the council does the financial assessment, they have to make sure that you are left with **at least the same amount of the Minimum Income Guarantee**.

There are certain things that **can't be counted towards the Minimum Income Guarantee** -including money paid for "mobility", money you earn for work, certain war benefits and child benefits, and payments for Rent and council tax have to be deducted.

3. But - if you get disability benefits and have no choice but to spend money specifically because you are disabled and that you wouldn't have to spend otherwise, this is called a **Disability Related Expenditure (DRE)**.

This essential disability related spending also has to be considered when the council decide how much money you could afford to pay for care. There are guidelines

about what is and isn't classed as disability related expenditure... but you have to be able to prove that you have already spent the money, it is essential (not just a choice) and that there wasn't any other organisation that should have paid.

4. Calculating:

To calculate the maximum you can afford to contribute, the council looks at:

- the total amount of benefits, pension or other non-employment related income you have,
- they then disregard the income that is not supposed to be counted,
- they deduct the amount that the government says is the Minimum Income Guarantee and any Disability Related Expenditure.
- Anything over the Minimum Income Guarantee is the "disposable income" and the amount that is seen as being available to pay for care.

5. The cost of your care and how much you actually pay:

Legislation says that you cannot be charged more than the actual cost of the care you are getting. If you have been told that can contribute:

If your **actual care costs** are the **same as, or less** than the maximum amount they say you have to contribute, **you pay for all of the care**. The council doesn't pay anything.

If the **cost of your care is more than your contribution** you pay your **contribution first and then the council tops** up to cover the rest of the actual cost of your care. **You always have to pay your contribution first** so, even if you choose to have less support, you still have to pay the first part.

As you can't be charged more than the actual cost of the care - if they are **unable to provide the care** that was agreed, so the **actual cost is lower** than your agreed contribution, you should **not be charged the full contribution**.

6. Some other key points about Charging ...

The Minimum Income Guarantee is significantly different depending on the person's age... and **is not sufficient to have a reasonably acceptable basic standard of living** according to the Joseph Rowntree Foundation Minimum Income Standards report - which says a single person needs £200 a week for the basics (excluding housing, council tax and childcare costs).

Debts are not taken into account as they say that it is not their fault that you got into debt, so on paper it might look like you can afford to pay more for your care than

you can actually afford. The legislation says that you are not supposed to be charged “more than you can reasonably afford” (8.45 of the **Statutory Guidance**).

What is a Disability Related Expenditure?

1. Money you pay for a SPECIALIST piece of equipment or service that only someone who has poor health or a disability would use – e.g. a walking stick, or hours from a care agency
2. Money you have to pay for NON-SPECIALIST equipment or service that you HAVE to use due to your health condition or disability e.g. a hairdresser to WASH and DRY your hair or a gardener for BASIC GARDEN MAINTENANCE, if you can't do that yourself.
3. Money you have to pay, due to your health condition or disability for a regular item or service that costs more than a regular person would have to spend - e.g. the ADDITIONAL cost of gluten free bread (if this is essential) or EXTRA heating costs if you need to keep warm.
4. Anything else that you have to buy due to your health condition or disability that you cannot get for free from somewhere else – e.g. if you have been refused a wheelchair or sufficient incontinence pads so have to pay privately.

- The council has to have a “fair and equitable” policy around disability-related expenditure - this means that although you might consider that something is a disability related expense, the council might not agree. It is important to be able to find ways to justify why it is disability related and why it is essential.

- For household bills and food, they compare spending to an average person, not what you would have spent if you weren't disabled. For instance, you might be a very frugal person - only spending £10 on electric and when you become disabled they go up to £15. To you this would mean a disability related expense of £5... but the average cost of electricity locally might be £17... this would mean that you are still paying below the average and your extra £5 in bills would still not be allowed as a disability related expense.

Disability-related expenditure specifically mentioned in Guidance (Annex C)

39) Where disability-related benefits are taken into account, the local authority should make an assessment and allow the person to keep enough benefit to pay for necessary disability-related expenditure to meet any needs which are not being met by the local authority.

40) In assessing disability-related expenditure, local authorities should include the following. However, it should also be noted that **this list is not intended to be**

exhaustive and any reasonable additional costs directly related to a person's disability should be included:

1. (a) payment for any community alarm system
2. (b) costs of any privately arranged care services required, including respite care
3. (c) costs of any specialist items needed to meet the person's disability needs, for example:
 1. (i) Day or night care which is not being arranged by the local authority
 2. (ii) specialist washing powders or laundry
 3. (iii) additional costs of special dietary needs due to illness or disability (the person may be asked for permission to approach their GP in cases of doubt)
 4. (iv) special clothing or footwear, for example, where this needs to be specially made; or additional wear and tear to clothing and footwear caused by disability
 5. (v) additional costs of bedding, for example, because of incontinence
 6. (vi) any heating costs, or metered costs of water, above the average levels for the area and housing type
 7. (vii) occasioned by age, medical condition or disability
 8. (viii) reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by the individual's disability and not met by social services
 9. (ix) purchase, maintenance, and repair of disability-related equipment, including equipment or transport needed to enter or remain in work; this may include IT costs, where necessitated by the disability; reasonable hire costs of equipment may be included, if due to waiting for supply of equipment from the local council
- 10.(x) personal assistance costs, including any household or other necessary costs arising for the person
- 11.(xi) internet access for example for blind and partially sighted people
- 12.(xii) other transport costs necessitated by illness or disability, including costs of transport to day centres, over and above the mobility component of DLA or PIP, if in payment and available for these costs. In some cases, it may be reasonable for a council not to take account of claimed transport costs – if, for example, a suitable, cheaper form of transport, for example, council-provided transport to day centres is available, but has not been used
- 13.(xiii) in other cases, it may be reasonable for a council not to allow for items where a reasonable alternative is available at lesser cost. For example, a council might adopt a policy not to allow for the private purchase cost of continence pads, where these are available from the NHS

41) The care plan may be a good starting point for considering what is necessary disability-related expenditure. However, flexibility is needed. What is disability-related expenditure should not be limited to what is necessary for care and support. For example, above average heating costs should be considered.

Example of disability related expenditure

Zach is visually impaired and describes the internet as a portal into the seeing world – in enabling him to access information that sighted people take for granted. For example he explains that if a sighted person wants to access information they can go to a library, pick up a book or buy an appropriate magazine that provides them with the information they need.

The internet is also a portal into shopping. For example without the internet if Zach wanted to shop for clothes, food or a gift he would have to wait until a friend or family member could accompany him on a trip out, he would be held by their schedule and they would then have to explain what goods were on offer, what an item looked like, the colour and would inevitably be based on the opinion and advice of said friend. A sighted person would be able to go into a shop when their schedule suits and consider what purchase to make on their own. The internet provides Zach with the freedom and independence to do these things on his own.

For more information:

Care Act Statutory Guidance – Chapter about Financial Assessment:

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance#Chapter8>

Care and Support (Charging and Assessment of Resources) Regulation 2014

<http://www.legislation.gov.uk/ukxi/2014/2672/made>

Minimum Income Guarantee Allowance 2019-2020

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/772969/Social_care_charging_for_care_and_support_-_LAC_2019.pdf

Minimum Income Standards Report 2019 – Joseph Rowntree Foundation.

<https://www.jrf.org.uk/file/52232/download?token=nmIGNHMP&filetype=full-report>

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