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1 Recent developments

Local Authority Circular LAC (DHSC) (2024) 2, published in February 2024, increased the income thresholds for charging in line with inflation. The capital limits remain the same as the previous financial year.

2 Sources and terms used in this factsheet

Care Act 2014, regulations and statutory guidance

This factsheet is based on the *Care Act 2014* ('the Act'), introduced in April 2015. There are also references to the *Care and Support (Charging and Assessment of Resources) Regulations 2014* ('the charging regulations'), and the *Care and Support Statutory Guidance*

3.2 Only your own assets should be taken into account

4 Where a couple both go into a care home

The local authority financial assessment

The local authority must assess you and your partner as individuals, regardless of whether you go into the same care home together. You should be financially assessed separately, based on your own capital and income, including your share of any jointly held capital assets.

Pension Credit rules

In most cases, if you both enter the same care home permanently, you are treated as two separate individuals in separate households. However, if you share a room, the Pension Service must look at your particular circumstances to decide whether to treat you as individuals in separate households, or a couple in the same household.

Under Pension Service guidance, you are

5 50% private pension and annuity disregard

If you enter a care home and have a personal or private pension, an occupational pension, or a retirement annuity, you can choose to pass 50 per cent to your partner remaining at home, and this amount must be disregarded in the financial assessment.

If you have more than one of these types of income, they are added together to reach the 50 per cent figure. Your partner may remain at home, or can live anywhere other than in the same care home as you. The disregard does not apply to:

partners who are neither married nor civil partners (see section 7 about the discretion to increase the Personal Expenses Allowance)

residents who pass an amount less than 50 per cent of their relevant income to their spouse or civil partner.

Note, if your partner receives a means tested benefit, such as Pension Credit (PC), and you pass on 50 per cent of a personal, private or occupational pension, or annuity to them, this may be counted as income when calculating their entitlement. However, Age UK are aware of cases where the Pension Service have disregarded the 50 per cent of pension passed over for PC purposes. Seek advice if you are unsure whether passing on the pension makes sense financially.

If your partner is already legally entitled to part of your private pension (for example, because of a Court Order), this amount is treated as already belonging to them in the financial assessment. You can pass 50 per cent of the remainder of your private or occupational pension, or annuity, to your partner as described above.

If someone else manages your finances under a Lasting Power of Attorney, Enduring Power of Attorney, or court-appointed deputyship, they can usually decide whether to pass income to your partner, including in situations where they are the person receiving the money.

An exception is if you (the donor) imposed specific restrictions or conditions in a Power of Attorney preventing this. Every decision taken on your behalf must be in your '*best interests*' in line with the *Mental Capacity Act 2005* and its Code of Practice.

For more information, see factsheet 22, *Arranging for someone to make decisions on your behalf*.

6.1 Effect on benefits and 'mixed aged couples'

A mixed-age couple is one where one partner has reached State Pension age and the other partner has not.

If you are part of a mixed-age couple and your PC award stops because AA, DLA or PIP is suspended after 28 days, you may not be able to reclaim Pension Credit when you leave the care home. You may have to claim Universal Credit instead. See section 2.2 of factsheet 48, *Pension Credit* for more information and if you think you will be affected, seek specialist advice.

This can happen if your entitlement to PC is dependent on a severe disability addition being payable as part of that award. The severe disability addition is only paid if a qualifying disability benefit is also in payment. Hence, if AA, DLA or PIP stop being paid after 28 days as a short-term or temporary resident, and in turn the severe disability addition is no longer paid, then the PC award stops as a result.

7 Varying the personal expenses allowance

The local authority must allow you to

9 The information and advice duty

The local authority is required to provide you with information and advice relating to care and support, even if you do not qualify for funding support from them. The service must, at the very least, deliver

Human rights Home and family life

Article 8 of the *Human Rights Act 1998* states:

Everyone has the right to respect for his private and family life, his home and his correspondence.

A high-profile case involved Mr and Mrs Driscoll who had

Useful organisations

Care Quality Commission

www.cqc.org.uk

Telephone 03000 616 161

Independent regulator of health and social care services in England. They also assess how local authorities meet their duties under the Care Act 2014.

Care Rights UK

www.carerightsuk.org

Telephone 020 7359 8148

Advice and support to older people in care homes, and their relatives and friends.

Carers UK

www.carersuk.org

Telephone 0808 808 7777

Information, advice and support for carers, including information about benefits.

Citizens Advice

www.citizensadvice.org.uk

Telephone 0800 144 8848

Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

Age UK Advice

www.ageuk.org.uk

0800 169 65 65

Lines are open seven days a week from 8.00am to 7.00pm

In Wales contact

Age Cymru Advice

www.agecymru.org.uk

0300 303 4498

In Northern Ireland contact

Age NI

www.ageni.org

0808 808 7575

In Scotland contact

Age Scotland

www.agescotland.org.uk

0800 124 4222

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The evidence sources used to create this factsheet are available on request. Contact resources@ageuk.org.uk

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Every effort has been made to ensure that the information contained in this factsheet is correct. However, things do change, so it is always a good idea to seek expert advice on your personal situation.