



# Care Act 2014

## 2014 CHAPTER 23

### PART 1

#### CARE AND SUPPORT

##### *Charging and assessing financial resources*

#### **14 Power of local authority to charge**

- (1) A local authority—
  - (a) may make a charge for meeting needs under sections 18 to 20, and
  - (b) where it is meeting needs because Condition 2 in section 18 or Condition 2 or 4 in section 20 is met, may make a charge (in addition to the charge it makes under paragraph (a)) for putting in place the arrangements for meeting those needs.
- (2) The power to make a charge under subsection (1) for meeting needs under section 18 is subject to section 15.
- (3) The power to make a charge under subsection (1) for meeting a carer's needs for support under section 20 by providing care and support to the adult needing care may not be exercised so as to charge the carer.
- (4) A charge under subsection (1)(a) may cover only the cost that the local authority incurs in meeting the needs to which the charge applies.
- (5) Regulations may make provision about the exercise of the power to make a charge under subsection (1).
- (6) Regulations may prohibit a local authority from making a charge under subsection (1); and the regulations may (in reliance on section 125(7)) prohibit a local authority from doing so where, for example, the care and support or the support—
  - (a) is of a specified type;
  - (b) is provided in specified circumstances;

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- (c) is provided to an adult of a specified description;
  - (d) is provided for a specified period only.
- (7) A local authority may not make a charge under subsection (1) if the income of the adult concerned would, after deduction of the amount of the charge, fall below such amount as is specified in regulations; and the regulations may in particular (in reliance on section 125(7)) specify—
- (a) different amounts for different descriptions of care and support;
  - (b) different amounts for different descriptions of support.
- (8) Regulations under subsection (7) may make provision as to cases or circumstances in which an adult is to be treated as having income that would, or as having income that would not, fall below the amount specified in the regulations if a charge were to be made.

#### Modifications etc. (not altering text)

- C1** Pt. 1 modified (1.4.2015) by [The Care and Support \(Isles of Scilly\) Order 2015 \(S.I. 2015/642\)](#), arts. 1, **2(2)(a)**; [S.I. 2015/993](#), **art. 2(a)**
- C2** Pt. 1 applied in part (with modifications) (1.4.2015 coming into force in accordance with reg. 1(1)) by [The Care and Support \(Children's Carers\) Regulations 2015 \(S.I. 2015/305\)](#), regs. 1(1), **2(1)(a)(2)**, 4-12; [S.I. 2015/993](#), **art. 2(q)**
- C3** [S. 14](#) restricted (31.3.2020) by [Coronavirus Act 2020 \(c. 7\)](#), s. 87(2), Sch. 12 para. 3(2)(3) (with Sch. 12 paras. 10, 16, 17); [S.I. 2020/388](#), reg. 2

#### Commencement Information

- I1** [S. 14\(1\)\(3\)\(4\)](#) in force at 1.4.2015 by [S.I. 2015/993](#), **art. 2(b)**(with transitional provisions in [S.I. 2015/995](#))
- I2** [S. 14\(5\)-\(8\)](#) in force at 1.10.2014 for specified purposes by [S.I. 2014/2473](#), **art. 2(1)(d)**
- I3** [S. 14\(5\)-\(8\)](#) in force at 1.4.2015 in so far as not already in force by [S.I. 2015/993](#), **art. 2(b)** (with transitional provisions in [S.I. 2015/995](#))

PROSPECTIVE

## 15 Cap on care costs

- (1) A local authority may not make a charge under section 14 for meeting an adult's needs under section 18 if the total of the costs accrued in meeting the adult's eligible needs after the commencement of this section exceeds the cap on care costs.
- (2) The reference to costs accrued in meeting eligible needs is a reference—
- (a) in so far as the local authority met those needs, to the cost to the local authority of having done so (as reckoned from the costs specified in the personal budget for meeting those needs (see section 26));
  - (b) in so far as another local authority met the needs, to the cost to that other local authority of having done so (as reckoned from the costs so specified for meeting those needs);
  - (c) in so far as a person other than a local authority met the needs, to what the cost of doing so would have been to the local authority which would otherwise have done so (as reckoned from the costs specified in the independent personal budget for meeting those needs (see section 28)).

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- (3) An adult's needs are “eligible needs” if, at the time they were met—
  - (a) they met the eligibility criteria,
  - (b) they were not being met by a carer, and
  - (c) the adult was ordinarily resident or present in the area of a local authority.
- (4) The “cap on care costs” is the amount specified as such in regulations; and the regulations may in particular (in reliance on section 125(7))—
  - (a) specify different amounts for persons of different age groups;
  - (b) specify zero as the amount for persons of a specified description.
- (5) The total of the costs accrued in meeting an adult's eligible needs after the commencement of this section (as referred to in subsection (1)) is referred to in this Part as the adult's “accrued costs”.
- (6) Where the costs accrued include daily living costs, the amount attributable to the daily living costs is to be disregarded in working out for the purposes of subsection (1) the total of the costs accrued in meeting an adult's eligible needs after the commencement of this section.
- (7) Where the cost to a local authority of meeting an adult's needs under section 18 includes daily living costs, and the accrued costs exceed the cap on care costs (with the result that subsection (1) applies), the local authority may nonetheless make a charge to cover the amount attributable to those daily living costs.
- (8) For the purposes of this Part, the amount attributable to an adult's daily living costs is the amount specified in, or determined in accordance with, regulations.

PROSPECTIVE

## 16 Cap on care costs: annual adjustment

- (1) Where it appears to the Secretary of State that the level of average earnings in England is different at the end of a review period from what it was at the beginning of that period, the Secretary of State must make regulations under section 15(4) to vary the cap on care costs by the percentage increase or decrease by which that level has changed.
- (2) If a variation is made under subsection (1), each adult's accrued costs are to be varied by the same percentage with effect from when the variation itself takes effect (and local authorities must accordingly ensure that care accounts and other records reflect the variation).
- (3) The “level of average earnings in England” means the amount which represents the average annual earnings in England estimated in such manner as the Secretary of State thinks fit.
- (4) “Review period” means—
  - (a) the period of 12 months beginning with the day on which section 15 comes into force, and
  - (b) each subsequent period of 12 months.
- (5) The duty under subsection (1) does not restrict the exercise of the power to make regulations under section 15(4).

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## 17 Assessment of financial resources

- (1) Where a local authority, having made a determination under section 13(1), thinks that, if it were to meet an adult's needs for care and support, it would charge the adult under section 14(1) for meeting at least some of the needs, it must assess—
  - (a) the level of the adult's financial resources, and
  - (b) the amount (if any) which the adult would be likely to be able to pay towards the cost of meeting the needs for care and support.
- (2) Where a local authority thinks that, in meeting an adult's needs for care and support, it would make a charge under section 15(7), it must assess—
  - (a) the level of the adult's financial resources, and
  - (b) the amount (if any) which the adult would be likely to be able to pay towards the amount attributable to the adult's daily living costs.
- (3) Where a local authority, having made a determination under section 13(1), thinks that, if it were to meet a carer's needs for support, it would charge the carer under section 14(1) for meeting at least some of the needs, it must assess—
  - (a) the level of the carer's financial resources, and
  - (b) the amount (if any) which the carer would be likely to be able to pay towards the cost of meeting the needs for support.
- (4) Where a local authority, having made a determination under section 13(1), thinks that, if it were to meet a carer's needs for support, it would charge the adult needing care under section 14(1) for meeting at least some of the needs, it must assess—
  - (a) the level of the financial resources of the adult needing care, and
  - (b) the amount (if any) which the adult needing care would be likely to be able to pay towards the cost of meeting the carer's needs for support.
- (5) An assessment under this section is referred to in this Part as a “financial assessment”.
- (6) A local authority, having carried out a financial assessment, must give a written record of the assessment to the adult to whom it relates.
- (7) Regulations must make provision about the carrying out of a financial assessment.
- (8) The regulations must make provision as to cases or circumstances in which, if the financial resources of an adult who has needs for care and support (whether in terms of income, capital or a combination of both) exceed a specified level, a local authority is not permitted to, or may (but need not)—
  - (a) in a case where the adult's accrued costs do not exceed the cap on care costs, pay towards the cost of the provision of care and support for the adult;
  - (b) in a case where the adult's accrued costs exceed the cap on care costs, pay towards the amount attributable to the adult's daily living costs.
- (9) The regulations must make provision as to cases or circumstances in which, if the financial resources of a carer who has needs for support or of the adult needing care (whether in terms of income, capital or a combination of both) exceed a specified level, a local authority is not permitted to, or may (but need not), pay towards the cost of the provision of support for the carer.
- (10) The level specified for the purposes of subsections (8) and (9) is referred to in this Part as “the financial limit”; and the regulations may in particular (in reliance on section 125(7)) specify—

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- (a) different levels for different descriptions of care and support;
  - (b) different levels for different descriptions of support.
- (11) The regulations must make provision for—
- (a) calculating income;
  - (b) calculating capital.
- (12) The regulations may make provision—
- (a) for treating, or not treating, amounts of a specified type as income or as capital;
  - (b) as to cases or circumstances in which an adult is to be treated as having, or as not having, financial resources above the financial limit.
- (13) The regulations may make provision as to cases or circumstances in which a local authority is to be treated as—
- (a) having carried out a financial assessment in an adult's case, and
  - (b) being satisfied on that basis that the adult's financial resources exceed, or that they do not exceed, the financial limit.

#### **Commencement Information**

- I4** S. 17(1)(3)-(6) in force at 1.4.2015 by [S.I. 2015/993](#), **art. 2(c)** (with transitional provisions in [S.I. 2015/995](#))
- I5** S. 17(7)(9)-(13) in force at 1.10.2014 for specified purposes by [S.I. 2014/2473](#), **art. 2(1)(e)**
- I6** S. 17(7)(9)-(13) in force at 1.4.2015 in so far as not already in force by [S.I. 2015/993](#), **art. 2(c)** (with transitional provisions in [S.I. 2015/995](#))
- I7** S. 17(8) in force at 1.10.2014 for specified purposes by [S.I. 2014/2473](#), **art. 7(1)** (with [art. 7\(2\)](#))
- I8** S. 17(8) in force at 1.4.2015 in so far as not already in force (subject to the modification made by [S.I. 2014/2473](#), **art. 7(2)**) by [S.I. 2015/993](#), **art. 2(c)** (with transitional provisions in [S.I. 2015/995](#))

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