

## Care and support charges – questions and answers

### 1. I don't currently pay charges, so will this affect me?

This depends on why you don't pay charges. Some of the main reasons why people currently don't have to pay charges are if:

- You are getting aftercare after being detained in hospital for treatment under the Mental Health Act. If you are getting services for this reason, the proposed changes to the Council's policy would not affect you unless you start getting services for a different reason.
- You receive basic means-tested social security benefits, and don't get Attendance Allowance, Disability Living Allowance, or Personal Independence Payment. In this case, you would still not pay charges unless your financial position changes.
- You have a spouse or partner and your income is based on benefits, or is a little above and you are getting one of the three disability benefits listed above. In this case, the proposals might mean that you have to pay charges for the first time.

In some other less common circumstances, people who are currently assessed as having just too little income to pay charges might be assessed as able to pay a small charge if the Council makes the proposed changes.

### 2. Would the changes affect what I have to pay for short breaks?

The changes would not affect short breaks in a care home. The charges which the Council is reviewing are for non-residential services, such as home care, day care, and "enabling" support to help people to get out and do things in the community.

### 3. Would the changes affect people getting direct payments?

Yes, if people get direct payments to arrange care and support, the contributions which they have to make towards the cost might increase if the proposals go ahead. But the changes would make no difference to direct payments which are used to pay for short breaks in a care home.

### 4. Is this a "double whammy" for people on benefits who would also be affected by proposed changes to Council Tax support?

The Council is consulting separately whether working age adults on benefits who don't currently pay Council Tax should be asked to pay 8% of Council Tax. If the Council goes ahead with that proposal, our assessment of what people can afford to pay in social care charges will be adjusted to take account of people's Council Tax costs. Therefore people affected by the Council Tax change would still have to pay the new bills, but in most cases their social care charges would be reduced by the same amount.

22 Oct 2018

(check [www.northumberland.gov.uk/carechargesconsultation](http://www.northumberland.gov.uk/carechargesconsultation) for updates)

## **5. Wouldn't it be unfair for people to pay different hourly charges for home care depending on where they live?**

We understand that people have different views about what is fair.

When we last consulted about this issue, people told us that they thought everyone should pay the same charge based on the average cost to the Council of paying for home care.

The law has changed since then, and we think it may no longer be legal to use an average figure, because we are not allowed to charge someone more than it costs us to meet their needs, and averaging would mean charging people in urban areas of the County more than it costs us to pay for their services.

Even if all councils based their charges on average costs across their areas, that could be seen as unfair in a different way. People in different local authority areas would be paying different hourly rates for their home care, depending on the mix of urban and rural communities across the whole area covered by their council. Two people living on different sides of a local authority border might be paying different charges though the actual cost of their services was exactly the same.

We will consider carefully all comments on this issue.

## **6. Does the proposal mean that the Council will be including all of the highest rate of Disability Living Allowance or Attendance Allowance in the financial assessment even when the Council isn't funding night-time support? And is that lawful?**

Under the rules for Disability Living Allowance (DLA) and Attendance Allowance, people qualify for the highest rate paid for care only if they need support both during the day and at night. In a court case in 2000 a judge agreed with objectors that it was unlawful for Coventry City Council to treat the extra amount paid to people getting the highest rates as income available to pay charges, if the council wasn't providing services at night. The judge didn't explain how he had reached this view, and we don't know what information he had been given.

Until 2015, Government guidance about setting fair charges told councils that they should follow the judge's decision. But when the new Care Act was introduced in 2015, the revised regulations and guidance didn't repeat that advice.

One major change since 2000, which we think helps to explain this change, has been the introduction of the new benefit which is replacing DLA – Personal Independence Payment (PIP). The highest rate of PIP paid for care matches the highest rates of DLA and AA paid for care. But the assessment for PIP links the highest rate to a new scoring system, which isn't based on when in the day or night people need support.

Our view is that the introduction of PIP has made it clearer what the different benefit rates are for. We think that PIP, DLA and Attendance Allowance all have the same purpose – helping people to pay for the cost of the care and

support which they need because of their disability. The different rates at which these benefits are paid are based on overall assessments of how much care and support people are likely to need. The social security system has never been based on detailed assessments of what people need to spend on specific purposes, but on an overall judgement about how much money people are likely to need. DLA and AA arrive at that judgement in one way; PIP in a different way.

We also think that sometimes a reason for providing services during the day may be the person's night-time needs. This isn't as surprising as it sounds. Often if people need help during the night, they will prefer to get it from a partner or family member, because it would be intrusive to have paid care workers in the house at night. But family members who are often up helping someone during the night are likely to need more support during the day to help them get some rest.

Our proposal is to make a higher standard allowance for the disability-related costs of people who get the highest rates of any of the three benefits. We have suggested allowing £35 a week, compared to £20 per week for people getting the next highest rate. When we assess people's actual disability-related expenditure, we would also specifically ask them to tell us whether they have extra costs because of the care that they need during the night, and would take that into account when deciding whether people need more than £35 a week for disability-related costs. We currently think this is fair – but if you think we are wrong, please tell us why.

## **7. I thought the Government was planning to cap the charges people have to pay?**

The Government has announced that it intends to publish later this autumn a Green Paper (a national consultation document) about social care for older people, which will also consult about funding arrangements for all adult social care services.

We don't yet know what will be in the Green Paper.

If the Green Paper is published on timetable, the Council will be able to consider its contents before making its final decisions about next year's budget, including these proposals about charges.

## **8. What happens if I am asked to pay more but can't afford it?**

The national rules that we follow when we carry out financial assessments mean that we take account of most other financial commitments which might limit what people can afford to pay for their care and support, including extra costs which you may have because of a disability. However if you tell us that you can't reasonably afford to pay the amount which we have calculated by following the national rules, we will talk to you about the reasons for this. If we agree that you really cannot afford to pay the charges, we won't ask you to.