

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Imposing charges and assessing financial resources

Section 14 – Power of local authority to charge

117. This section gives local authorities a general power to charge for certain types of care and support, at their discretion.
118. If it does exercise this power, *subsection (4)* stipulates that a local authority may not charge a person more than what it costs it to provide or arrange the care and support. This general power replaces the existing duty on local authorities to charge for care home accommodation set out in section 22(1) of the National Assistance Act 1948, and powers to charge for other types of care and support (including those under section 17 of the Health and Social Services and Social Security Adjudications Act 1983, and section 8 of the Carers and Disabled Children Act 2000).
119. *Subsection (2)* provides that the power to charge is subject to section 15. Section 15(1) stipulates that the local authority cannot charge an adult for meeting needs if the adult has reached the cap on care costs; however section 15(7) makes clear that a local authority can still charge for daily living costs. Therefore, even when someone has reached the cap, they still can be charged if their care includes daily living costs.
120. *Subsection (3)* stipulates that where a local authority makes a charge under *subsection (1)* for meeting a carer's needs by providing care and support to an adult needing care it may not charge the carer.
121. The power to charge extends to all types of care and support, unless regulations state that the specific service must be provided free. Certain services or activities cannot be charged for: for example, needs assessments or carer's assessments. *Subsection (6)* gives examples of how regulations might define the provision of care and support to be provided free of charge. These regulations will replace those made under section 15 of the Community Care (Delayed Discharges etc.) Act 2003.
122. *Subsection (7)* ensures that a person's income does not fall below a certain amount as a result of charging. The amount will be specified in regulations, which could specify different amounts for different circumstances. For example, setting a personal expenses allowance for care home residents or specifying the amount below which the income of a person receiving care and support in their home may not fall.
123. *Subsection (8)* enables regulations to specify cases or circumstances where an adult can be treated as having income that would (or would not) fall below a certain amount as a result of charging. For example, in a case where a local authority would make a notional charge, regulations could ensure that a person who receives a certain welfare benefit is automatically exempt from that charge. This helps protect the person's income

while giving greater flexibility to the local authority not to have to carry out a financial assessment where the care package is of low value.

124. When a person has care and support needs but does not qualify for financial support from the local authority, they are still able to request that the local authority arrange the care and support that they require on their behalf. Where the local authority arranges the care and support necessary for that individual, subsection (1)(b) gives the local authority a power to charge a fee to cover the costs of arranging that care and support. However, the local authority may not charge such fees in relation to any types of care and support specified in the regulations under *subsection (6)*.