



## Paying for care

As a nation we are living longer. As a consequence more of us require assistance in meeting our daily needs in our twilight years. There is a balancing act between what the State can and should provide in meeting our care needs and what we should provide for ourselves.

Both social services and the NHS have obligations to care for people who are elderly, ill, disabled or who have learning difficulties. If you have complex needs, the boundaries between health and social care may not always be clear. As services provided by the NHS are free whereas those provided by social services are means tested, the outcome of any decision as to who has overall responsibility for your care can have significant financial consequences.

### Funding Care?

There are 3 main options for funding your care costs:

- Self-funding – you pay all your own care costs in full because you are not eligible for Local Authority funding or NHS funding.
- Local Authority funding – this is means-tested on your capital and savings.
- NHS funding (called NHS Continuing Healthcare) – this is not means-tested and is based on your nursing care needs, if any.

### What is Local Authority Funding?

If you have care needs, your Local Authority may pay for some or all of your support if your needs meet the eligibility criteria and you have a limited ability to pay for the services yourself. As well as providing places in care homes, Local Authorities can help you stay in your own home.

### How is Local Authority Funding Assessed?

Firstly, social services will carry out a needs assessment. Secondly, a financial assessment will need to be completed notifying the Local Authority of the value of your capital assets and income.

Some capital assets are disregarded for the purposes of the financial assessment and knowing what is and is not to be taken into account can have significant impact on the outcome.

Broadly speaking, if you have 'assessable capital' of:

- £23,250 or more, you will have to fund your own care
- Between £14,250 and £23,250, you will be eligible for some help from the Local Authority
- Less than £14,250, the Local Authority will make their maximum contribution for the type of care best suited to your needs.

The maximum contribution of the Local Authority may not meet the total cost of your care. If this is the case, you or a third party (i.e. a family member) may have to make up the difference between the cost of your care and the Local Authority's contribution ('top up'). In addition, if your care is funded by the Local Authority, they will require you to use your income towards the cost of your care fees; you will be left with a weekly personal allowance.

If you wish for care to be provided in your own home, social services will arrange and pay for care to be provided in accordance with your needs assessment and within a managed financial budget. Such budget will be calculated depending on your capital and income. If you prefer to have control over the way your care needs are met, you can apply to the Local Authority for direct payments and arrange and pay for the care yourself.



## What is NHS Funded Continuing Healthcare (CHC)?

CHC is a package of care arranged and funded solely by the NHS, which can be received in a hospital, nursing home or in your own home. Such funding is intended to cover the entire cost of the care, including all medical care, nursing care, personal care, living costs and accommodation. You can apply for CHC through the hospital or nursing home or directly to the CCG (Clinical Commissioning Group).

## How is CHC Assessed?

Firstly, a healthcare professional or social worker will carry out an initial Checklist assessment. This is a screening process to determine if a full assessment should be carried out. If you do not get through the Checklist, and you disagree with that decision, you can request another Checklist assessment.

If you pass the Checklist, you will have a full comprehensive assessment by a multidisciplinary team of healthcare professionals. They will consider your physical, mental, psychological and emotional needs to determine if you have a 'primary health need'.

If you are assessed as ineligible for CHC you can appeal the decision. However, you have a 6 month time limit starting from the date of the letter notifying of the decision.

A decision of eligibility is not a permanent one; there will be regular reviews and you may stop qualifying for funding. Equally, if you are assessed as not qualifying and your condition deteriorates you may reapply.

There is a separate fast track pathway if you need care urgently – for example, if you are terminally ill.

## Other types of funding

If you are not eligible for CHC but your health needs are such that you need some nursing care, you may be entitled to NHS Funded Nursing Care (FNC). The NHS will make a payment of a fixed weekly amount directly to the nursing home to cover the nursing element of your home fees.

If you have been compulsorily detained for treatment in a psychiatric hospital, you may be entitled to free mental health aftercare when you leave. This is known as Section 117 funding.

## How can Ashtons Legal help?

We have an experienced team who can consider your specific family circumstances and advise you on understanding and negotiating the complicated rules and regulations regarding NHS Continuing Care, FNC and Local Authority funding for care. The team can also advise and assist in applying for funding and challenging decisions made by the Local Authority or CCG.

It is important that at a time when you are fit and well you consider planning for your future care needs. This can be achieved through: ensuring your Will is up to date and effectively drafted; considering Estate Planning, such as lifetime gifts; and setting up Lasting Powers of Attorney.

If you, or a loved one, is suddenly and unexpectedly facing decisions regarding the immediate provision and funding of care it is essential that you are fully informed of the financial assistance you (or your loved one) are legally entitled to. We will work with you and other advisers, if appropriate, to consider ways in which care can be financed most effectively.

## More information

To discuss how we can help you, please contact us:

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