

# **Brighton & Hove City Council**

## **Care Act 2014**

### **Frequently Asked Questions**

#### **Section 1: General**

##### **What is care and support?**

'Care and support' is the term used to describe the help some adults need to live as well as possible with any illness or disability they may have. It can include help with things that assist you to get on with your daily life and provide you with physical or emotional support. Care and support may include things like getting out of bed, washing, dressing, getting to work, help with cooking meals, eating, seeing friends, caring for families and being part of the community.

It might also include emotional support at a time of difficulty and stress, helping people who are caring for an adult family member or friend or even giving others a lift to a social event.

Care and support includes the help given by family and friends, as well as any provided by the council or other organisations.

##### **What is changing?**

From April 2015, care and support in England is changing for the better. The new Care Act will help make care and support more consistent across the country. The new national changes are designed to put you in control of the help you receive. Although this is something we have been seeking to promote for some years within Brighton & Hove, we will be making some changes to our existing arrangements in April 2015 to further promote this. For example we will be improving the information people receive, offering independent advocacy to people who may need support in the assessment process and ensuring people are provided with clear information about the decisions we make. Any decisions about your care and support will consider your wellbeing and what is important to you and your family, so you can stay healthy and remain independent for longer.

The Care Act introduces a national deferred payment scheme, so that people do not have to sell their property to fund their care home fee's : this is a scheme we already in place in the Brighton & Hove.

##### **Some changes will be introduced in April 2015 and others in April 2016.**

As part of the 2016 changes, we will provide more financial help for those who need it and people with modest means will benefit too. There will also be a new form of

protection from unlimited care costs – You may have heard this referred to as the cap on care costs. More of this is explained later in this briefing.

### **What was wrong with the old system?**

As people are now living longer and with a better quality of life, the care and support needs they have are different. The way care and support is provided has to change to reflect this. A new Care Act has been passed to make care and support, and the way we pay for it, clearer, easier to access and more consistent across the whole of England.

### **What's the difference between care and support from the council and the care I receive at home from NHS?**

Care and support organised by the council can include help with everyday things like washing and dressing, getting in and out of bed, and keeping your home clean and safe.

As well as care and support organised by us, some people are also eligible to receive help from the NHS. This help may be a nursing service for people who are ill or recovering at home after leaving hospital. It could include things like changing the dressings on wounds or giving medication. If you are eligible for this kind of help, a health professional such as your GP or Community Nurse should be able to tell you.

In some circumstances, where an adult has a complex medical condition and substantial on-going care needs, the NHS provides a service called NHS Continuing Healthcare. NHS Continuing Healthcare provides care and support in a person's home, care home or hospice. This is not means tested.

You can find out more about NHS Continuing Healthcare here.

<http://www.nhs.uk/CarersDirect/guide/practicalsupport/Pages/NHSContinuingCare.aspx>

### **Where can I find out more?**

To find out how the changes are being introduced in this area, get in touch with us: either on the Council website at the following pages

<http://www.brighton-hove.gov.uk/content/health-and-social-care/adult-social-care/care-act>

or by contacting our accesspoint point on 01273 295555 or email them at [accesspoint@brighton-hove.gov.uk](mailto:accesspoint@brighton-hove.gov.uk).

If you already receive support and care from the Council this will continue after April and we will continue to review your support plan with you each year.

## **Section 2 Deferred Payments**

### **What is a deferred payment agreement?**

A deferred payment agreement is an arrangement with the council that will enable people to use the value of their homes to help pay care home costs. If you are eligible, we will help to pay your care home bills on your behalf. You can delay repaying us until you choose to sell your home, or until after your death. A deferred payment agreement means that people should not usually have to sell their home in their lifetime to pay care home bills.

Deferred payment agreements will suit some people's circumstances better than others and some people may not be eligible. We will charge interest on the amount owed to us and there will be a fee for setting this arrangement up.

A deferred payment agreement is only one way to pay for care. To find out more about the options available, you can speak to a financial adviser or seek advice from an independent organisation such as the PayingForCare website at:

[www.payingforcare.org/specialist-care-fees-financial-adviser](http://www.payingforcare.org/specialist-care-fees-financial-adviser)

If you need care in a care home but your partner lives in your own home then the council will consider your partner's circumstances as well as your own. Depending on your partner's circumstances, we may decide to exclude the value of your home when we assess your finances to work out how much you will have to pay towards the costs of your care. This means that you will not face having to sell your home to pay for care and will not need a deferred payment agreement.

### **Who is eligible for a deferred payment agreement?**

You should be eligible for a deferred payment agreement if:

- you have eligible care needs that are to be met in a care home
- you have savings and investments of less than £23,250 (not including the value of your home)
- you own your own home (unless your partner or certain others live there)
- the value of your property is being taken into account in the financial assessment and you have asked the council to help you to pay the care home fees.

In order to be eligible for a deferred payment agreement your property will need to be insured.

**My partner's share of our savings is in my name, will that be taken into account?**

This will depend on how the savings are held – contact the council or an independent financial adviser for guidance.

**I already live in a care home. Can I apply for a deferred payment agreement?**

If you have savings and investments of less than £23,250 and you do not have a partner or dependent living in your home, you should be eligible for a deferred payment agreement.

**How do I apply for a deferred payment agreement?**

Brighton and Hove City Council has a current deferred payment scheme but as from April 2015, new regulations will apply.

A social worker will determine whether you have eligible care needs which can be met in a care home and if so, they will refer your details to the Department's Financial Assessment Team. If the outcome of that assessment shows that you are liable to pay the full fees of the care home and you own your own property, you will be offered a deferred payment option subject to the full financial eligibility criteria. (please refer to the information sheet at <http://www.brighton-hove.gov.uk/content/health-and-social-care/charges-social-care-services>)

**When will I have to repay the deferred payment agreement?**

You can repay the deferred payment agreement at any point. You may need to sell your home in order to repay the loan or you can have a deferred payment agreement for longer and pay it back out of your estate, following your death.

**How much can I defer?**

The amount you can defer will depend on the value of your home. As a guide, most people can use around 80-90% of the equity available in their home. The limit is to account for sale costs of the property (like solicitor's fees).

**How much will it cost me to set up a deferred payment agreement?**

Every council is entitled to charge an administrative fee for setting up a deferred payment agreement. This fee is to cover the costs we incur in setting up your deferred payment agreement, and not to make a profit. Our charge is £475 which includes setting up the agreement, the legal charge procedure, ongoing invoicing and terminating the agreement in due course.

### **What is the interest rate on a deferred payment agreement?**

We can charge interest on the amount owed to us whilst we are helping to pay your care home bills on your behalf. The interest rate is currently 2.65% and will be reviewed every six months. We need to make sure that we can invest in the scheme so that people can benefit from it for many years to come. The interest rate and administrative fee will cover our costs, and we won't make a profit from them.

### **Can someone live in my home if I have a deferred payment agreement?**

This is up to you – You might choose to rent it out and use the income to reduce the amount you asked the council to defer. There are benefits to keeping your home occupied as it must be maintained and insured for as long as you have the deferred payment agreement.

### **Can I avoid selling my home if I get a deferred payment agreement?**

If you have a deferred payment agreement, it means you should not have to sell your home in your lifetime unless you decide you want to.

The money owed to the council for the care home bills paid on your behalf will need to be repaid eventually. How you repay may depend upon the amount owed. This can either be repaid by selling your house or you may be able to make other arrangements, For example, someone else could pay the money owed, or your family could use any pay-out from life assurance after your death.

Your deferred payment agreement will end automatically following your death, and your executor will have 90 days to arrange payment of the money owed. If someone else (like a friend or relative) chooses to pay the bill, then your home will not have to be sold.

### **Can I still get a deferred payment agreement if I have gifted money or my home to my children?**

Your home and your money still belong to you if you have a deferred payment agreement. If you make gifts to your children your financial assessment will not change and you will still be liable to repay the council for care home fees paid on your behalf under the agreement – either by the sale of your home after your death, or by other means.

If the council believes that your home or your money have been given away deliberately to avoid paying care charges, then we have the power to recover any money that we are owed.

### **How long does it take to set up a deferred payment agreement (DPA)?**

During the first twelve weeks you are in a care home, your home is ignored for the purposes of calculating charges and a DPA would usually start after that period. If you are eligible, we should be able to set up a deferred payment agreement within twelve weeks of you moving to a care home.

### **Who will value my home?**

The council will estimate the value of your property and you can also request an independent valuation if you disagree with that valuation.

### **Can the terms of my deferred payment agreement be changed at any time?**

The maximum amount of costs that the council will pay on your behalf, along with the interest rate and any administrative fees, will be set out at the start of the DPA. These will be reviewed regularly and can be changed.

Any other conditions – for example how the property should be maintained – will also be written down in your agreement. Make sure that you understand the full terms and conditions and get independent advice from a solicitor, financial advisor or an independent organisation before signing a deferred payment agreement.

### **What will happen to my home after my death?**

The executor of your estate should arrange repayment of the money owed to the council, either by putting your home up for sale, or by arranging for another person, such as your heir, to pay. This will usually need to be done within 90 days. If the money owed is repaid without your home being sold, then your property will be dealt with according to any instructions you have left. Your executor will arrange the sale and repayment of the money owed to the council.

### **How long will my heirs have to pay back the deferred payment agreement without incurring extra charges?**

Your heirs will usually have 90 days to repay the deferred payment agreement. Interest charges will continue to be added during this period.

### **What will happen if my heirs don't pay back the deferred payment agreement within the 90 days? Will they be charged extra?**

If, after 90 days they haven't taken reasonable steps to repay the deferred payment agreement, then the council has the power to recover the amount owed through the courts.

### **Are all heirs equally liable for the repayment of a deferred payment agreement?**

Any money that is left after the money owed to the council has been repaid from your estate will be divided up according to any instructions that you leave.

### **How is the money reclaimed?**

You may need to name someone (usually the executor of your will) in your deferred payment agreement, who will help us to reclaim our costs in the event of your death.

### **Can a family member apply for a deferred payment agreement if a person needing care has dementia or does not have the capacity to understand?**

Carers and families can help people to make decisions about their care and how to pay for it. If we are concerned that the person applying for the deferred payment agreement does not have the capacity to understand, or won't have capacity to understand in the near future, then another person may need to represent them. Only a person that is properly authorised, like someone with legal power of attorney, can represent someone in applying for a deferred payment agreement.

### **Where can I find out more about deferred payment agreements?**

Get in touch to find out about the deferred payment scheme

Ask Access Point on 295555 for the information sheet which explains how it works and whether you might be eligible.

If you have a financial question you can contact the financial assessment team on 01273 295660.

A deferred payment agreement is only one way to pay for care. To find out more about the options available, you can speak to a financial adviser or seek advice from an independent organisation.

## **Section 3: Needs and Eligibility**

### **What is a needs assessment?**

A needs assessment is a discussion between you (or the person you look after if you are a carer) and a trained person either from the council or another organisation that the council works with, where you will talk about the care and support needs you have and the goals you want to achieve. It could be done over the phone or face to face. Over the coming year we will also be supporting the use of on line assessments. We will use the assessment to identify your care and support needs, and to discuss how these could be met. This might mean that the council will give you help or put you in touch with other organisations, such as local charities, that you can talk to.

### **Who should have a needs assessment?**

If you think you have any care and support needs, you can contact the council to ask for an assessment. If you are a carer and you need some support, get in touch with the council covering the area where the person you care for lives. The council will be able to give you information and advice about how the assessment will work.

### **What will be considered during the needs assessment?**

The needs assessment will consider what care and support needs you have and how these affect your wellbeing. This will include identifying any physical needs, such as whether you need help to wash or dress, get in and out of bed or keep your home safe to live in. The assessment will also look at your mental and emotional needs and ask what is important to you in how you live your life, such as being able to carry on working or volunteering, or being able to meet your friends.

Everyone's needs and the ways they affect people's wellbeing are different. Identifying your needs and the things you want to achieve will help us to decide if we can help. Depending on what needs you have, we may give you information and advice about other kinds of support available locally that can help you, such as charities or community groups.

### **Is a needs assessment the same as a carer's assessment?**

A 'needs assessment' is an assessment of an adult who may need care and support. A 'carer's assessment' is for someone who gives care and support to an adult family member or friend. Caring can include lots of different things, like helping with their washing, dressing or eating, taking them to regular appointments or keeping them company when they feel lonely or anxious.

Find out more about a carer's assessment in [Support for Carers](#).

### **Can I get someone to help me with my assessment?**

The assessment is about you and we will make sure that you are able to be involved. If you wish, then your carer, a friend or family member can help and represent you. If you don't have a carer, family member or friend who you can ask, and you have a lot of difficulty doing the assessment yourself, the council with your permission will identify an independent advocate to help you.

### **Will I need to be re-assessed?**

If you are already receiving care and support from us, you do not need to ask for a reassessment. If your needs have change at any point and you feel the need for a change in your care and support you can ask us to review your situation. Notwithstanding this we expect to see or contact you once a year to see how you are and if the support still meets your eligible needs.

### **Who will do the assessment?**

Lots of different people can carry out assessments - as long as they have the right training. The person doing your assessment could be a social worker or care manager, or it could be someone else e.g. a nurse. We will make sure that whoever carries out your assessment has the right skills and training. You could also be offered a supported self-assessment. This means you do your assessment yourself with help from the council. We would then seek to check that the information is sufficient for us to make a decision and may involve speaking to others who know you e.g. your GP, with your permission. We will be seeking to improve our offer of supported self-assessment during 2015-16, including an on line service.

### **Will the council look into my finances?**

A needs assessment won't ask about your finances. But if you are eligible for care and support from the council, you may have to pay something towards the cost. To find out how much you might need to pay, we will ask you to do a financial means test and you would then need to disclose details about your savings, assets and income.

### **How will I know if I have eligible needs?**

For the first time, there will be a national level of care and support needs that all councils will consider when we assess what help we can give you.

The council will assess your care and support needs with you, and decide if they are at the level where you need help from us. Your needs could be eligible if you are not able to do a combination of certain things that seriously affects your wellbeing. These may include washing yourself, getting dressed, getting in and out of bed or keeping your home safe for you to live in. After the assessment we will write to you about our decision and give you reasons to explain what we have decided.

If you have eligible needs, we will contact you to discuss what help might be available. This will be based on the information you gave us during your assessment. As far as possible the council will agree your care and support plan with you.

If you do not have needs that are eligible, we will give you information and advice about what care and support is available to help you locally. This could be help from local charities or voluntary organisations in your area for example.

### **What happens if my needs are not eligible for care and support from the council?**

Everyone's needs are different. They may be physical, mental or emotional. You may find that the support you need could be met by something going on in your local community, for example services organised by local charities or other support networks. Whatever your level of need, we will give you information and advice that

can help you. We might also be able put you in touch with other organisations who can support your wellbeing and help you remain independent for longer.

### **I pay for my own care; do I need to be assessed by the council?**

If you have arranged care and support yourself, either in your own home or in a care home, you do not need to be assessed by the council.

### **I pay for my own care, how do I get my cap on care costs account started?**

The cap on care costs does not commence until April 2016, and we will be publishing information during 2015 about the arrangements we will put in place to ensure people can access Care accounts from then. You will need to be assessed to establish if you to see if you have any eligible needs. If you do have eligible needs, we will work out if we can help you and we will calculate how much it should cost to meet your needs. This amount will count towards your cap. You can find out more about the cap on care costs in section 5 of this document.

### **Must I have a needs assessment to get a deferred payment agreement?**

Not necessarily. We may decide that we don't need to do an assessment.

### **If I am receiving care and support and decide to move, will I lose the help I currently get?**

If you have needs that meet the new national level, you will be able to get some help from your council wherever you live in England. Although the level of need councils use to decide whether or not they can help will be the same across the country, the help they give you might be different in different areas. For example, one council might provide a buddying service to stop people from feeling lonely, whilst another might help people to stop feeling lonely by introducing them to community events in their area. The new national level will give you peace of mind that if you decide to move to another area in England, the new council will meet at least the same minimum level of care and support needs as your old one. Councils will also have to work together to make sure that there is no gap in your care.

## **Section 4: Support for Carers**

### **What is a carer?**

In England, millions of people provide unpaid care or support to an adult family member or friend, either in their own home or somewhere else. 'Caring' for someone covers lots of different things, like helping with their washing, dressing or eating, taking them to regular appointments or keeping them company when they feel lonely or anxious.

If this sounds like you, you are considered to be a 'carer.'

In Brighton & Hove we offer a range of support services to help carers to continue caring and to look after their own wellbeing.

### **What is 'support for carers'?**

'Support for carers' is what we mean by the help and advice that carers can get from the council, national services and local networks. As a carer, you may be able to get more help so that you can carry on caring and look after your own wellbeing.

### **What is changing?**

The Care Act provides clear statutory rights for carers to benefit from assessment and support in their own right. The council covering the area where the person you care for lives can help you find the right support and you can ask them for a carer's assessment. The carer's assessment will help to decide what care and support you need and how much help the council can give you.

In Brighton & Hove we already offer a range of support services for carers, such as a direct payment to spend on the things that make caring easier; or practical support, like arranging for someone to step in when you need a short break. Or you may prefer to be put in touch with local support groups so you have people to talk to.

A carer's assessment will look at the different ways that caring affects your life and work out how you can carry on doing the things that are important to you and your family. Your physical, mental and emotional wellbeing will be at the heart of this assessment. As a result, you may be eligible for support from the council, who will also offer you advice and guidance to help you with your caring responsibilities.

### **What about parents caring for disabled children, or young carers who are under 18?**

If you are a young carer yourself, or if you are a parent caring for a disabled child, you have similar rights to assessment and support but they are covered by the Children and Families Act, not the new Care Act.

If you or the person you are caring for is about to reach the age of 18 years, you will be able to get a 'transition assessment' which will let you know whether you or they are likely to be eligible for support as an adult caring for another adult.

The Department for Education will soon be publishing further information on the rights of parent carers and young carers and how councils should support them.

To find out more about support for parent carers and young carers visit:  
[www.nhs.uk/carersdirect](http://www.nhs.uk/carersdirect).

## **How might a carer's assessment help me?**

If you provide care and support to an adult friend or family member, you may be eligible for support, such as a direct payment to spend on the things that make caring easier; or practical support, like arranging for someone to step in when you need a short break. Or you may prefer to be put in touch with local support groups so you have people to talk to.

A carer's assessment will consider the impact the care and support you provide is having on your own wellbeing and important aspects of the rest of your life.

## **When can I request a carer's assessment?**

You can ask for a carer's assessment at any time. You should contact the council covering the area where the person you care for lives, if it is not the same as your own. If you don't want a carer's assessment but you are looking for advice and information about local support, the council will be able to help you.

## **What will be considered during the assessment?**

A carer's assessment will look at the different ways caring affects your life and work out how you can carry on doing the things that are important to you and your family. It should cover your caring role, your feelings about caring, your physical, mental and emotional health, and how caring affects your work, leisure, education, wider family and relationships.

Your physical, mental and emotional wellbeing will be at the heart of this assessment. This means that you will be able to tell the council how caring for someone is affecting your life and what could make things better for you and the person you look after.

## **Will I be asked about my finances?**

You won't need to do a financial means test as part of the carer's assessment but you might be asked about what impact the cost of caring is having on your finances. The carer's allowance that some people receive for caring on a full-time basis is different and does require a means test.

Councils may charge a fee for some of the support services they offer. If they think you might benefit from one of these services, the council might ask to look at your finances to see whether you can afford to pay. If you can't afford to pay, they might offer you the service for free. Councils may also need to look at the finances of the person that you care for if they are going to provide support directly to that person. Brighton & Hove Council have decided not to charge carers a fee for support services in 2015/16; this policy is reviewed each year.

**Does having a carer's assessment affect my right to get carer's allowance?**

Not at all. Having a carer's assessment will not affect your right to receive a carer's allowance.

**Does having a carer's assessment mean the council is judging the quality of care that I provide?**

A carer's assessment is about you and your wellbeing. It will consider the impact that caring is having on your life and what support might be available for you. Its purpose is not to judge the care that you provide, although if there are parts of your caring role that you are struggling with then we may be able to provide support or equipment to make this easier

**Can I have a carer's assessment if the person I care for does not currently get help from the council?**

Yes. But you will need to do this through the council of the person that you support, if it is not the same as your own. You can also ask for an assessment for the person you care for, if you want to.

**I share providing care with other family members/ friends. Can all of us have a carer's assessment?**

Everyone who gives unpaid care to an adult over the age of 18, and has some need for support, can request an individual carer's assessment. They do not have to be done together.

**I share providing care with other family members/ friends and we disagree about who provides the most. Will this affect the support that I may be offered?**

This should not affect the support you may be offered. If you care for an adult family member of friend, and you feel like you need some support, you can contact the council covering the area where the person you care for lives to ask for a carer's assessment.

**If the council decides that you have needs that meet the new national level they will discuss with you what support they can provide.**

If your needs are not eligible, the council will give you information and advice about other types of support that are available in your area. This may include putting you in touch with local charities or community organisations.

**The person I am caring for will not agree to a needs assessment themselves. Could I still be offered support as a carer?**

You don't need the permission of the person you are caring for to request a carer's assessment. You are entitled to ask for one in your own right.

### **If my assessment recommends a short break from caring, who will pay for the cost of services that cover for me?**

Each person's situation is different and the type of support needed to take a break from caring will vary. If the person you care for will need a service to support you to have a break, the cost would either be covered by the council, or a contribution would need to be paid by the person receiving the care (hyperlink to charging info?). You as a carer cannot be charged for any support provided directly to the person you care for, even if it helps you to take a break.

### **What happens if my needs change or if I need more support?**

If either of these things happens, the council of the person that you support will be able to discuss your situation with you and agree the next steps to take.

### **Where can I find out more about support for carers?**

To find more about support for carers visit: [www.nhs.uk/carersdirect](http://www.nhs.uk/carersdirect) or contact the council of the person you are caring for.

If you are a carer seeking support from Brighton & Hove City Council please contact our accesspoint point on 01273 29000 or email them at [accesspoint@brighton-hove.gov.uk](mailto:accesspoint@brighton-hove.gov.uk).

You can also see more detailed information in the Care Act Factsheets. These provide an overview, and describe the duties and powers of councils to carry out the changes.

## **Section 5: Cap on Care Costs**

### **What is the cap on care costs?**

At the moment there is no limit to what care and support can cost, and this means that people with very high care needs may have to pay expensive bills. But care and support is changing for the better, and from April 2016 there will be a new form of protection from unlimited costs. This protection is called the 'cap on care costs.'

It means that no-one will have to pay more than £72,000 towards the costs of their eligible care and support needs in their lifetime, and many people will pay much less. This applies to people funding their own care and support, as well as those helped by the council.

Alongside the cap on care costs, extended financial support should ensure that more people are eligible for help with care and support costs. The council will assess your finances and we may be able to offer extra help if you cannot afford to pay. But most

people will still have to contribute something towards the cost of their care and support.

Note; the government is currently undertaking a national consultation on the detailed regulation and guidance that will inform the implementation in April 2016. This section will be updated once that consultation is complete and final guidance published.

### **Why is the cap on care costs being introduced?**

Most people currently pay something towards their care and support costs, and will continue to do so.

The cap on care costs will protect those who may need many hours of care a day from unlimited care bills. It will also help people to plan for future care costs.

### **How will I benefit?**

From April 2016, you will be able to register with the council to keep track of how much your care and support costs. We should still be able to help you even if you are only paying part of your care and support costs, or paying everything yourself.

If you get help from the council with your care and support costs already, we will start to count how much is being spent on your care straight away. If the amount the care element of the cost of meeting your eligible needs reaches £72,000, we will step in and pay for the rest of your care costs.

If you pay for all of your care and support costs yourself, you can still benefit from the cap on care costs. You can contact the council to register and we will assess you to decide if you have eligible needs. If you do have eligible needs, we will calculate how much it will cost to meet those needs. This amount will be counted towards your cap. If the amount counted towards your cap reaches £72,000, we will step in and pay for the rest of the care costs that go towards meeting your eligible needs.

To benefit from the cap on care costs you will need to register with us so that we can begin to keep track of how you are progressing towards the cap. This will need to be discussed and agreed.

### **What is excluded from the cap on care costs?**

If you choose to spend more on care and support than the council would normally pay, for example moving to a more expensive care home, those extra amounts you spend will not count towards your cap on care costs.

If you live in a care home, you will also have to pay something towards the costs of food, energy bills and accommodation, just as you would if you were living in your own home. These are known as 'daily living costs' and an amount for this will be set

nationally. There are also some types of service that are not covered by the cap on care costs, for example the cost of a cleaner or gardener that you employ privately.