

Local Authority Circular

LAC(DH)(2011)1

To: The Chief Executive
 County Councils }
 Metropolitan District Councils } England
 Shire Unitary Councils }
 London Borough Councils
 Common Council of the City of London
 Council of the Isles of Scilly

Copy to: The Director of Social Services
 Chief Executive - Care Trusts
 Chief Executive - Strategic Health Authorities

Date: 28 January 2011

Gateway reference: 15090

CHARGING FOR RESIDENTIAL ACCOMMODATION

1. Summary

This circular:

- I. Sets out the revised Personal Expenses Allowance (PEA) of £22.60, which comes into force on 11th April 2011.**
- II. Announces that the capital limits will remain at their current level (i.e. lower capital limit £14,250 and upper capital limit £23,250).**
- III. Announces that the savings credit disregards will remain at their current level (i.e. up to £5.75 per week for individual supported residents aged 65 and over and up to £8.60 per week for couples).**
- IV. Advises councils of planned changes to ex-gratia payments made to people who have received contaminated blood and how these should be treated in the financial assessment for residential charging.**
- V. Advises councils of how Equitable Life compensation payments should be treated in the financial assessment for residential charging.**

The Annex to this circular contains fuller details.

VI. Revised regulations and a revised Charging for Residential Accommodation Guide (CRAG) will be issued in time for these changes to be implemented in April 2011.

2. Action

This circular is issued under section 7(1) of the Local Authority Social Services Act 1970.

3. Enquiries

Enquiries about this circular should be made by email to:
SCP-SERVICESANDCHARGING@DH.GSI.GOV.UK

Further copies of this Circular may be obtained from Department of Health, PO Box 777, London SE1 6XH, Tel. 0870 155 5455 or Fax 01623 724 524. Please quote the code and serial number appearing on the top right-hand corner.

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ANNEX TO THE CIRCULAR

I. PERSONAL EXPENSES ALLOWANCE (PEA)

Legal basis

1. The PEA is the weekly amount that councils must, in the absence of special circumstances, assume that residents will need for their personal expenses. The PEA is specified in regulations made under section 22(4) of the National Assistance Act 1948 ("the 1948 Act"). This amount is increased each April, in line with the increase in average earnings.
2. The PEA applies in relation to all persons whose accommodation is arranged by a council under Part 3 of the 1948 Act, including residents of care homes with nursing on the premises, residents of council run homes and homes run by the private and voluntary sector.

New PEA amount from 11th April 2011

3. The Regulations will be amended to provide for PEA to increase from £22.30 to £22.60. Paragraph 5.002 of CRAG will be amended accordingly.

The purpose of the PEA

4. The PEA is intended to allow residents to have monies for personal use. Councils, providers of accommodation and residents are again reminded that the PEA should not need to be spent on aspects of board, lodging and care that have been contracted for by the council and/or assessed as necessary to meet individuals' needs by the council or the NHS. Councils should therefore ensure that an individual resident's need for continence supplies or chiropody is fully reflected in their care plan. Neither councils nor providers have the authority to require residents to spend their PEA in particular ways and, as such, should not do so. Pressure of any kind to the contrary is extremely poor practice. See LAC (2002)11 for fuller guidance.

II. CAPITAL LIMITS

5. In the context of the Spending Review 2010, Ministers have taken the decision not to increase the capital limits. The capital limits will remain at their current level, £14,250 for the lower capital limit and £23,250 for the upper capital limit.
6. The intention is to help protect the level and quality of social care services by enabling local authorities to raise additional revenue to pay for these services, from residential care charges. This extra revenue

should help ensure local authorities can maintain the existing quality and quantity of social care.

7. The Spending Review 2010 covers Government spending up to April 2015. However, the intention is to consider the level of the capital limits in the context of the next local government finance settlement in the autumn of 2012. In the meantime, the Department will continue to review the capital limits annually in order to monitor the impact of not increasing the capital limits on care home residents and their families, and on local authority budgets.

III. SAVINGS DISREGARD

8. LAC 2003(22) mentioned the introduction of a new savings disregard from October 2003, in response to the introduction of Pension Credit. The maximum level of savings credit has not been increased this year. Consequently, the savings disregard will also remain unchanged at up to £5.75 a week for individual supported residents aged 65 and over, and up to £8.60 a week for couples.

IV. CHANGES TO EX-GRATIA PAYMENTS MADE TO PEOPLE WHO HAVE RECEIVED CONTAMINATED BLOOD AND HOW THESE SHOULD BE TREATED IN THE FINANCIAL ASSESSMENT FOR RESIDENTIAL CHARGING.

9. Under paragraph 15 of Schedule 4 of the National Assistance (Assessment of Resources) Regulations 1992 (the "Assessment of Resources Regulations") the following are disregarded in the financial assessment for charging for accommodation arranged under Section 21 of the National Assistance Act 1948. Any payments made by or derived from the Macfarlane Trusts, the Fund, the Eileen Trust, the MFET Limited, the Independent Living Fund, the Skipton Fund and the London Bombings Relief Charitable Fund. These disregards are incorporated in the Assessment of Resources Regulations through the Income Support (General) Regulations 1987 (the "IS Regulations").
10. On 10th January 2011, Ministers announced plans for new measures for people who contracted hepatitis C and HIV from contaminated blood. Details can be found on the DH website at www.dh.gov.uk/en/Aboutus/Features/DH_123381. The Department for Work and Pensions plans to make the necessary changes to the IS Regulations in October 2011 to disregard discretionary payments to be made by a new charitable Trust (yet to be established) in relation to hepatitis C infection. This changes will affect residential charging when the IS regulations come into force. Councils should ensure their charging practices reflect these changes, when they occur.

**V. TREATMENT OF EQUITABLE LIFE COMPENSATION PAYMENTS
IN THE FINANCIAL ASSESSMENT FOR RESIDENTIAL CHARGING.**

11. The Government announced on 20 October 2010, as part of the Comprehensive Spending Review 2010, that in the region of £1.5 billion would be allocated to make payments to Equitable Life with profit policyholders for their relative loss as a consequence of regulatory failure. There will be two types of compensation payment, one-off lump sum payments and regular payments, made on an annual basis.
12. These types of payments are already covered by existing regulations. However, in broad terms the lump sum payments should be treated as capital and subject to tariff income charges while the regular payments should be taken fully into account.