

**Local Authority Circular****LAC(DH)(2012)03**

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: 15<sup>th</sup> October 2012****Gateway reference: 18226 & 18243****CHARGING FOR RESIDENTIAL ACCOMMODATION AND NON-RESIDENTIAL CARE SERVICES****1. Summary****This circular:**

- I. Sets out changes to the treatment of Guaranteed Income Payments in the financial assessment for charging for social care, with effect from 29<sup>th</sup> October 2012.**
- II. Announces the publication of revised and updated guidance on charging for non-residential social care.**
- III. Funding to cover the cost of disregarding GIPs in the assessment for social care charging (see also Appendix A)**
- IV. Provides guidance on the treatment of the mobility component of Disability Living Allowance in relation to the provision of and charging for social care.**

The Annex to this circular contains fuller details and:

- V. Revised regulations;**
- VI. Revised pages for the Charging for Residential Accommodation Guide (CRAG); and**
- VII. A revised and updated copy of Fairer Charging policies for Home Care and other non-residential Social Services.**

## **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:

[SCPI-ENQUIRIES@DH.GSI.GOV.UK](mailto:SCPI-ENQUIRIES@DH.GSI.GOV.UK)

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## **ANNEX TO THE CIRCULAR**

### **I. GUARANTEED INCOME PAYMENTS UNDER THE ARMED FORCES COMPENSATION SCHEME**

1. In recognition of the contribution made by armed forces personnel injured whilst on active service, from 29<sup>th</sup> October 2012, they will no longer need to use Guaranteed Income Payments (GIPs) paid under the Armed Forces Compensation Scheme (AFCS) to pay for care and support services arranged by local authorities.
2. AFCS payments consist of two elements, a lump sum payment for pain and suffering and a GIP. The lump sum is personal injury compensation and, like all such payments, it is disregarded provided it is placed in a personal injury trust. This position is not being changed.
3. At the moment GIPs are taken into account when paying for social care arrangements. However, the new arrangements announced in the Care and Support White Paper mean that from 29<sup>th</sup> October GIPs will be disregarded entirely in financial assessments made by local authorities in determining how much veterans can afford to pay for care.

### **II. UPDATED COPY OF FAIRER CHARGING POLICIES FOR HOME CARE AND OTHER NON-RESIDENTIAL SOCIAL SERVICES**

4. The Fairer Charging Guidance was last updated in September 2003. We are issuing revised guidance. This is, primarily, to take account of the Government's policy on the treatment of GIPs, as set out above. The revised guidance is intended to ensure that from 29<sup>th</sup> October 2012 local authority charging policies entirely disregard GIPs in the financial assessment for charging for home care and other non-residential social services. However, we have also taken this opportunity to update the document to incorporate changes to CRAG which affect the Fairer Charging guidance.

### **III. FUNDING TO COVER THE COST OF DISREGARDING GIPS IN THE ASSESSMENT FOR SOCIAL CARE CHARGING**

5. The GIPs disregard will place a small new burden on local authorities, as a result of lost income from social care charging. The Department of Health has agreed to fund this new burden and is providing local authorities in England with an extra £3.361 million up to the end of 2014/15 (£0.415m for October 2012 to March 2013, then £1.217m for 2013/14 and £1.729m for 2014/15).
6. There is no data on where people who both receive a GIP and are in need of social care currently live. It is also not possible to know which individuals who are currently in service may require social care on

discharge. However, the numbers are, currently, very small – by 2014/15 it is estimated there will only be 285 people receiving GIPs who may also need social care.

7. Following a consultation, over the summer, the Department has decided to use the younger adult social care relative needs formulae (RNF): this predicts relative need for local authority supported care for people aged 18 to 64. The social care RNF takes into account relative deprivation (as wealthier people are less likely to receive state-funded social care). On balance, we think that the younger adults social care RNF are more likely to be an accurate representation where recently discharged seriously injured personnel live.
8. Information about how this money will be allocated to individual local authorities is attached in Appendix A.

#### **IV. TREATMENT OF THE MOBILITY COMPONENT OF DISABILITY LIVING ALLOWANCE**

9. Last year, in response to DWP proposals to withdraw the mobility component of Disability Living Allowance from state supported care home residents, campaigners set up an independent review into personal mobility in care homes chaired by Lord Low with the secretariat provided by Leonard Cheshire and MENCAP. In evidence, the Review heard claims that some local authorities were taking the mobility component into account when considering what social services to be provide. The Department would like to make the position clear.
10. As set out in section 73(14) of the Social Security Contributions and Benefits Act 1992, the mobility component of Disability Living Allowance (DLA) is excluded by law from being taken into account for charges save where prescribed. With regard to social care charging generally, this is underlined by DH regulations and guidance. Specifically, paragraph 4 of Schedule 3 to the National Assistance (Assessment of Resources) Regulations 1992 for residential care, and paragraph 30 of the guidance *“Fairer Charging Policies for Home Care and other non-residential Social Services”* for non-residential care.
11. Under section 47 of the National Health Services and Community Care Act 1990, local councils have a duty to assess the needs of any person for whom the authority may provide or arrange the provision of community care services and who may be in need of such services. They have a further duty to decide, having regard to the results of the assessment, what, if any, services they should provide to meet the individual’s needs. This duty does not change because a particular individual is receiving the mobility component of Disability Living Allowance.

## REPLACEMENT SECTIONS FOR CRAG

### Income partly disregarded

#### *£10 disregard*

8.022 The following types of income attract a £10 disregard:

- Payments to victims of National Socialist persecution (paid under German or Austrian law) *Schedule 3 paragraph 11*
- Civilian war injury pension *Schedule 3 paragraph 11*
- War disablement pension (8.024 – see also 3.022 and 8.006 for treatment of AA/CAA paid with WDP) *Schedule 3 paragraph 11*
- War Widows pension and War Widowers pension - but see 8.053 for War Widows and War Widowers Special Payments  
*Schedule 3 paragraph 11*
- Survivors Guaranteed Income Payments from the Armed Forces Compensation Scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004  
*Schedule 3 paragraph 11B*

### Income fully disregarded

8.042 The following types of income are fully disregarded:

- See 3.022 for the treatment of AA and DLA (Care) for temporary residents and 8.006 for permanent residents.
- That part of an Income Support/Pension Credit award which is paid in respect of home commitments for temporary residents (8.043)
- Supporting People payments made by a LA to or on behalf of a resident for housing support charges of a kind falling within Schedule 1B to the Housing Benefit (General) Regulations 1987 (as in force immediately before 1 April 2003. (3.017)

- Certain charitable and voluntary payments (8.058 to 8.061)
- Child Support Maintenance Payments and Child Benefit, unless the child is accommodated with the resident under Part 3 of the National Assistance Act 1948 (mother and baby units - see 8.005)
- Child Tax Credit
- Guardian's Allowance
- Christmas bonus (8.045)
- Age-related payments made under Parts 2 and 3 of the Age Related Payments Regulations 2005 (SI No. 1983)
- Any payment from:
  - the Macfarlane Trust
  - the Macfarlane (Special Payments) Trust
  - the Macfarlane (Special Payment)(No.2) Trust
  - the Caxton Foundation
  - the Fund (payments to non-haemophiliacs infected with HIV)
  - the Eileen Trust
  - the MFET Limited
  - the Independent Living Fund (2006)
  - the Skipton Fund
  - the London Bombings Relief Charitable Fund *Schedule 4 paragraph 15*
- Council Tax Benefit
- Disability Living Allowance (Mobility Component) and Mobility supplement
- Dependency increases paid with certain benefits (8.047)
- Gallantry awards (8.049)

- Income frozen abroad (8.050)
- Income in kind (8.051)
- Social Fund payments (including winter fuel payments)
- Certain payments made to trainees (8.052)
- War widows and widowers special payments (8.053)
- Work expenses paid by employer, and expenses paid to voluntary workers (8.056 and 8.057)

• **Guaranteed Income Payments made under the Armed Forces Compensation Scheme. **Schedule 3 paragraph 11A****

- Any payment made under paragraph 3 of Schedule 4 to the Adoption and Children Act 2002, as amended by the National Assistance (Assessment of Resources) (Amendment) (England) Regulations 2005 (SI No.3277). (For example, if a family adopts a brother and sister but need to build an extension to their house to make a bedroom for the sister, this type of payment for this would be disregarded)
- Any payments made under section 63(6)(b) of the Health Services and Public Health Act 1968 to a resident to meet childcare costs where he or she is undertaking instruction connected with the health service by virtue of arrangements made under that section. **Schedule 3 paragraph 28J**
- Any payment made in accordance with regulations under section 14F of the Children Act 1989 to a resident who is a prospective special guardian or special guardian. **Schedule 3 paragraph 28K**

## Appendix A

<b>Local Authority</b>	<b>Grant Allocation</b>	
Barking and Dagenham	£	1,660
Barnet	£	2,380
Barnsley	£	2,569
Bath & North East Somerset	£	1,103
Bedford	£	1,051
Bexley	£	1,476
Birmingham	£	11,085
Blackburn with Darwen	£	1,630
Blackpool	£	1,661
Bolton	£	2,548
Bournemouth	£	1,320
Bracknell Forest	£	577
Bradford	£	4,806
Brent	£	2,363
Brighton & Hove	£	2,283
Bristol	£	4,023
Bromley	£	1,752
Buckinghamshire	£	2,284
Bury	£	1,490
Calderdale	£	1,628
Cambridgeshire	£	3,505
Camden	£	2,890
Central Bedfordshire	£	1,268
Cheshire East	£	2,145
Cheshire West and Chester	£	2,393
City of London	£	124
Cornwall	£	4,361
Coventry	£	2,932
Croydon	£	2,628
Cumbria	£	4,171
Darlington	£	907
Derby	£	2,272
Derbyshire	£	6,200
Devon	£	5,049
Doncaster	£	2,932



<b>Local Authority</b>	<b>Grant Allocation</b>	
Dorset	£	2,349
Dudley	£	2,507
Durham	£	5,137
Ealing	£	2,674
East Riding of Yorkshire	£	2,275
East Sussex	£	3,450
Enfield	£	2,294
Essex	£	8,561
Gateshead	£	1,944
Gloucestershire	£	3,718
Greenwich	£	2,635
Hackney	£	2,906
Halton	£	1,359
Hammersmith and Fulham	£	1,831
Hampshire	£	6,759
Haringey	£	2,408
Harrow	£	1,541
Hartlepool	£	969
Havering	£	1,480
Herefordshire	£	1,240
Hertfordshire	£	5,884
Hillingdon	£	1,752
Hounslow	£	2,019
Isle of Wight Council	£	1,191
Islington	£	2,669
Kensington and Chelsea	£	1,691
Kent	£	9,663
Kingston upon Hull	£	3,082
Kingston upon Thames	£	956
Kirklees	£	3,615
Knowsley	£	2,082
Lambeth	£	3,315
Lancashire	£	9,721
Leeds	£	6,575
Leicester	£	3,330
Leicestershire	£	3,634
Lewisham	£	2,938

<b>Local Authority</b>	<b>Grant Allocation</b>	
Lincolnshire	£	5,385
Liverpool	£	6,325
Luton	£	1,524
Manchester	£	6,275
Medway	£	1,832
Merton	£	1,401
Middlesbrough	£	1,570
Milton Keynes	£	1,673
Newcastle upon Tyne	£	2,847
Newham	£	2,966
Norfolk	£	6,298
North East Lincolnshire	£	1,387
North Lincolnshire	£	1,370
North Somerset	£	1,373
North Tyneside	£	1,742
North Yorkshire	£	3,534
Northamptonshire	£	4,714
Northumberland	£	2,451
Nottingham	£	3,582
Nottinghamshire	£	6,284
Oldham	£	2,120
Oxfordshire	£	3,366
Peterborough	£	1,442
Plymouth	£	2,615
Poole	£	874
Portsmouth	£	1,679
Reading	£	1,042
Redbridge	£	1,979
Redcar and Cleveland	£	1,313
Richmond upon Thames	£	1,003
Rochdale	£	2,154
Rotherham	£	2,570
Rutland	£	159
Salford	£	2,624
Sandwell	£	3,213
Scilly	£	13
Sefton	£	2,561

<b>Local Authority</b>	<b>Grant Allocation</b>	
Sheffield	£	5,110
Shropshire	£	1,911
Slough	£	989
Solihull	£	1,266
Somerset	£	3,637
South Gloucestershire	£	1,436
South Tyneside	£	1,603
Southampton	£	2,209
Southend-on-Sea	£	1,218
Southwark	£	3,514
St Helens	£	1,845
Staffordshire	£	5,797
Stockport	£	2,014
Stockton-on-Tees	£	1,645
Stoke-on-Trent	£	2,763
Suffolk	£	4,788
Sunderland	£	2,946
Surrey	£	5,216
Sutton	£	1,258
Swindon	£	1,405
Tameside	£	2,167
Telford and the Wrekin	£	1,452
Thurrock	£	1,177
Torbay	£	1,298
Tower Hamlets	£	3,323
Trafford	£	1,618
Wakefield	£	3,287
Walsall	£	2,402
Waltham Forest	£	2,054
Wandsworth	£	2,593
Warrington	£	1,480
Warwickshire	£	3,482
West Berkshire	£	712
West Sussex	£	4,432
Westminster	£	3,060
Wigan	£	2,950
Wiltshire	£	2,505

<b>Local Authority</b>	<b>Grant Allocation</b>	
Windsor and Maidenhead	£	637
Wirral	£	3,158
Wokingham	£	580
Wolverhampton	£	2,403
Worcestershire	£	3,561
York	£	1,219