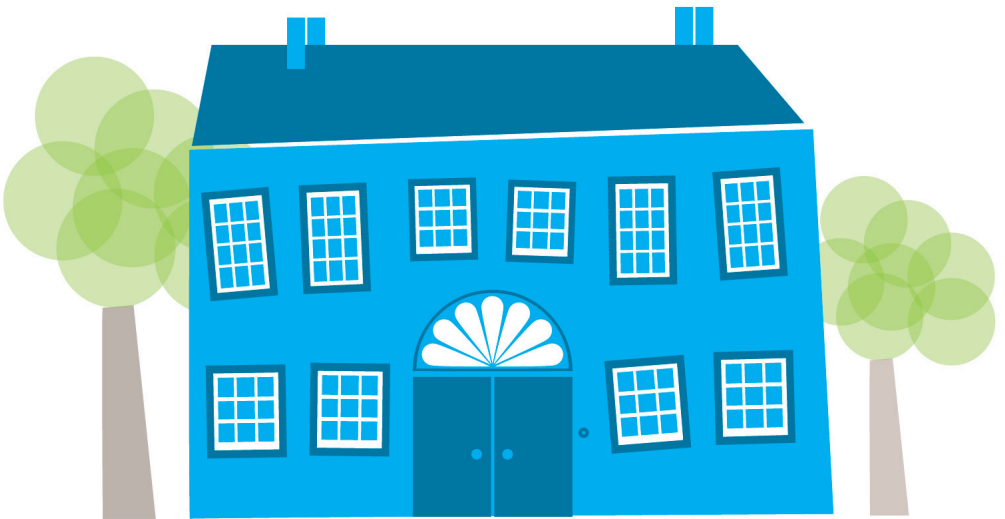


Care Home Guide: Funding



Who we are

Age Scotland is the national charity for older people. We work to improve the lives of everyone over the age of 50 and promote their rights and interests.

Our vision is a Scotland which is the best place in the world to grow older.

Our mission is to inspire, involve and empower older people in Scotland, and influence others, so that people enjoy better later lives.

We have three strategic aims:



We help older people to be as well as they can be



We promote a positive view of ageing and later life



We tackle loneliness and isolation

How we can help

We know that growing older doesn't come with a manual. Later life can bring changes and opportunities to your life and you may need to know about rights, organisations and services which are unfamiliar to you.

That's why we provide free information and advice to help you on a range of topics including benefits and entitlements, social care, legal issues such as Power of Attorney, housing and much more. All of our guides are available to download for free from our website, or you can contact our helpline team to have copies posted to you for free.

Our **helpline** is a free, confidential phone service for older people, their carers and families in Scotland looking for information and advice.

Later life can bring times when you just need someone to talk to. Our **friendship line** is part of our wider helpline and older people can call us for a chat. We're here to listen, provide friendship and offer support.



Call us free on: 0800 12 44 222
(Monday – Friday, 9am – 5pm)



Visit agescotland.org.uk
to find out more.

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Introduction

This guide provides information about the financial help that may be available from the local council, for older people who have been assessed as needing care in a care home. It aims to answer some of the most common questions asked by older people and their families.

Your local council's social work department (or in some areas, the local health board) is responsible for assessing your need for care services and working out what financial support you may be entitled to. You can find their number in your phone book or call the **Age Scotland helpline** on **0800 12 44 222** and we will find the number for you.

This guide does not explain the rules for social security benefits such as Pension Credit and Attendance Allowance; they are not the same as the rules about care home funding.

If you would like information about benefit rules and entitlements, call our helpline or visit our website at

www.ageuk.org.uk/scotland/information-advice/benefits.

When this guide refers to couples or partners, this usually means married couples, civil partners, or people who live as though they are a married couple or civil partners.

In this guide we use the term care home to mean any care home registered with the Care Inspectorate in Scotland. It includes council homes, and homes run privately and by charities, some of which provide nursing care as well as personal care.

The information in this guide is correct as at August 2023. If you want to check that you have the most up-to-date copy of this guide, contact the **Age Scotland helpline** on **0800 12 44 222**.



Care needs assessment

A care needs assessment looks at what kind of care you need, and in what setting it can be best delivered. It is the first step in finding out what your care costs will be and whether you are entitled to financial support.

Your council's social work department (or in some areas, the local health board) has a duty to carry out a care needs assessment if you ask for one, and you appear to them to be in need of social care (or community care) services.

The assessment will be carried out by a professional such as a social worker or NHS occupational therapist. When deciding what type of care would suit you best, they should consider your views and the views of any friends and family who care for you. They may suggest care services in your own home, or they may feel your needs can be best met in a care home.

They will then decide whether they can provide or fund care services to meet your needs. Each council can set its own eligibility criteria for different types of services. If the council agrees to provide or pay for a service, you should be given written information about this in a care plan.

You should have another care needs assessment if you begin to need more or less care than before. If a care needs assessment finds you need a care home placement, the council has a duty to arrange this for you if you want them to. You can arrange your own care home placement if you prefer and are able to.

There should be no unnecessary delay in the council arranging a place for you; if a delay cannot be avoided they should make suitable arrangements to meet your care needs in the meantime.



Even if you can afford to pay for your own place in a care home and are happy to arrange this yourself, it is still a good idea to ask the council for a care needs assessment if any of the following apply:

- you would like advice about what type of care will best meet your needs and what services are available
- you think you may need financial support in the future
- you want to have access to the Free Personal and Nursing Care available to all those assessed as needing it



Care home costs and funding

Free Personal and Nursing Care

In Scotland, personal care and nursing care are free to anyone who has been assessed as needing them, by a care needs assessment.

If the council decides that your needs can be best met in a care home, it will pay the personal and nursing care amount you are entitled to directly to the care home. You may qualify for one or both types of care.

For the financial year 2023/24, the amounts the council will pay to the care home for these types of care are:

- £233.10 per week if you only need personal care
- £104.90 per week if you only need nursing care
- £338 if you need both personal care and nursing care.

The council will only pay the rate for nursing care if you have been assessed as needing it and you move to a home where 24-hour nursing care is available.

Once you have been assessed as needing care in a care home, a contract will need to be set up with the home. There is more information about care home contracts on page 25.

The personal and nursing care payments can only begin once a contract is in place. If you are arranging your own care home placement, check that the council will be ready to make payments from the day you move in.



Financial assessment (means test)

After your care needs assessment, your council will carry out a financial assessment, also known as a means test. This works out how much you will be expected to contribute towards your care home fees by looking at your capital and income. There is more information about capital and income later in this guide.

At a minimum, you will be expected to contribute using your income, such as your State Pension. You will be expected to pay an additional amount if you have between £20,250 and £32,750 in capital; the financial assessment will work out what this amount will be. If you have over £32,750 in capital, the council will only pay the personal and nursing care costs you have been assessed as needing, and you will need to pay the rest.

This type of assessment applies if you move into a care home permanently, and it may also apply if you are classed as a temporary resident (see page 29 for more information about temporary residents).

What the council can pay

The council will pay at least the personal and nursing care amount you are entitled to. If there is still any amount left after you have paid your contribution, the council will also pay these fees up to a maximum of the **standard rates**. These are the rates charged by council-owned care homes, which are agreed each year by local councils across Scotland.

The standard rates per resident, per week, for 2023/24 are:

- £762.62 for residential care
- £888.50 for residential and nursing care.

If you decide to move into a care home that charges more than the standard rate for the level of care you are assessed as needing, a **top-up payment** from a third party, such as a relative or charity, will be needed to cover the difference.

Financial assessment: Capital

Most types of capital will be included in the council's financial assessment for permanent care home residents. This includes bank or building society accounts, national savings accounts, premium bonds, stocks and shares, and property (buildings or land).

The amount of capital you have affects how much you will be expected to contribute towards your fees, and how much (if any) means-tested help the council can provide towards your care.

Capital limits for 2023/24

If your **capital is below £20,250**, it will be ignored. You will be expected to contribute from your income only and will receive means-tested help to cover your fees up to the standard rates.

If your **capital is between £20,250 and £32,750**, you will be expected to make some contribution from both your capital and income towards your care costs. You may receive some means-tested help, depending on your income. The council will assess you as having an extra weekly income of £1 per £250 (or part of £250) you have over £20,250. This is called a **tariff income**.

If your **capital is above £32,750**, you will be assessed as being able to pay for your care yourself and will not receive means-tested help from the council.

In all cases, the council will contribute the non-means-tested personal and nursing care payments if you have been assessed as needing these.

Disregarded capital

Some capital is disregarded, or ignored. Capital which is completely disregarded includes the surrender value of life insurance policies, personal injury compensation held in a personal injury trust or administered by a court, and personal possessions (as long as they were not bought with the intention of using up savings to avoid care costs).

Capital held in a discretionary trust may also be disregarded as you do not have free access to it. The rules about trusts are complicated. Seek legal advice if you are considering setting up a trust.

Jointly held capital

Only capital in your name should be included in the means test. The council will assume that any joint capital is held or owned in equal shares unless you have proof this is not the case. For example, if you have a joint bank account with a spouse who is not moving into a care home, half of the account balance is considered to be yours and will be included in your financial assessment.

It can be useful to split joint savings equally into separate accounts when one joint owner moves into a care home. See page 32 for more information.

Notional capital

This is capital that may be included in the means test even though you do not actually have it. It might be capital you could get if you asked for it, such as money in a trust that you have access to, or a pension you have deferred. It could also be capital that the council believes you have spent or given away in order to avoid using it to pay for your care. For example, if you have given away a property, the council may decide that you did this to reduce the amount of care home fees you have to pay. They would then carry out the financial assessment as though you still owned the property.

Valuation of non-cash capital

Capital other than cash is given a market value. For stocks and shares or property, this is the amount you would be expected to get for them if you sold them on the open market. For Premium Bonds, it is the surrender value.

If it is clear your overall capital is more than £32,750 then a precise valuation of your non-cash capital will not be needed. You will be expected to pay for your care costs yourself, apart from any personal and nursing care costs being covered by the council.

If an asset (for example a property) would need to be sold to release money from it, 10% of the market value is ignored in the valuation to allow for sale costs. The value of any mortgage or secured loan will also be ignored.

Once a property is sold, you will be reassessed as having your actual share of the money from the sale after paying any mortgage, secured debts and sale costs.

Treatment of the value of your home as capital

If you own your own home, it may be included in the financial assessment, or it may be disregarded. This will depend on your circumstances.

12-week disregard

If you enter a care home permanently, and your current home does not qualify for a disregard, it will be included in your financial assessment. However, its value will be disregarded for 12 weeks. This is to allow time to sell the property.

If you sell the property before the 12 weeks have passed, the disregard will stop when the property is sold. If you have not sold your property after 12 weeks, or if you do not want to sell it, you may be able to make a deferred payment agreement with the council. See page 11 for more information.

If you enter a care home as a temporary resident, the value of your home is disregarded during the temporary stay (see page 29 for information on temporary residents). If the stay then becomes permanent, the value of the property will be disregarded for 12 weeks from the date the stay becomes permanent.

Property that is disregarded

The value of your home will be disregarded in your financial assessment if any of the following people are living there:

- your partner or former partner (unless you are estranged or divorced from them)
- a relative¹ who is aged 60 or over
- a younger relative who is ‘incapacitated’. This usually means someone who receives or meets the criteria for a disability- or health-related benefit
- a former partner from whom you are divorced or estranged, who is a lone parent with a dependent child
- a child under 16 years whom you are liable to maintain

The council can also choose to disregard the value of the property where it is the home of someone else not included on the above list, such as:

- a relative under 60 who had been caring for you for a substantial period
- a friend who is over 60, particularly if they have given up their own home to move in with you

Other companions or relatives can ask the council to use their discretion to disregard the property to allow them to live there, although the council may not be willing to do so.

If a property is being disregarded because a care home resident’s partner lives there, there may be a time when that partner wants or needs to move. This could be, for example, because they need to live somewhere more accessible or closer to family. If needed, the council should disregard the care home resident’s share of the sale proceeds, to allow the move to go ahead.

¹Relative includes a parent or parent-in-law, sibling or sibling-in-law, offspring (including adoptive), step-offspring, the spouse, civil partner or unmarried partner of any of those already mentioned, a grandchild, grandparent, uncle, aunt, niece or nephew.

Council deferred payment agreement

If the value of your home is included in your financial assessment but you do not want to sell it straight away, you may be able to make a legal agreement with your local council to defer (delay) payment of some of your care home fees until you sell your property in the future.

Councils must consider applications for deferred payment agreements and should let people know about this option if it applies to them. The council may be cautious about setting up a deferred payment agreement if there is an outstanding mortgage, equity release loan or other debt secured against the property, or if the amount of the deferred payment will be very high.

You can only be considered for a deferred payment arrangement if all of the below conditions apply:

- you have been assessed as needing care in a care home
- the value of your capital (not including the value of the property) is no more than £20,250
- your income is too low to cover your care home fees
- your property is not already disregarded under one of the other rules
- you do not wish to, or are not able to, sell your property quickly enough to pay your care home fees
- you are able to grant a **standard security** against the property – this is a legal agreement saying the council will be repaid the amount owed when the property is sold or transferred to someone else's name.

If your request for a deferred payment is refused, you can challenge the council's decision using their complaints procedure.

Before signing a deferred payment agreement, you should make sure you understand the terms of the agreement fully. During the agreement you will still need to contribute to your care home fees from your income, and possibly from your other capital. Your financial assessment will tell you how much your weekly payments will be. You should also check what you will need to pay upfront, for example the council's land registry fees and other legal expenses.

The agreement will last either until the date you sell your property, or until 56 days after your death. No interest can be charged during the period of the agreement, but interest can be added if you end the agreement or if the property hasn't been sold by 56 days after your death.

When considering a deferred payment agreement, you might also need to think about:

- how quickly properties are selling in your area
- the cost of maintaining the property until you decide to sell it
- options for investing the money you would get if you decided to sell the property
- insurance costs if the property is empty or rented out
- legal responsibilities if you are thinking of becoming a landlord
- the impact on any means-tested benefits you claim, if you start receiving rent payments

You should seek independent legal and financial advice if you are thinking of entering into a deferred payment agreement.

Example one

Sid is a single man, aged 80. He has a State Pension and a private pension, with a combined weekly value of £250. He owns a house valued at £120,000. This will be unoccupied when he moves to the care home and will therefore be included in his financial assessment. He also has £10,000 in other capital. He is moving into a nursing home that charges the standard rate for residential and nursing care of £888.50 per week.

Sid has been assessed by his local council as needing both personal and nursing care, so the council will pay at least £338 towards his fees.

As Sid's income and capital (including the value of his home) exceed the £32,750 upper limit, he will not have an in-depth financial assessment; he is expected to pay the remaining £550.50 himself from his income and capital.

If Sid decides to make a deferred payment agreement with the council:

The value of Sid's home is now disregarded from the financial assessment until it is sold. His total capital and income are now below the £20,250 lower limit, so he is only expected to contribute from his income of £250. He is allowed to keep back a personal expenses allowance of £32.65 and gets a savings disregard of £7.70 (explained on page 18).

Sid therefore pays £209.65 each week. The council pays £338 in personal and nursing care costs. The council also covers the remaining £340.85 (the deferred amount) which will be paid back when Sid's property is sold.

Charging orders

The council cannot force you to sell your property without a court order. However, if you own a property that can't be disregarded, and you don't make arrangements to pay your contribution to care costs, the council can register a **charging order** against your property. This entitles them to reclaim the money they are owed when the property is sold.

The council does not need your permission to create a charging order but they should write to advise you that a charge is being registered. You should seek legal advice from a solicitor if the council advises you that they will be seeking a charging order.

The amount owed to the council will increase over time if you are not paying your assessed contribution to the care home fees. However, if your capital less the debt falls below £32,750, you may become entitled to means-tested help with the fees.

If the council wants to make you sell your property immediately, they must apply for a court order. The court will look at the circumstances and decide whether it is reasonable to force you to sell it.

Valuation of jointly-owned property

If you are the joint owner of a property, the council must value your **beneficial interest** in the property rather than the property itself. This is the amount of money you would receive if the property were sold.

The value of your beneficial interest will depend on how likely it is that someone would want to buy your share of the property.

If another joint owner lives in the property, it is unlikely that a buyer could be found for your share on the open market. In this situation the value of your share could be very low, or even nil.

If another joint owner lives in your home and is prepared to buy your share, your beneficial interest in the property is the amount they are willing to pay for your share.

The council should have your property valued professionally if there is uncertainty or dispute about the value of your beneficial interest.

In some cases, councils have advised joint owners that they must either sell the jointly-owned property or buy out the care home resident's share. You should get legal advice if this is your situation.

If someone else has been paying bills and contributing to the running costs of your home, they may be able to show they have a beneficial interest in the property even if they are not a joint owner. If their beneficial interest can be established, the property will be valued as if it is jointly owned, meaning only your share will be taken into account. This is a complex legal area. Consult a solicitor for more information.

Renting out property

Some people who move into a care home permanently choose to rent out their property and use the rental income, together with their existing income, to pay the care home fees. If you are considering this you should get advice about the legal responsibilities, costs and risks of becoming a landlord.

You can find information about landlords' responsibilities on the Scottish Government website www.mygov.scot/renting-your-property-out/your-responsibilities or contact your local Citizens Advice Bureau for advice.

Financial assessment: Income

For the council's financial assessment for permanent care home residents, the council will look at sources of income in your name and decide whether they will be:

- completely disregarded
- partly disregarded
- taken fully into account

Income could include:

- State Pension
- private pension (this could be an occupational/workplace pension or a personal pension)
- Pension Credit
- tariff income from capital

Some benefits are also included as income, while others may be stopped when you move into a care home. There is more information about benefits on the next few pages.

Income that is disregarded

Some income will be disregarded in the financial assessment.
Common disregards include:

- the mobility components of Adult Disability Payment, Personal Independence Payment or Disability Living Allowance
- War Pension Scheme and Armed Forces Compensation Scheme payments
- War Widow's Special Payments - the special War Widow's Pension of £101.49 per week introduced April 1990 for 'pre-1973 war widows'
- the £10 Christmas bonus paid with some benefits
- actual income from interest on savings (instead, a tariff income will be included in the calculation - see page 6)
- certain charitable and voluntary payments given to pay for a specific item not covered by the care home's fees
- any payments of Child Tax Credit or Guardian's Allowance

Income that is partly disregarded

Some kinds of income are partly disregarded, such as:

- £20 per week of certain charitable or voluntary payments to help with expenses already covered by the council's contract with the home, for instance for food or heating
- 50% of a private pension, if this is paid to a spouse or civil partner who doesn't live in the same care home

Savings disregard

If you have reached State Pension age and you have savings or a private pension, you may be entitled to a savings disregard. The rules for this are linked to the rules for the savings credit element of Pension Credit, and the amount you receive will depend on your qualifying income:

Single people

WEEKLY INCOME	AMOUNT OF DISREGARD
Less than £174.49	Nil
£174.49 to £201.05	Your actual savings credit award or £7.70, whichever is less
Over £201.05 and you receive savings credit	£7.70
Qualifying income above the limit for receiving savings credit	£7.70

Couples

WEEKLY INCOME	AMOUNT OF DISREGARD
Less than £277.12	Nil
£277.12 to £306.85	Your actual savings credit award or £11.45, whichever is less
Over £306.85 and you receive savings credit	£11.45
Qualifying income above the limit for receiving savings credit	£11.45

Social security benefits

As part of the financial assessment, the council will check you are claiming any benefits you are entitled to. This is to make sure your contribution to your fees can be calculated accurately. They will need to see details of the benefits you are receiving and may also need to contact the Department for Work and Pensions.

Disability-related benefits (care components)

If you receive Attendance Allowance, the daily living component of Adult Disability Payment or Personal Independence Payment, or the care component of Disability Living Allowance, these will stop after 28 days in a care home if you are receiving the Free Personal Care contributions. These benefits are not affected if you only receive the Free Nursing Care contributions or are not receiving any funding at all from the council.

If your benefit has been stopped and you spend any time away from the care home, for example to stay with relatives, you may be able to claim for these periods.

Note that Personal Independence Payment and Disability Living Allowance are being replaced by Adult Disability Payment in Scotland. You will be automatically transferred to Adult Disability Payment if you are receiving one of the other benefits.

If you have any questions about benefits or financial assessments, call the **Age Scotland helpline** on **0800 12 44 222**.

Financial assessment: Calculations

Once the council has full details of your income and savings, they can calculate how much you should contribute towards the costs of your care. You should always be left with a weekly amount of £32.65 after you have paid your contribution. This is your **Personal Expenses Allowance** to cover items not included in your care plan, for example hair appointments or trips out.

The council should give you full details of their calculations in writing and make it clear what you have to pay. If they agree that you qualify for Free Personal and Nursing Care, they will pay the contributions directly to the care home. This should be clear on the financial assessment.

The examples on the following pages show how the calculations are made.

Example two

Mara is single, aged 83. She lives in a rented flat and has capital of £7,500. Mara is assessed by the council as needing personal care that can best be delivered in a care home. The council arranges a place for Mara in a residential care home. The fees are £762.62 per week, the council's standard rate for residential care.

Mara gets £160 per week in State Pension, plus Guarantee Pension Credit of £41.05.

What's included: Mara's State Pension income and her Pension Credit will both be counted in full.

What's disregarded: Mara's capital is ignored because it is less than £20,250. Mara will get to keep back the Personal Expenses Allowance of £32.65.

Local council financial calculation for Mara

MARA'S CONTRIBUTION		£	COUNCIL'S CONTRIBUTION		£
State Pension		160.00	Weekly cost of the home		762.62
Guarantee Pension Credit	+	41.05	Mara's contribution	-	168.40
Total weekly income	=	201.05	Council's contribution	=	594.22
Personal Expenses Allowance	-	32.65			
Mara's contribution	=	168.40			

If the council's contribution was calculated to be less than £233.10, they would still pay £233.10 because this is the amount needed to cover Mara's personal care. Both personal and nursing care are free (funded by the local authority) for anyone assessed as needing them.

Example three

Alvin is married, aged 70. He lives in the flat that he and his wife jointly own. Alvin has a State Pension of £203.85 and a weekly private pension of £164. He also has a savings account in his name of £20,000 and a joint account with his wife of £8,000.

The council assesses that Alvin needs both personal and nursing care. It arranges a permanent place for Alvin in a care home with fees of £888.50 per week, the council's standard rate for residential and nursing care. Alvin's wife will remain living in their flat when Alvin moves into a care home.

What's included: Alvin's £20,000 in personal savings and half the balance of his joint savings (£4,000) are included, making Alvin's total capital £24,000. As this is between £20,250 and £32,750, Alvin is assessed as having a tariff income of £1 for every £250 (or part of £250) he has over £20,250. This totals £15.

Alvin's State Pension (£203.85), and his tariff income (£15) are included in full. Only half of Alvin's private pension (£82) is included because he plans to give the other half to his wife (this rule is explained on page 33).

What's disregarded: The value of Alvin's home is ignored because his wife will continue to live there. The half of Alvin's private pension (£82) that he gives to his wife is also disregarded, as explained above.

Alvin will also get a savings disregard of £7.70 per week and is entitled to keep back the Personal Expenses Allowance of £32.65.

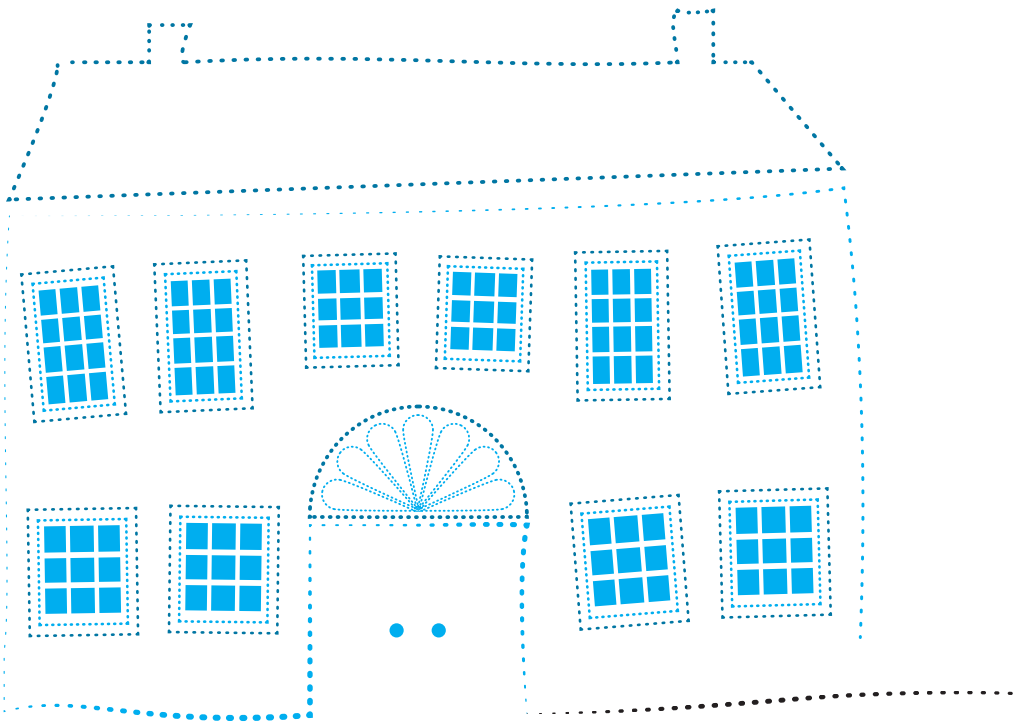
Local council financial calculation for Alvin

ALVIN'S CONTRIBUTION			COUNCIL'S CONTRIBUTION		
		£			£
State Pension		203.85	Weekly cost of the home		888.50
50% Private Pension	+	82.00	Alvin's contribution	-	260.50
Tariff income from capital	+	15.00	Council's contribution	=	628.00
Total weekly income	=	300.85			
Personal Expenses Allowance	-	32.65			
Savings disregard	-	7.70			
Alvin's contribution	=	260.50			

If the council's contribution was calculated to be less than £338, they would still pay £338 because this is the amount needed to cover Alvin's personal and nursing care. Both personal and nursing care are free (funded by the local authority) for anyone assessed as needing them.

Before next year's financial assessment, Alvin and his wife may want to think about splitting their joint savings into separate accounts. This will ensure their separate shares of the savings are assessed correctly. See page 32 for more information about jointly-owned savings.

Alvin should tell the council when his savings reduce to the next £250 'band', as this will reduce his tariff income and in turn reduce the contribution he has to make. However, even if he does not tell the council, this will be picked up at his next yearly financial assessment.





Care home contracts

Current guidance from the Scottish Government says that councils should offer you a choice about how your care home contract is arranged. The council must offer to arrange your care home contract for you if they have assessed you as needing to live in a care home, but you can also choose to arrange your own contract. There is more information about contract routes on the next page.

If you ask the council to arrange your contract they should give you a selection of care homes to choose from that are in your area, meet your needs, are affordable and have a place available for you. Your council should also advise you on what to do if you want to live in another area.

Your contract should give you a full explanation of what is included in the care home fees. The fees should cover accommodation, food and all essential care but may not cover things like clothing or hairdressing. The council may expect you to use your Personal Expenses Allowance of £32.65 (2023/24 rate) for these types of costs.





Types of care home contract

There are four contract routes that generally apply to people entering a care home:

Route 1 – Independently Funded Person

This applies if you are arranging and paying for your own care, possibly without a care needs assessment, or if the social work department has assessed you as not needing a place in a care home. You arrange your own contract with the care home.

Route 2 – Free Personal / Nursing Care Supported Person

This applies if the council has agreed that you need to live in a care home setting, and that you are eligible for Free Personal and Nursing Care (one or both), but you do not qualify for means-tested help from the council.

The council makes a contract with the care home to pay the personal and nursing care costs. You make a contract with the care home to pay all other costs.

Route 3 – Assessed Contribution Supported Person

This applies if:

- the council has agreed that you need care in a care home setting, and need one or both of personal and nursing care; and
- your total capital included in your financial assessment is no higher than £32,750 (2023/24 rate); and
- you are moving into a care home with fees **no higher than the council's standard rate.**

The council makes a contract with the care home to pay the personal and nursing care costs plus their calculated contribution. You can either make a contract to pay your contribution to the council (and they will pass your payment to the care home), or you can make a contract with the care home directly.



Route 4 - Assessed Contribution Supported Person with Top Up

This applies if:

- the council has agreed you need to live in a care home setting, and are eligible for one or both of Free Personal and Nursing Care; and
- your total capital included in your financial assessment is no higher than £32,750; and
- you are moving into a care home with fees **above the council's standard rate**.

Your contract options are the same as for Route 3, but an additional contract is needed to pay the amount above the standard rate. A third party, such as a relative or a charity, will need to set this up, either with the council or directly with the care home.

The National Care Homes Contract

For Routes 3 and 4, contracts will be based on the National Care Homes Contract (NCHC). This is a standard contract that was put in place to make publicly-funded care home placements more equal across Scotland. You can ask the care home to use the NCHC if you are paying for your own care (Routes 1 or 2), but the care home does not have to agree to this.



Arranging your own care home contract

You have the option of finding a place in a care home yourself. However, the care home fees you will be charged when arranging a contract yourself are likely to be higher than the council's standard rate.

If you are eligible for financial help, the council's total contribution will only cover up to a maximum of the standard rate. You will need to pay most types of income as part of your standard contribution, so you may not have enough left to cover additional fees. You will need to consider whether a third party such as a family member or charity could pay the difference, subject to certain rules and approval from the council.

If you will be paying for your own care, you should get independent financial advice about how best to manage and use your savings to pay for your care.

If you are NOT currently eligible for means-tested help from the council:

- The council will only pay the Personal and Nursing Care amounts, and only if you are assessed as needing these
- If you will not be receiving the Personal Care payments, you can continue to receive Attendance Allowance, Disability Living Allowance (DLA) or Personal Independence Payment (PIP) as normal (note that Adult Disability Payment is replacing DLA and PIP)
- Think carefully before choosing a care home that has fees above the standard rate; ask the care home what will happen if your savings run out and get them to put any agreement about this in writing.

Age Scotland's Care Home Guide: Contracts and paying for your own care provides more information on this topic. You can get a copy by calling the **Age Scotland helpline** on **0800 12 44 222**.



Temporary care home residents

Some people will move into a care home on a temporary basis, often as the result of a care needs assessment. This could be for respite care; care while recovering from a hospital stay; care while waiting for suitable long-term housing; or a trial period in the care home.

The council's assessment should make it clear whether your stay is regarded as temporary or permanent. Your stay can be classed as temporary for up to 52 weeks, or longer in exceptional circumstances.

If the council agrees to arrange a temporary stay for you, it can ask you to contribute towards the cost in one of two ways. It can apply its normal financial assessment to you straight away, or it can ask you to pay a reasonable amount for the first 8 weeks.

After 8 weeks the council must use its normal financial assessment.

If you receive regular respite care – for example, respite care for one week in every six weeks – your council must decide whether to apply the financial assessment, or to charge you a reasonable amount for your series of respite care weeks.

If the council applies its normal financial assessment to you for respite care then it must disregard:

- the value of your home if you intend to return to live there, or if you are taking steps to sell it and buy somewhere more suitable
- some of your income so you can continue to pay bills at home, such as fuel costs and insurance premiums
- help with housing costs as part of your Pension Credit, such as help with service charges or a Support for Mortgage Interest loan
- any Housing Benefit you receive
- any Attendance Allowance, and the daily living or care components of the Disability Living Allowance (DLA), Personal Independent Payment (PIP) and Adult Disability Payment. Note that Adult Disability Payment is replacing DLA and PIP in Scotland.



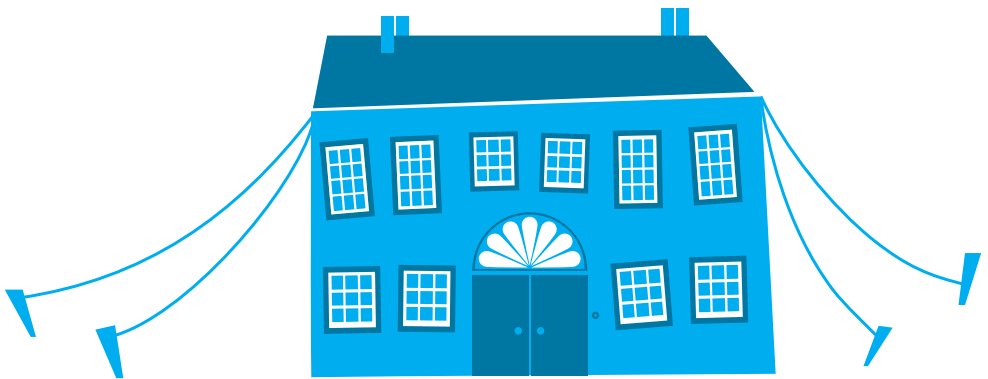
If the financial assessment finds that your capital is £32,750 or less, and your income (less the amounts disregarded) does not cover the fees, the council must help you financially. You will be expected to contribute from any income you have left after the disregards (keeping back the Personal Expenses Allowance of £32.65) and the council will cover the rest.

The benefits mentioned above will stop after 28 days if you receive help from the council towards your temporary stay; they can restart once you return home. If you are regularly moving in and out of a care home or hospital, get advice about your benefits and tell the organisation that provides the benefit, Social Security Scotland or the Department for Work and Pensions.

Changes to your type of stay

If a stay that is intended to be temporary becomes permanent, the financial assessment for a permanent place will apply from the date your stay officially becomes permanent.

If a stay that is intended to be permanent turns out to be temporary, the council should assess you as a temporary resident as soon as this becomes clear. This may happen if, for example, you make plans to return to your own home, move in with friends or family, or enter sheltered housing.





Couples

This section deals with the rules and considerations for couples when one or both partners move into a care home. Couples could be spouses, civil partners or people who live together as though they are married or in a civil partnership.

When one partner moves into a care home

It can be a difficult and emotional time when a partner moves into a care home, especially if the move looks like it will be permanent. There are also likely to be significant financial considerations. In the following explanations, the person moving into the care home will be referred to as the care home resident.

Council assessment of income and savings

When assessing a care home resident's income and savings the council will include assets held in the sole name of the resident. They will also assess a share of any assets held jointly, such as with a spouse, civil partner or partner. The council cannot include savings or income belonging solely to the resident's partner and should not use assessment forms that ask for details of both partners' finances.



Jointly-owned savings

If you are a couple, and one of you is moving into a care home, it may be beneficial to split any joint savings into separate sole accounts. This is because each joint account owner is assumed to own half the money it contains **at the time of each year's financial assessment** unless this can be proved otherwise.

The example below shows why splitting your savings can make it easier to access the funding you are entitled to.

George and Jean's only capital is £80,000 in joint savings when George moves into residential care. Half of their joint savings (£40,000) is included in George's financial assessment. This is above the upper capital limit of £32,750, so George doesn't get any help from the council towards his fees.

In the first year, George pays £12,000 of the savings towards his care home fees, leaving his share at £28,000. Jean still has her original share of £40,000, so in total, they have £68,000 in the joint savings account.

The council carries out an annual update of George's financial assessment. They include half of the joint savings (£34,000) because they assume George and Jean still own an equal share. This is above the upper capital limit, so they decide George is still not entitled to help with his care home fees.

George and Jean can challenge the financial assessment, by providing evidence that only George's share has been spent, but it will be extra work for them, and take longer.

If George and Jean split their savings into separate accounts right from the beginning, they will still start with £40,000 each. After George has spent £12,000 on care home fees, he will have £28,000 in his own savings account. The account in Jean's name is not included in the financial assessment. When the council carries out a new assessment, they will clearly see that George's savings are below the upper capital limit, and he will be entitled to financial help.



Help for the partner not living in the care home

If your income has reduced because your partner, spouse or civil partner has moved to live permanently in a care home, you should have a benefit check to see if you are entitled to benefits such as Pension Credit, Housing Benefit or Council Tax support. Call the **Age Scotland helpline** for a free benefit check or see our **Benefits Maze** and **What is a benefit check?** guides for more information.

50 percent disregard of private pensions

Where one member of a married couple or civil partnership moves into a care home, 50 percent of that person's occupational pension, personal pension or payment from a retirement annuity contract (or a total of these) can be passed back to the person remaining at home. This 50 percent is then ignored in the financial assessment when calculating how much the resident has to pay.

The disregard only applies where:

- the resident actually passes half of their occupational or personal pension or retirement annuity income to their spouse or civil partner; and
- the spouse or civil partner lives anywhere other than in the same care home as the resident.

The disregard does not apply to:

- partners who are neither married nor civil partners (but see the section below on increasing the Personal Expenses Allowance)
- residents who pass less than 50 percent of the relevant income to their spouse or civil partner



If the couple divorce or end their civil partnership, or the other person moves to live in the same care home as the resident, then the disregard stops.

If the spouse or civil partner is already legally entitled to part of the resident's private pension (for example, because of a court order to this effect) then this amount will be treated as already belonging to them. The resident can then pass 50 percent of the rest of the private pension to their spouse or civil partner, in addition to the amount covered by the legal arrangement.

The person eligible to receive the disregarded income does not have to accept it if it will leave them worse off, for example if it affects entitlement to means-tested benefits. If you are in this situation, get advice from a Citizens Advice Bureau or your local Welfare Rights service before you make a decision.

Increasing the Personal Expenses Allowance

Councils can decide to increase the Personal Expenses Allowance to more than the standard £32.65, to allow part of the resident's income to be made available to a partner at home. This can be particularly helpful for couples who are neither married nor civil partners, and so not covered by the 50 percent private pension disregard.

You have the right to ask for the Personal Expenses Allowance to be increased if this situation applies to you, but the council does not have to agree. However, if they refuse your request without properly considering it, you can challenge the decision using their complaints procedure.



When both partners move into a care home

If a couple both move into a care home at the same time, the council should assess them individually even if they are moving into the same care home. Their financial assessments should take into account their individual savings and income (including their share of any jointly held assets). Each individual with £32,750 or less in capital may qualify for financial assistance from the council.

Means-tested benefits

A couple who both enter a care home on a permanent basis should each have a benefit check, and their benefit entitlements should be calculated individually.

If you are in this situation and you and your partner have been assessed by the Department for Work and Pensions as a couple, seek advice from an advice agency such as **Citizens Advice Bureau** to see whether you can appeal this decision.



Deprivation of capital

In Scotland, if you have over £32,750 (2023/24) in capital, you will be expected to pay the full cost of your care, apart from the costs for any personal and nursing care you are assessed as needing.

Some people consider passing on their savings or other capital to their family members, friends or charities.

However, if the council believes that avoiding care home fees is the main or only reason you have used up or given away savings or other assets, they may decide it was **deliberate deprivation**. This will affect your entitlement to financial help with your care home fees.

During your financial assessment, the council can look for evidence of deliberate deprivation. This could include:

- a lump sum paid as a gift
- transferring a property to someone else
- selling a property for less than it is worth
- putting money into a trust that can't be revoked
- converting money into another form that has to be disregarded from the means test, such as personal possessions or investment bonds with life insurance
- unusually high expenditure, including extravagant holidays or luxury goods

You can challenge a council's decision about deliberate deprivation using their complaints procedure. See page 41 for details, including information about asking the Scottish Public Services Ombudsman to review the council's final decision if necessary.



Scottish Government guidance to councils says that the timing and motive for using or giving away capital or assets should be considered. For example, if you gave presents to your family at a time when you were fit and healthy, and were not anticipating needing care, this should be taken into account.

The Scottish Public Services Ombudsman website www.spsso.org.uk/decision-report-search has examples of deliberate deprivation decisions that have been challenged, and the outcomes. Speak to a solicitor if you would like legal advice about your own situation.

Notional capital

If you are found to have deliberately deprived yourself of an asset, you will be treated as having notional capital. This means you will be assessed as though you still have the asset you have given away.

If notional capital has been included in your financial assessment, the council should apply the **diminishing notional capital rule**. This means the amount of notional capital taken into account will reduce over time.



Council powers of recovery

The council has a duty to meet your assessed care needs if you cannot arrange your own care and there is no one else willing and able to assist you. The council may therefore have to pay towards your fees if you cannot pay the amount you are assessed as being able to afford. However, it may seek to recover that money later.

Where the council assesses that you have deliberately deprived yourself of capital **in the six months before** you approached them for funding, there is legislation that allows the council to recover sums paid towards your care costs from the person you gave it to. Capital could be a sum of money, or an item of large value, such as a property.

If you gave away the capital **more than six months before** you applied for assistance, the council could still treat this as deliberate deprivation and refuse you any means-tested help.

If you cannot pay another way and the council has to pay your assessed contribution, it may treat the amount it pays as a debt you owe, which it will recover later. In theory, the council could make use of Scottish bankruptcy law to pursue a debt of this kind; however, to date there are few examples of this happening.

Don't forget you can use the council's complaints procedure (see page 41) to challenge a decision about deliberate deprivation. You can also call the **Age Scotland helpline** for more information on **0800 12 44 222**.



Issues to consider before giving away capital

Transferring capital to another person could have significant consequences. Once it has been transferred out of your name you will no longer have control over it, and the person you have given it to may not act in accordance with your wishes. You should consider how you might be affected if disagreements arise in the future.

You should seek professional legal and financial advice before proceeding with any transfer. The **Law Society of Scotland** can answer questions about legal process and provide help finding a solicitor. You can call them on **0131 226 7411** or visit their website **www.lawscot.org.uk**.

It is not possible to predict whether a situation will be assessed as deprivation of capital during any future means test. Councils will not usually give advice about how they might treat a possible scenario, and individual councils have varying approaches when considering whether deliberate deprivation has taken place.

Transferring ownership of your home

If you are considering transferring ownership of your home, both you and the person you transfer the property to should get separate legal advice to discuss how you will deal with important issues if you go ahead, such as:

- Who will decide who lives in the property? If you need to move in the future, how will you manage this financially?
- What if the owner uses the home as security for a debt?
- Are there Inheritance Tax or Capital Gains Tax implications?
- Could the transfer affect entitlements to social security benefits?
- What happens if the new owner marries, divorces, or experiences financial difficulties?
- Who will be responsible for the upkeep, repair and maintenance of the property?



Acting on someone's behalf

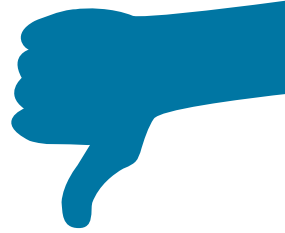
Power of Attorney and Guardianship

There are several types of legal powers that can grant a specific person (or specific people) permission to manage someone else's affairs in Scotland. These include Welfare Powers of Attorney, Continuing Powers of Attorney, Guardianship Orders and Intervention Orders.

A person must have the capacity to grant **Power of Attorney** at the time they are granting it. If they no longer have the ability to decide who should manage their affairs, someone may need to apply to the Sheriff Court to act as a **Guardian** or **Intervener**.

Managers of care homes can be granted **Continuing Power of Attorney** so they can manage the finances of a resident. This will only happen if a doctor assesses that the resident cannot do this for themselves, and no other course of action is possible or appropriate.

The **Age Scotland** guides **Legal options for someone who has lost capacity** and **A guide to Power of Attorney in Scotland** provide information about these issues.



Problems & complaints

If you disagree with a decision made in your care needs assessment, or your financial assessment, you can use the **3-stage social work complaints procedure**:

Stage one – frontline resolution

You should make your complaint to the social work department, by telephone, email or letter, within six months of the time you become aware of the problem. They should respond within five working days. If you are not happy with their response you can ask them to move your complaint to stage two.

Stage two – investigation

Your complaint should be acknowledged within three working days. The council should investigate your complaint and give you a full response within twenty working days, unless they let you know that they need more time to look into it. If you are still not happy with the council's response, you can ask the Scottish Public Services Ombudsman to look at the decision.



Stage three – the Scottish Public Services Ombudsman

The Scottish Public Services Ombudsman (SPSO) can review decisions independently and make recommendations for actions that organisations are expected to carry out. These could include:

- asking the council to look at their decision again
- asking the council to change their decision
- recommending the council improve their services in a particular way
- recommending that the council apologises to you

You have 12 months to complain to the **SPSO** from the time you become aware of the problem. You can contact the SPSO on **0800 377 7330** or see their website **www.spso.org.uk**.

Other ways to complain

You may also wish to discuss your complaint with your local councillor or MSP. Your council will publish a list of councillors, and the Scottish Parliament produces a list of MSPs. You can contact the **Scottish Parliament** on **0800 092 7500** (freephone) or **0131 348 5000**.

If you are concerned about standards of care, speak with the care home staff or manager. If this does not help or the problem is more serious, the **Care Inspectorate** has powers to inspect homes and see that necessary improvements are made. Visit their website **www.careinspectorate.com** or call them on **0345 600 9527**.

Advocacy can help you to represent your point of view. You can ask a trusted family member or friend to speak on your behalf, or find an advocacy service. You can search the **Scottish Independent Advocacy Alliance** directory at **www.siaa.org.uk** or call **0131 510 9410** to find an advocacy service near you.



Useful contacts

Age Scotland helpline 0800 12 44 222

The Age Scotland helpline provides information, friendship and advice to older people, their relatives and carers.

If you need an interpreter call **0800 12 44 222** and simply state the language you need e.g. Polish or Urdu. Stay on the line for a few minutes and the Age Scotland helpline will do the rest.

You can call us on **0800 12 44 222** for a copy of our publications list or download copies of our publications from our website at **www.agescotland.org.uk**.

The Care Inspectorate

The Care Inspectorate is responsible for inspecting care homes, and regulating and supporting the improvement of care and social work, across Scotland.

Tel: **0345 600 9527**

www.careinspectorate.com

Carers Scotland

Carers Scotland, part of Carers UK, is a charity supporting people who care for an older relative, friend or a disabled family member.

Carers Line: **0808 808 7777**

www.carersuk.org/scotland



Carers Trust Scotland

Carers Trust Scotland is the largest provider of comprehensive carers support services in Scotland.

Tel: **0300 772 7701**

www.carers.org/scotland

Elderly Accommodation Counsel

The Elderly Accommodation Counsel is a charity that maintains a nationwide database of all forms of accommodation for older people - retirement housing for sale and rent, care homes and hospices.

www.housingcare.org

Scottish Independent Advocacy Alliance

Scottish Independent Advocacy Alliance promotes, supports and defends the principles and practice of Independent Advocacy across Scotland. Contact them for details of local advocacy services.

Tel: **0131 510 9410**

www.siaa.org.uk

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Neither Age Scotland nor any of its subsidiary companies or charities accepts any liability arising from its use and it is the reader's sole responsibility to ensure any information is up to date and accurate. Please note that the inclusion of named agencies, websites, companies, products, services or publications in this information guide does not constitute a recommendation or endorsement by Age Scotland or any of its subsidiary companies or charities.

How you can help

Our vision is a Scotland which is the best place in the world to grow older.

All the information we provide is free and impartial. It helps older people access their rights and entitlements and can be life changing.

We are also a lifeline for older people who are feeling lonely and isolated. You can help us to support older people who need us most.

Together, we can make a difference.



Make a donation

No matter how small or large, donations make a massive difference and help us continue our important work.

- Call **03330 15 14 60**
- Visit **age.scot/donate**
- Text **AGESCOTGIVE** to **70085** to donate £5*
- Complete the **donation form** and return by Freepost



Fundraise

Whether it's having a bake sale or running a marathon, there are so many ways to raise vital funds to support our work. To find out more, call **0333 323 2400** or visit **age.scot/fundraise**.



Leave us a gift in your Will

By choosing to leave us a gift in your Will, you can help us to continue being there for older people in the years to come. To find out more, call **0333 323 2400** or visit **age.scot/legacy**.

*Texts cost £5 plus one standard rate message

Please donate today



Complete the form and return to RSBS-KEHC-GBBC, Age Scotland, Edinburgh, EH9 1PR

Your details

Title:	Forename:	Surname:
Address:		
	City:	
Postcode:	Date of birth:	

By providing us with your telephone number and email address you are consenting to us contacting you via phone, text and email.

Email:

Home tel: Mobile tel:

I WOULD LIKE TO DONATE

£75 £50 £25 Other (£)

I wish to pay by (please tick):

MasterCard Visa CAF

CharityCard Cheque (payable to Age Scotland)

Signature

Name on Card

Card No.

Expiry date Security code

Date

I prefer not to receive a thank you acknowledgement for this donation

I would like information about leaving a gift in my Will

I WOULD LIKE TO MAKE MY DONATION WORTH 25% MORE

I want Age Scotland** and its partner charities to treat all donations I have made for the four years prior to this year, and all donations I make from the date of this declaration until I notify you otherwise, as Gift Aid donations.

giftaid it

I am a UK tax payer and understand that if I pay less income tax and/or capital gains tax than the amount of Gift Aid claimed on all my donations in that tax year it is my responsibility to pay any difference.

Yes, I want Age Scotland to claim Gift Aid on my donations**

I do not wish you to claim Gift Aid on my donations

Date

Keeping in touch

We will stay in contact by post unless you ask us not to. We will never sell your data and we promise to keep your details safe and secure. You can change your mind at any time by emailing us on contact@agescotland.org.uk or calling us on 0333 323 2400.

You can read Age Scotland's privacy policy at [age.scot/privacypolicy](https://www.agescotland.org.uk/age.scot/privacypolicy).

**Age Scotland, part of the Age Network, is an independent charity dedicated to improving the later lives of everyone on the ageing journey, within a charitable company limited by guarantee and registered in Scotland.
Registration Number: 153343. Charity Number: SC010100. Registered Office: Causewayside House, 160 Causewayside, Edinburgh EH9 1PR.

Age Scotland is the national charity for older people. We work to improve the lives of everyone over the age of 50 so that they can love later life.

Our vision is a Scotland which is the best place in the world to grow older.

.....

Let's keep in touch

Contact us:

Head office
0333 323 2400

Age Scotland helpline
0800 12 44 222

Email
info@agescotland.org.uk

Visit our website
www.agescotland.org.uk



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Our regular newsletters by email contain details of our campaigns, services and how you can support our work.

Sign up today at [agescot/roundup](https://www.agescotland.org.uk/agescot/roundup)



Follow us on social media

Our social media channels are a great way to keep up to date with our work and issues that affect older people.



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