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NHFA Alert – Married Couples Given Cash Break in Paying for Care

Under sections 42 and 43 of the National Assistance Act 1948, where a married person goes into residential care and receives social services' assistance from a local authority in meeting the cost of that care, the local authority has the powers to ask the person's married partner as a "liable relative" to make payments towards the costs incurred by the state. In practice, many local authorities seek a liable relatives contribution if the married partner at home has capital in excess of the residential care means test limit.

The contribution sought can be as much as the full cost the local authority would otherwise incur if the couple were not married. For many couples, what on one day may have been a comfortable retirement the next can be financially devastated if one them requires nursing home or residential Care.

As the rule is now widely regarded as anachronistic, the Government intends to repeal these provisions through primary legislation by April 2007. In the meantime, Councils have been allocated additional funding of £4 million per annum over two years from April 2006 to cover the cost of not applying these rules.

Philip Spiers, Managing Director of NHFA Care Fees Advice says, "This is a long awaited but welcome move forward in putting right yet another iniquitous situation in the charging for care. The most common scenario is where a husband might need to move into care and all his income is taken towards that cost leaving his wife at home with just basic pension. Although she might need any savings she has to supplement her income the councils could still insist she uses this money to meet her husband's care costs."

NHFA Care Fees Advice and free Long Term Care Guides can be obtained from the freephone Care Advice Line 0800 99 88 33 or www.nhfa.co.uk or by writing to NHFA, St Leonards House, Mill Street, Eynsham, Oxford, OX29 4JX. Email enquiries@nhfa.co.uk

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Notes for Editors:

This additional money will be allocated to councils through their Access and Systems Capacity Grant from April 2006 <http://www.dh.gov.uk/assetRoot/04/12/41/38/04124138.pdf>

At present there are no fixed rules for local authorities to apply in seeking a liable relatives contribution. They use their discretion in pursuing the spouse for maintenance, considering their normal expenditure and standard of living, however in doing so councils are advised not demand a contribution from a spouse if it were to reduce their resources to Income Support or pension credit levels.