

Factsheet 46w ● July 2020

## Paying for care and support at home in Wales



**Age Cymru Advice**

**08000 223 444**

**[www.agecymru.org.uk](http://www.agecymru.org.uk)**

## Contents

1	Information about this factsheet	5
	1.1 Local authority social services departments	6
2	Legislation covering the social care system in Wales	6
	2.1 The Social Services and Well-being (Wales) Act 2014	6
	2.2 Emergency legislation due to the coronavirus (COVID-19) which may affect the Social Services and Well-being (Wales) Act 2014 – the Coronavirus Act 2020	7
3	How to access local authority services – an introduction	13
	3.1 First steps – if you are having difficulty managing at home	13
	3.2 If you are in hospital	13
	3.3 What sort of homecare or non-residential services might be available?	14
	3.4 Assessment and eligibility for services	15
4	Local authority charging rules and procedures – an introduction to the general principles	16
	4.1 The majority of homecare / non-residential social care services will be charged for	16
	4.2 Welsh Government guidance – Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment) (version 5 – April 2020)	17
	4.3 The setting of charges by local authorities	18
	4.4 A maximum weekly charge	18
	4.5 Minimum income after paying for your services	18
5	Calculating a charge – including the effect of the Welsh Government’s maximum £100 per week rule	19
	5.1 The £100 maximum charge cannot be imposed routinely for all services	19
	5.2 Calculating the eventual charge	19
	5.3 Flat rate charges are permitted for certain services	20
6	The means test for determining a charge – what types of income will be taken into account?	21
	6.1 Income taken into account (including where you are one of a couple)	22

	6.2 Income that cannot be taken into account (and is fully disregarded)	24
	6.3 Income that is partly disregarded	24
7	The means test for determining a charge – how will savings and other capital assets be taken into account?	25
	7.1 The capital limit	25
	7.2 Types of capital that are taken into account in the means test	27
	7.3 How is capital assessed if you are one of a couple?	28
	7.4 Disregarded capital	29
8	The means test for determining a charge – service users should be left with a minimum level of income	30
	8.1 The Minimum income amount (MIA) and 'disability related expenditure'	30
	8.2 Working out your 'protected' Minimum income amount (MIA) – examples	32
9	Other issues in regard to charging	36
	9.1 Direct payments – a different way to pay for and arrange your care services	36
	9.2 Charging for carers' services	37
	9.3 Charges for respite care	38
	9.4 Information for service users about their charge	38
	9.5 Reviewing a charge	39
	9.6 The issue of deliberate deprivation of assets and paying for non-residential care	40
10	Disability equipment and home adaptations	41
11	Services that should be provided free of charge	42
	11.1 Transport to attend a 'day service'	42
	11.2 Reablement and intermediate care – free care for up to six weeks	43
	11.3 Community-based NHS services	44
	11.4 Fully funded NHS continuing healthcare	44
	11.5 Mental health 'after-care' services	45
12	Social security benefits and other financial assistance that may help to meet the cost of care and support at home	47
	12.1 Attendance Allowance (AA)	47

12.2	Personal Independence Payment (PIP) / Disability Living Allowance (DLA)	48
12.3	Carer's Allowance	48
12.4	Pension Credit	48
12.5	Reductions in Council Tax	49
12.6	Help with the cost of heating and insulation	49
13	'Supporting People' services	49
14	Moving from one local authority area to another: continuity of care and support	50
15	Complaints about social care services	51
16	Useful organisations	52
17	Further information about Age Cymru	54

# 1 Information about this factsheet

This factsheet explains what financial assistance may be available to help you meet the cost of social care support in your own home – for example, services such as:

- carers/personal assistants who can visit you at home;
- equipment and/or adaptations to your home; or
- other non-residential social care services (such as day centres or respite care).

This factsheet can be read in conjunction with Age Cymru's other factsheets on the topic of care and support at home, including:

- 41w – *Social care assessments for older people with care needs in Wales*;
- 6w – *Finding help at home in Wales*;
- 24w – *Direct payments for community care services in Wales*;
- 42w – *Obtaining disability equipment and home adaptations in Wales*; and
- 59w – *How to resolve problems and make a complaint about social care in Wales*.

---

**Note:** The information given in this factsheet is applicable in Wales. Different rules may apply in England, Northern Ireland and Scotland. Contact Age UK, Age NI and Age Scotland respectively for further information – see section 17 for their contact details.

---

**This factsheet will generally focus on the rules for paying for care and support at home, where you have made the decision to seek this support from the social services department.**

**Of course, if you had sufficient financial resources, you could choose to organise care services entirely independently of the local authority. However, even if you did opt for arranging services privately, it can still be helpful to get an initial assessment of your care needs from the local authority prior to arranging your services – see section 3 below.**

**You may also wish to bear in mind that even if you do have a high income and/or a lot of savings or other capital, there is a *maximum weekly charge* for non-residential social care services arranged by a local authority in Wales.**

## 1.1 Local authority social services departments

In this factsheet references to the 'local authority' or 'council' will refer to the *adult social services department of the local authority*. You might also see the relevant social services department referred to elsewhere using similar variations – for example:

- social care department;
- adult social services;
- older persons' department; or
- older persons' team.

Adult social services teams are responsible, among other duties, for assessing people's need for 'care and support' or 'social care' services and deciding whether those needs meet the eligibility criteria.

**Information on how to find the contact details for your local authority social services department can be found in section 3.1 below.**

## 2 Legislation covering the social care system in Wales

### 2.1 The Social Services and Well-being (Wales) Act 2014

This Act was fully implemented in April 2016 and is the main legislation that covers the social care system in Wales, including:

- the social care assessment process;
- related rules in regard to arranging and paying for care at home and/or other non-residential services<sup>1</sup>;

---

<sup>1</sup> The Act also affects the rules in regard to arranging and paying for residential care homes and nursing care homes, though that issue is not covered in this particular factsheet.

- the guidance documents that local authorities must use when assessing needs; and
- the guidance documents that local authorities must use when means testing people who may need to pay towards their services.

**Many of the sections in this factsheet (and other Age Cymru factsheets on social care topics) will use this Act – and the Welsh Government guidance for local authorities which accompanies it – as a main source of information. References will be provided in the text where relevant.**

### **Welsh Government Code of Practice documents – guidance for local authorities to follow when conducting social care assessments**

In common with many other pieces of legislation, there are Codes of Practice (CoP) that accompany the *Social Services and Well-being (Wales) Act*. The CoP guidance documents are backed by law and aim to assist individuals, professionals and organisations to work within and comply with the Act – i.e. they are written in plainer English and are more straightforward to understand than the actual Act/regulations.

Local authorities must act in accordance with the codes of practice and their requirements when carrying out their social services functions.

**See section 4.2 below for further details on the CoP guidance which is most relevant to the subject covered in this factsheet.**

## **2.2 Emergency legislation due to the coronavirus (COVID-19) which may affect the Social Services and Well-being (Wales) Act 2014 – the Coronavirus Act 2020**

On 30 April 2020, the Welsh Government published the following statutory guidance on how local authorities can use temporary modifications to some elements of the *Social Services and Well-being (Wales) Act 2014* due to powers created under the *Coronavirus Act 2020*:

### ***Adult social services during the COVID-19 pandemic: guidance – How local authorities support adults and adult carers during COVID-19***

A copy of the guidance can be accessed on the Welsh Government website at:

The powers that local authorities may use under the *Coronavirus Act* to change some of their usual duties under the *Social Services and Well-being (Wales) Act 2014* are as follows (however, it is important to bear in mind that local authorities should **only** do this when it is absolutely necessary – see below):

<p><b>“Local authorities will not have to carry out detailed assessments of people’s care and support needs in compliance with the unmodified 2014 Act requirements”.</b></p>	<p>“However, they will still be expected to respond as soon as possible to requests for care and/or support, consider the needs and wishes of people needing care and their families and carers”.</p> <p>“All assessments...that are delayed or not completed must be followed up and completed in full once the 2014 Act modifications are disapplied”<sup>2</sup>.</p> <p>See Age Cymru’s Factsheet 41w <i>Social care assessments for older people with care needs in Wales</i> for information on the usual procedure for carrying out care and support needs assessments.</p>
<p><b>“Local authorities will not have to carry out financial assessments in compliance with the unmodified 2014 Act requirements”.</b></p>	<p>“They will, however, have powers to charge people retrospectively for the care and / or support they receive during this period, subject to giving reasonable information in advance about this, and a later financial assessment”.</p>

---

<sup>2</sup> Adult social services during the COVID-19 pandemic: guidance – How local authorities support adults and adult carers during COVID-19, Welsh Government, 30 April 2020

	<p>“If a person is charged retrospectively, this should be on the basis of a financial assessment in line with the arrangements in place under [the] 2014 Act and by ensuring a person’s charge is affordable to them and the arrangements are clear and transparent”<sup>3</sup>.</p> <p>See sections 4 to 9 below for information on the usual procedure for carrying out financial assessments.</p>
<p><b>“Local authorities will not have to prepare or review care and / or support plans in line with the unmodified 2014 Act requirements”.</b></p>	<p>However, they will “still be expected to carry out proportionate, person-centred care-planning which provides sufficient information to all concerned, particularly those providing care and support often at short notice”.</p> <p>“All...reviews that are delayed or not completed must be followed up and completed in full once the 2014 Act modifications are disapplied”<sup>4</sup>.</p> <p>See Age Cymru’s Factsheet 41w <i>Social care assessments for older people with care needs in Wales</i> for information on the usual procedures for preparing and reviewing care plans.</p>

---

<sup>3</sup> Ibid

<sup>4</sup> Ibid

**“Local authorities do not have to comply with requests to provide or arrange an individual’s preferred choice of accommodation”<sup>5</sup> – i.e. where people are moving into a care home.**

See Age Cymru’s Factsheet 10w *Paying for a permanent care home placement in Wales* and Factsheet 60w *Care homes in Wales: choice of accommodation when the local authority is assisting with funding* for information on the usual procedures.

### **Welsh Government emphasis on the powers only being used where absolutely necessary**

The Welsh Government is clear that local authorities should not be abandoning the usual duties placed upon them by the *Social Services and Well-being (Wales) Act 2014* – in favour of the *Coronavirus Act 2020* measures outlined above – unless it is absolutely necessary:

**“The modifications should only be exercised as a last resort where this is essential in order to maintain the highest possible level of services”.**

**“Local authorities should comply with the unmodified 2014 Act requirements and related Codes of Practice for as long and as far as possible”** – i.e. to follow the normal rules as outlined in the rest of this factsheet.

The modifications are also time-limited and “to be used as infrequently as possible with the clear expectation that any changes to individuals’ care and / or support will...return to their pre-modification arrangements at the earliest possible opportunity. Local authorities need to establish arrangements and communicate to those impacted [on] how this will be achieved. The onus should not be on individuals or their families/carers to ensure that their care and support is restored”.

---

<sup>5</sup> Ibid

The modifications within the *Coronavirus Act* do not permit local authorities “to block, restrict or withdraw whole services. They enable...authorities to make temporary, person-centred decisions about care and / or support during the pandemic. These decisions seek to ensure those with highest need are prioritised”<sup>6</sup>.

### Steps local authorities should take before exercising the 2014 Act Modifications

The Welsh Government instructs authorities that they should only use the powers to modify their usual duties under the *Social Services and Well-being (Wales) Act 2014* if:

- “the workforce is depleted, or demand on social care increased, to an extent that it is no longer reasonably practicable for it to comply with its 2014 Act duties (as they stand prior to modification by the 2020 Act)”; *and*
- “where to continue to try to do so is likely to result in needs not being met, potentially risking life”.

Also, “decision[s] to operate the 2014 Act modifications should be taken locally” and changes resulting from this “should be proportionate to the circumstances in a particular local authority”.

Additionally, “implementation should be agreed by the Director of Social Services [and] all providers and partners (including organisations supporting people) should be engaged at the earliest possible opportunity to ensure that they are able to understand, respond and offer additional or alternative solutions to the prevailing pressure”.

Local authorities must report to the “Welsh Government Social Services and Integration Department when [they] are considering enacting the modifications and [deciding] to start prioritising the provision of services in accordance with the modifications, explaining why the decision has been taken”<sup>7</sup>.

---

<sup>6</sup> Ibid

<sup>7</sup> Ibid

## ‘De-escalation’

The Welsh Government advises that “de-escalation and re-establishment of full duties and rights under the 2014 Act should be implemented as soon as is reasonably possible”.

Decisions to use the powers to modify their usual duties under the 2014 Act “should be reviewed every two weeks and recorded”. As part of these reviews, authorities will need to “take into account any relevant feedback (including complaints) received about the impacts” of any changes they have made<sup>8</sup>.

## How long do the emergency powers last?

The modifications to the 2014 Act are temporary. “Welsh Ministers will keep them under review and disapply them as soon as possible, drawing on relevant advice and evidence”<sup>9</sup>.

## Areas not affected by the Coronavirus Act 2020

- In regard to safeguarding, “local authorities remain under a duty to meet needs in order to protect a person from experiencing or being at risk of abuse or neglect” – see Age Cymru’s Factsheet 78w *Safeguarding older people in Wales from abuse and neglect* for further information.
- Local authorities “also have continuing duties under the European Convention on Human Rights”<sup>10</sup>.
- Also, Deprivation of Liberty Safeguards (DoLS) remain in place – see Age UK’s Factsheet 62 *Deprivation of Liberty Safeguards* for further information.

---

<sup>8</sup> Ibid

<sup>9</sup> Ibid

<sup>10</sup> Ibid

## 3 How to access local authority services – an introduction

### 3.1 First steps – if you are having difficulty managing at home

If you are having difficulty coping with your daily activities at home, you can get in touch with your local authority social services department, or your family doctor (GP), to see if they can give you some advice or support.

You can refer yourself for a local authority assessment of your care needs or, if you prefer, another person – such as your carer or GP – can do this on your behalf.

#### Finding contact details for your social services department

If you have internet access, you can search for your local authority using your postcode on the Welsh Government's website:

[www.gov.wales/find-your-local-authority](http://www.gov.wales/find-your-local-authority)

Alternatively, contact details for your authority should be available in your local telephone directory, or our Age Cymru Advice line can provide them – see section 16 for contact details.

### 3.2 If you are in hospital

If you are going to be discharged from hospital, the professionals working on your ward may need to arrange social care services with you prior to discharge, to ensure you are safe and properly supported to return home.

Age Cymru's Factsheet 37w *Hospital discharge arrangements for older people in Wales* has further information on this topic.

Once you no longer need care in a hospital setting, you may benefit from reablement or intermediate care services to support your ongoing, or further, recovery. These services can assist to maximise your independence and prevent prolonged stays in hospital that may be detrimental to your health. The services may be in your own home (particularly if it is a reablement package) – also see section 11.2 below.

### 3.3 What sort of homecare or non-residential services might be available?

There are a wide range of support services that can be provided to help you stay in your own home and also to assist your carer, if you have one. Services could include:

- **Domiciliary care – i.e. home carers and personal assistants.**
- **Pre-prepared meals delivered to someone at home (meals on wheels).**
- **Day care (i.e. away from the home in, for example, local authority run day centres for older people).**
- **Provision of aids, equipment or adaptations to help with daily living tasks and for home safety, including community alarms and/or other assistive technology – also see Factsheet 42w *Obtaining disability equipment and home adaptations in Wales*.**
- **Respite care (in various forms).**
- **Night-sitting services.**
- **Community transport.**
- **Preventative and rehabilitation services (including reablement) – also see Factsheet 76w *Intermediate care and reablement in Wales* for more information.**
- **Assistance in finding a place in sheltered or supported housing – also see Factsheet 64 *Specialist housing for older people* for more information.**
- **Counselling.**
- **Services to meet psychological, social and cultural needs.**
- **Advice and information about services, welfare benefits, luncheon clubs etc – as a result of the *Social Services and Well-being (Wales) Act 2014*, local authorities now have increased duties in regard to providing information and advice. Factsheet 41w *Social care assessments for older people with care needs in Wales* has further information on this topic.**
- **Services in conjunction with the NHS where needs overlap – also see Factsheet 44w *NHS services in Wales* for more information.**

---

**Note:** Some services must be provided free of charge once your eligibility has been confirmed – see section 11 below – though most can be charged for via a means test, which is explained in this factsheet. Sometimes there is a blanket charge for basic, low cost, services.

---

### 3.4 Assessment and eligibility for services

#### Needs assessment for the person with care needs (and, where relevant, also an assessment for their carer)

The first step in obtaining help from the local authority social services department is to ask for an assessment of your needs. The local authority will generally not be able to assist you until it has first carried out the assessment (this may be referred to by a number of similar terms, such as 'social care assessment', 'community care assessment', 'care needs assessment', or simply 'needs assessment').

**The local authority has a legal duty to carry out an assessment of anyone living in its area who *may* need community care services, once it becomes aware of this need. The assessment must take into account *all* aspects of your needs.**

An older person would nearly always be entitled to a needs assessment itself (though note that this wouldn't necessarily mean they would be deemed eligible for services as a result – this would depend on the level or extent of their needs that are identified in the assessment).

**The right to a needs assessment is not affected by the level of your financial resources or other circumstances.** *However*, subsequent services provided as a result of the assessment are likely to be charged for. How much you pay will be determined via a means test, which is covered in detail from section 4 onwards of this factsheet.

---

**Note:** If you get help from a friend or family member (a carer), your carer's own needs and opinions should be considered and taken into account as part of your own assessment.

**Carers also have a right to their own assessment in parallel or sometimes jointly with yours.**

---

## Eligibility criteria for service provision

After the completion of a needs assessment, based on the results, the local authority will decide whether or not it should provide or arrange social care services for you. **The authority must use national eligibility criteria to make this decision.**

Where applicable, the local authority will also need to decide if someone's carer has support needs that meet the eligibility criteria.

## Further information on the care needs assessment process

Age Cymru's Factsheet 41w *Social care assessments for older people with care needs in Wales* has in-depth information on the assessment process itself – the rest of this particular factsheet will go on to deal specifically with the financial means-testing rules for non-residential care services.

## 4 Local authority charging rules and procedures – an introduction to the general principles

### 4.1 The majority of homecare / non-residential social care services will be charged for

In most cases you will have to pay at least something towards the cost of your care, though in some situations people may be “entitled to care and support at no charge”<sup>11</sup>.

For example, it is possible that someone who has a low income and receives non-residential care services may fall within this bracket and not have to contribute towards a means tested service.

Alternatively, under the Welsh Government's Code of Practice guidance, local authorities have the discretion to decide whether or not to charge for social care services (or to charge for particular ones, but impose no charge for others).

---

<sup>11</sup> Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 5 – April 2020)

**However, in reality, authorities are highly likely to charge for most, if not all their services** (bar any that the *Social Services and Well-being (Wales) Act*, or other legislation, stipulates must be provided free of charge), with the amount an individual will pay determined by the results of their means test – see sections 4 to 8 below.

---

**Note:** Information on the services that should be free of charge in all circumstances and not means tested, *regardless* of someone's financial status, are outlined in section 11 below.

These will be services provided in particular situations, or for specific elements of care.

---

#### 4.2 **Welsh Government guidance – Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment) (version 5 – April 2020)**

**All local authorities in Wales must follow this national Welsh Government guidance when processing the means test.**

A copy can be accessed on the Welsh Government website at:

**[www.gov.wales/code-practice-charging-social-care-services](http://www.gov.wales/code-practice-charging-social-care-services)**

The local authority must also publish information about its charging procedure and general fee levels for particular services.

---

**Note:** Other Code of Practice documents that may be relevant, such as *Part 3 (Assessing the needs of individuals)* and *part 4 (Meeting needs)* can be found on the Social Care Wales website at:

**[www.socialcare.wales/hub/codes-of-practice](http://www.socialcare.wales/hub/codes-of-practice)**

---

### 4.3 The setting of charges by local authorities

The Welsh Government's guidance makes clear that people “**must not be charged more than the cost to the authority of providing or arranging the care and support they are receiving**”<sup>12</sup>.

In other words, even in cases where a service user might have quite a high income, the authority could not impose a charge of, say, £80 per week for it, if the service only actually cost them £60 to provide (either by organising it directly, or commissioning another organisation to provide it on their behalf).

### 4.4 A maximum weekly charge

In Wales, there is a maximum weekly charge for homecare and other non-residential social care services.

**The current maximum charge is £100 per week.** It may change again in April 2021.

See section 5 below for further information on the maximum charge.

### 4.5 Minimum income after paying for your services

The Code of Practice guidance advises that “because a person who receives care and support outside a care home will need to pay their daily living costs such as rent, food and utilities, the charging framework seeks to ensure they have enough money to meet these costs”.

**As a result, after charging, “local authorities must leave a person who is being charged with a minimum income amount”.**

See sections 5 to 8 below for a more detailed description of the means test and how the minimum income is calculated.

---

<sup>12</sup> Ibid

## 5 Calculating a charge – including the effect of the Welsh Government’s maximum £100 per week rule

**Authorities are not able to charge a service user more than this maximum amount a week, regardless of which services, or combination of services, they are receiving.**

It should be noted, however, that there are some ‘low level, low cost’ services, where local authorities are able to set flat rate charges for the services. This means that they do **not** count towards the maximum weekly charge, so it is possible that a service user could be paying £100 per week, *plus* also be receiving a low level, low cost service at the same time – see section 5.3 below for further information on flat rate charges.

*However*, as indicated in the section above, do bear in mind the importance of the minimum income that people must be left with after contributing towards their services, so that people on modest, or low, incomes will only need to pay a relatively small charge, or potentially even nothing at all (also see section 8 below).

### 5.1 The £100 maximum charge cannot be imposed routinely for all services

A further important point is that the maximum charge cannot be imposed routinely for all services – the cost to the authority of providing or arranging those services would genuinely have to be of that level. For example, if the authority was putting in place services that cost £70 per week to provide or arrange, then the maximum charge which could be levied for these would be £70. The person’s means test would then determine whether they would pay this full amount, or something less.

### 5.2 Calculating the eventual charge

In calculating the eventual charge that you may be asked to pay for the services you are assessed as needing, the local authority should:

- Firstly, add up the total charges for the services to be provided (the Welsh Government’s guidance advises that any charges local authorities decide upon for particular services “**must** be fair and reasonable”<sup>13</sup> – i.e. as indicated above, the charges should relate to the cost to the authority of providing or arranging them).
- At this point, the total cost of the services, may come to more than £100 per week. If so, then the authority can only charge £100 and cannot impose the full cost. Though, as indicated above, depending on the results of an individual’s means test, the authority may have to charge them *less* than £100.

On the other hand, should the total cost of the service be under £100, the authority could *potentially* charge the service user that total amount (whatever it happened to be), though again, this would be dependent on the results of the person’s financial means test.

**See sections 6, 7 and 8 below for information on how the authority will calculate the service user’s ability to pay through the means test of their capital/savings and income.**

---

**Note:** Local authorities do have the discretion to set a lower weekly maximum charge in their local charging policy, should they wish to.

---

### 5.3 Flat rate charges are permitted for certain services

Welsh Government charging regulations allow local authorities to set flat rate charges for certain services that constitute low level and low cost care and support.

The services that fall into this category do **not** count towards the maximum weekly charge. As such, authorities can levy these in addition to whatever someone has been assessed, via the means test, as having to pay towards their services – this could potentially mean that someone would end up paying more than £100 per week in total, once the costs of the flat rate charged services were added to the other charge (which would have to be £100 or less per week to comply with the maximum cost guidelines).

---

<sup>13</sup> Ibid

---

**Note:** Low level, low cost services which can attract the flat rate charges are defined as those typically being for “care and support that substitutes for ordinary living, such as meals or laundry”<sup>14</sup>.

---

### Local authorities are not permitted to ‘overuse’ flat rate charges as a way of avoiding other charging regulations

Guidance to local authorities is clear that “it is **not** acceptable...to set flat rate charges for all care and support [or set them inappropriately for particular services] as a way of potentially avoiding the duties placed upon them” by the *Social Services and Well-being (Wales) Act* and accompanying regulations.

“This is on the basis that a flat rate charge for such other forms of care and support would not adequately take account of the cost of this being provided, the financial means of a...recipient to meet such a charge and the principle that a person should not ordinarily pay more than the maximum weekly charge...for all of the non-residential care and support they receive”.

The guidance goes on to advise local authorities that:

“Particular care needs to be taken to avoid an adverse impact on a person’s income where they are receiving a number of [services at the same time which attract] flat rate charges” – i.e. authorities must avoid situations where “the accumulative effect [of these charges] is or may be unaffordable” for the individual<sup>15</sup>.

## 6 The means test for determining a charge – what types of income will be taken into account?

In the local authority means test for non-residential social care services, income will be either:

---

<sup>14</sup> Ibid

<sup>15</sup> Ibid

- disregarded (ignored);
- partly disregarded; or
- included in full.

## 6.1 Income taken into account (including where you are one of a couple)

Generally, unless a specific type of income is identified as being fully or partly disregarded within the charging guidance – *Part 4 and 5 Code of Practice (Charging and Financial Assessment) (version 5)* – then it can be assumed that it will be fully taken into account.

This will include common forms of income, such as someone’s State Pension, occupational/private pension or welfare benefits.

The welfare benefits taken into account include disability-related benefits, such as *Attendance Allowance (AA)*; the *care component of Disability Living Allowance (DLA)*; the *daily living component of the Personal Independence Payment (PIP)*; the *additional amount for severe disability in Pension Credit Guarantee Credit (PCGC)* and *Employment and Support Allowance (ESA)*.

---

**Note:** Although disability-related benefits can be taken into account in the means test, Welsh Government charging regulations state that a certain amount of a service user’s income must be exempted from charging, in recognition of extra living costs as a result of disabilities they may have. This is called the *disability-related expenditure allowance* – for further information on this particular element of the charging rules and how it fits in with other aspects of the means test, see section 8 below.

---

Income taken into account in the means test “**must** be net of any tax or National Insurance contributions”<sup>16</sup>.

See section 6.2 below for information on income that will not be taken into account in the means test.

---

<sup>16</sup> Ibid

## Income received as one of a couple

The Welsh Government's Code of Practice guidance provides the following advice on this issue:

- “Only the income of the person being assessed can be taken into account in the financial assessment of what they can afford to pay. **Where this person receives income as one of a couple, the starting presumption is that each person has an equal share of that income**” (emphasis added).
- The **exception** to this “is where a person *is in receipt of a welfare benefit awarded on the basis of the resources of both members of the couple*” (emphasis added).

“In that situation it may be difficult to determine each partner's share of this payment [and therefore] local authorities **should** undertake a financial assessment on the basis of the couple's joint income **and apply [an] appropriate couple's rate**” when determining a “minimum income amount [MIA]” to be used in the means test calculation (emphasis added).

See section 8 below for further information on the MIA and how this relates to financial means testing for non-residential social care services.

- There is a further **possible exception** which may apply even where a couple's income does **not** consist of welfare benefits awarded jointly.

The guidance advises that “a local authority may charge on the basis of an assessment of the joint income of the couple” in these instances, but only “where the couple *agree* to declare their joint resources and the result of [conducting the assessment this way] is **financially more advantageous to the person being assessed**”<sup>17</sup> (emphasis added).

In other words, the ‘default position’ of there being a 50/50 split in the share of a couple's income can sometimes be looked at differently by the authority, with 100% of the joint income included in the assessment, **but** this can *only* happen where this approach results in a more beneficial financial outcome for the service user.

---

<sup>17</sup> Ibid

## 6.2 Income that cannot be taken into account (and is fully disregarded)

- Any earnings from employment (including self employment).
- The mobility component of Disability Living Allowance (DLA) or Personal Independence Payment (PIP).
- The Savings Credit part of Pension Credit should be fully disregarded.
- Direct payments.
- Working Tax Credit and Child Tax Credit.
- War widows and widowers special payments; War Disablement Pension.
- Christmas bonus (paid to people receiving certain benefits).
- Any payments from the following: the Macfarlane Trust (supports people with haemophilia who were infected with HIV as a result of contaminated NHS blood products); the Caxton Foundation and Skipton Fund (provide assistance to people infected with the Hepatitis C virus as a result of NHS treatment using contaminated blood products); and the Eileen Trust (supports people who have contracted HIV as a result of NHS treatment).

---

**Note:** Local authorities do also have the discretion to disregard other sources of income in their charging policy, in addition to those laid down in the Code of Practice guidance.

---

**A full list of disregarded income can be found in *Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment) (version 5 – April 2020)***

## 6.3 Income that is partly disregarded

- £10 per week of a War Widows or War Widowers pension.
- A small amount of income – up to a maximum of £5.75 per week (or £8.60 per week for a couple) – where the person has made additional retirement provision on top of their State Pension (i.e. occupational pension/s or similar savings). This is known as the ‘**savings disregard**’.

---

**Note:** The savings disregard is related to the Pension Credit Savings Credit system (see section 12.4 below) and applies to income and savings that count, within the Pension Credit rules, towards the Savings Credit.

A service user who **actually receives** Savings Credit as part of a Pension Credit award will get a savings disregard in the financial means test of an equal amount to the Savings Credit they receive, **or** a maximum amount of £5.75 per week for a single person (£8.60 for a couple) – **whichever is less**.

So, for example, if a single person receives only £4.45 of actual Savings Credit, it would be **this figure** that is disregarded; whereas, if he or she happens to receive Savings Credit above £5.75, **they would still only have £5.75 of this figure disregarded**.

Individuals whose income is such that it takes them above the level for receiving a Pension Credit Savings Credit award are **still entitled** to have a flat rate of £5.75 of their income disregarded (£8.60 for a couple) in the means test.

**There does not need to be a claim for (or an award of) Pension Credit Savings Credit in the above situation.** The level of income above the threshold does not affect the entitlement to a savings disregard in the financial means test for non-residential social care services, though it must be ‘qualifying income’ as defined in the Pension Credit Savings Credit rules.

---

## 7 The means test for determining a charge – how will savings and other capital assets be taken into account?

### 7.1 The capital limit

When charging for homecare and other non-residential social care services, local authorities in Wales must apply a capital limit in regard to people’s savings and other assets – this is currently **£24,000** (it is possible it will change in April 2021).

**The value of the property which you live in as your “main or only home” is disregarded under all circumstances for non-residential social care services (because you will be continuing to live there)<sup>18</sup>.**

---

**Note:** For further information on the types of capital that would, or would not, be included in the financial means test, see sections 7.2 to 7.4 below.

---

### **Savings under the capital limit**

Any savings or other capital which you have that is below £24,000 **must be disregarded in full** by the local authority when they carry out the financial means test. Therefore, in determining how much you will have to contribute towards your homecare/non-residential social care services, the authority will look only at your income.

See section 8 below for some example calculations of how much a service user might be required to contribute towards the total cost of their social care services.

### **Savings over the capital limit**

**If you have assets over the capital limit, then the local authority can charge the maximum amount for the services concerned.**

As indicated in section 5 above, this wouldn't *necessarily* be the maximum weekly charge of £100. For example, the fact that you have assets that take you over the capital limit will mean that the local authority can:

- Ask you to pay the full cost of the services they are providing for you, if this cost is **less than** £100 per week (so, say the service concerned costs the local authority £70 per week to provide or arrange, because you have over the capital limit, they can require you to pay £70 per week – the full cost of the service<sup>19</sup>); *or*

---

<sup>18</sup> Ibid

<sup>19</sup> As discussed in section 5 above, an authority is not permitted to charge someone more for a service than it costs them to provide it, regardless of that service user's financial circumstances.

- ask you to pay the maximum weekly charge of £100 per week, **so long as the cost to them of providing or arranging the service is genuinely of this level** (so, say your services cost the authority £150 per week to provide, then they can charge you the maximum weekly cost set down in Welsh Government regulations – i.e. currently £100 per week. The maximum weekly charge applies *regardless* of how much someone has in savings).

---

**Note:** In regard to the first bullet point above, if someone in this scenario – where a service costs a local authority £70 to provide – had less than the capital limit, then they would be means tested based on their income only and might end up being charged, say, £50 per week towards the total cost, or £30, £20 etc (i.e. whatever the means test determines they can afford to pay, whilst still having sufficient income to live on – see section 8 below).

---

## 7.2 Types of capital that are taken into account in the means test

**Most forms of capital and savings will be included in the means test. For example all of the following will be taken into account** (though this is not an exhaustive list<sup>20</sup>):

- Bank and building society accounts (current accounts and savings accounts).
- National Savings Certificates and Premium Bonds.
- Cash savings.
- Stocks and shares.
- Property and/or land you own, *other than* your main or only home.

See section 7.4 below for information on capital that will not be taken into account in the means test.

---

<sup>20</sup> See the Welsh Government's guidance – Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment) (version 5 – April 2020) – if further information is required

## 7.3 How is capital assessed if you are one of a couple?

Local authorities should consider **your means only** when assessing your ability to pay. Partners, or other family members, of a service user cannot be asked by the local authority to contribute towards the charge from their resources<sup>21</sup>.

**It is, however, important to bear in mind that the authority can look at capital where it is held as part of a couple.** “The starting presumption [will be] that each person has an equal share of that capital”<sup>22</sup>, though the authority would need to alter this position, should someone be able to provide evidence to the contrary.

The local authority may also take into consideration whether someone has a legal right to a share in the value of an asset, even if it is not in his or her name – for example money in a savings account, or where there is an unwritten agreement between partners that they both own a property or an asset, even though the title is in only one of their names.

“Where ownership [of capital] is disputed, a local authority **must** seek written evidence to prove where the ownership lies where [they propose to take it] into account in a financial assessment. If a person states they are holding capital for someone else, the local authority **must** obtain evidence of the arrangement, the origin of the capital and intentions for its future use”<sup>23</sup>. If someone refuses to provide relevant evidence, an authority may determine that it is not satisfied that they have insufficient means to pay for particular services, as they claim.

---

**Note:** The Welsh Government’s guidance allows, in circumstances where it will be “**financially more advantageous to the person being assessed**”, for the local authority to assess the capital of a couple<sup>24</sup>. For example, this might be appropriate where the assessed charge for an individual service user could have an adverse effect on a couple.

---

---

<sup>21</sup> A partner refers to wives, husbands, civil partners or someone who lives with another person as though they are a married couple or civil partners

<sup>22</sup> Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 5 – April 2020)

<sup>23</sup> Ibid

<sup>24</sup> Ibid

## 7.4 Disregarded capital

Some capital is disregarded (ignored) for the purposes of the financial means test. Capital that is disregarded includes<sup>25</sup>:

- As touched upon in sections 7.1 and 7.2 above, where someone “is receiving non-residential care and support at home or in the community”, the value of their main or only home must be disregarded<sup>26</sup>.
- Personal possessions – such as paintings or antiques (“unless they were purchased with the intention of reducing capital in order to avoid charges for care and support”<sup>27</sup> – also see section 9.6 below).
- The surrender value of life insurance policies or annuities.
- The value of funds held in trust or administered by a court, which derive from a payment for personal injury (including compensation for vaccine damage and criminal injuries)<sup>28</sup>.
- Any Social Fund payments.
- Compensation paid to Far East Prisoners of War on or after 1 February 2001.
- Compensation payments made to those who caught hepatitis C as a result of contaminated NHS blood products.
- Compensation payments made to people affected by the drug Thalidomide.

---

<sup>25</sup> A full list can be found in the Welsh Government’s guidance – Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment) (version 5 – April 2020)

<sup>26</sup> Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 5 – April 2020)

<sup>27</sup> Ibid

<sup>28</sup> The treatment of money held in trust depends on what rights you have to demand that the trust money be paid to you. The rules about trusts are complicated, so you may need to seek advice from the trust provider.

## 8 The means test for determining a charge – service users should be left with a minimum level of income

### 8.1 The Minimum income amount (MIA) and ‘disability related expenditure’

The *Social Services and Well-being (Wales) Act 2014* stipulates that:

**A service user’s income, once they have paid for their services, must not be taken below a certain level – this is referred to in the Welsh Government’s guidance as the person’s “minimum income amount (MIA)”<sup>29</sup>.**

Essentially, the MIA is ‘protected’ income that they should not be asked to put towards care costs.

After paying your required charge, your income should not be reduced below the **total** amount of the following (i.e. this is your ‘minimum income amount’):

- A **“basic entitlement”** (this is *either* the level of Pension Credit Guarantee Credit that someone receives, *or* if not getting this benefit, an equivalent amount worked out by the local authority based on the person’s age, level of disability and personal circumstances); **plus**
- a ‘buffer’ of at least **35%** of the above basic entitlement; **plus**
- a further allowance of at least **10%** of the basic entitlement in recognition of ‘disability related expenditure’ which service users are likely to have.

---

**Note:** In other words, this means that a local authority should allow service users to be exempt from charging in cases where their net income is at or below their ‘basic entitlement’, plus 45% of that amount – i.e. the buffer of 35% and the 10% disability related expenditure allowance.

See section 8.2 below for some example calculations of how someone’s MIA is calculated.

---

---

<sup>29</sup> Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 5 – April 2020)

The Welsh Government has stated that the MIA amounts outlined above “are minimum requirements”. Regulations allow for local authorities to exercise discretion and “set higher levels of either the “buffer”, the disability related [expenditure] allowance, or both if they wish”<sup>30</sup>.

### The disability-related expenditure allowance

As mentioned above, in addition to having a ‘basic level’ of income, plus the further ‘buffer’ of at least 35% of that income, all service users are also provided with a disability related expenditure allowance to contribute towards the additional living costs they will have as a result of a medical condition or impairment. The Welsh Government’s guidance recognises, however, that the cost of this expenditure for some service users may exceed the contribution towards these costs provided by the standard allowance. Local authorities should therefore look at it on a case by case basis and provide an allowance *greater* than 10% where necessary.

The Code of Practice guidance provides local authorities with a list of examples that should be considered in regard to disability-related expenditure and could potentially mean a higher than standard disregard were needed:

- “Payment for [a] community alarm system;
- costs of any privately arranged care services, including respite care;
- privately arranged day or night care;
- specialist washing powders or laundry requirements;
- additional costs of special dietary needs due to a medical condition or disability;
- special clothing or footwear, for example, where this needs to be specially made; or additional wear and tear to clothing and footwear caused by a medical condition or disability;
- additional costs of bedding, for example, because of incontinence;
- any additional heating costs, or metered costs of water, due to a medical condition or disability;
- purchase, maintenance, and repair of disability-related equipment”; or

---

<sup>30</sup> Ibid

- “internet access, for example [for] those with a visual impairment to aid their communication”<sup>31</sup>.

When you are having your means test, you should consider everything you have to purchase because of your disability (which you would not otherwise need). If you feel that your expenditure on these items has not been properly taken into account by the authority, or that your costs are greater than the 10% usually disregarded, you can ask for a review of the decision. See section 9.5 below.

## 8.2 Working out your ‘protected’ Minimum income amount (MIA) – examples

---

**Note:** For the purposes of these examples, it will be assumed that the income figures given are the totals following any partial **savings disregard** that has been applied – see section 6.3 above.

---

### Example 1

You are single and have a State pension of £134.25 per week, plus occupational pension of £123.20 per week (thus your total weekly income is **£257.45**). You do not receive Pension Credit Guarantee Credit (PCGC), as your income is too high. However, based on your age and circumstances – see section 8.1 above – the local authority considers that the basic level of PCGC should be used in the means test calculation.

Your local authority is operating the minimum ‘buffer’ of 35% and minimum disability related expenditure allowance of 10%<sup>32</sup>.

The services you receive cost £65 per week in total to provide.

---

<sup>31</sup> This is not an exhaustive list. Also, when considering these issues, “it may be reasonable for a local authority not to allow for items where a reasonable alternative is available at a lesser cost [e.g.] an authority might adopt a policy not to allow for the private purchase cost of continence pads, where these are available from the NHS at no charge” – Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 5 – April 2020)

<sup>32</sup> For the purposes of this example, it will be assumed that you do not have higher costs than this and so there isn’t a case to be made for the authority to consider a larger disability related expenditure figure.

- **Stage 1:**

The basic level of PCGC is **£173.75** for a single person. A calculation of 35% of this figure (for the 'buffer') will give you **£60.81**.

- **Stage 2:**

Again, take the basic entitlement income – i.e. the PCGC of £173.75. A calculation of 10% of this figure (for the disability related expenditure) will give you **£17.38**.

- **Stage 3:**

To then obtain the total protected income add together the figures calculated above – £60.81 + £17.38 = £78.19 – then add this to the basic entitlement of the PCGC. So, **£173.75 + £78.19** gives a total protected income of **£251.94 per week**.

- **Result** – *In this example, the service user – once they have paid any care charges – should be left with at least £251.94 per week.*

*As their total income, outlined above, is £257.45 per week, they could be expected to contribute £5.51 per week towards the total cost of their services (i.e. £257.45 minus the protected income of £251.94). The local authority would meet the rest of the cost of the care services.*

---

**Note:** Alternatively, rather than working out the buffer and disability related expenditure separately, to get the total protected income you could just work out 45% of your basic entitlement to PCGC.

---

### Example 2

You are single and have a State pension of £136.00 per week, plus occupational pension of £200.00 per week to be included in the means test calculation (thus a total weekly income is **£336.00**).

You do not receive Pension Credit Guarantee Credit (PCGC), as your income is too high. However, based on your age and circumstances – see section 8.1 above – the local authority considers that the basic level of PCGC should be used in the means test calculation.

The local authority is operating the minimum 'buffer' of 35%. In the means test you were able to demonstrate that you have to spend a significant amount of money on extra heating and washing. As such, the local authority is including a disability related expenditure allowance of **18%**, rather than the standard 10%.

The services received cost the local authority £100 per week to provide.

● **Stage 1:**

The basic level of PCGC is **£173.75**. A calculation of 35% of this figure (for the 'buffer') will give you **£60.81**.

● **Stage 2:**

Again, take the basic entitlement income – i.e. the PCGC of £173.75. A calculation of 18% (for the disability related expenditure) will give you **£31.28**.

● **Stage 3:**

To then obtain the total protected income add together the figures calculated above – £60.81 + £31.28 = £92.09 – then add this to the basic entitlement of the PCGC. So, **£173.75 + £92.09** gives a total protected income of **£265.84 per week**.

● **Result** – *In this example, the service user – once they have paid any care charges – should be left with at least £265.84 per week.*

*As their total income, outlined above, is £336.00 per week, they could be expected to contribute £70.16 per week towards the total cost of their services (i.e. £336.00 minus the protected income of £265.84). The local authority would meet the rest of the cost of the care services.*

### **Example 3**

You are in a couple, but only one of you requires homecare services from the local authority. You have a joint income from a number of different pensions which comes to £834.50 per week. As per section 6.1 above, the local authority assesses the service user as having 50% of this income - **£417.25 per week**.

Based on your age and circumstances, the local authority considers that the basic level of PCGC should be used in the means test calculation when working out the protected income.

The local authority is operating the minimum 'buffer' of 35% and minimum disability related expenditure allowance of 10%.

The services received cost the local authority £145 per week to provide.

● **Stages 1, 2 & 3:**

As with the previous examples, the basic level of PCGC is **£173.75**. A calculation of 35% of this figure (for the 'buffer') will give you **£60.81**.

Then a further 10% (for the disability related expenditure) will give you **£17.38**.

Again, as above, to obtain the total protected income add together the figures calculated above – £60.81 + £17.38 = £78.19 – then add this to the basic entitlement of the PCGC. So, **£173.75 + £78.19** gives a total protected income of **£251.94 per week**.

- **Result** – *In this example, the service user – once they have paid any care charges – should be left with at least £251.94 per week.*

*As stated above, their total income is £417.25 per week. If you deduct the protected income from this, you are left with £165.31. As such, the service user may be expected to pay the maximum weekly charge of £100 per week by the local authority, as they have sufficient income above their protected income amount to meet this cost.*

*As stated above, the services cost the authority £145 per week to provide. Therefore, the local authority will need to meet the additional costs involved above the maximum charge that the service user has been assessed as able to pay.*

## 9 Other issues in regard to charging

### 9.1 Direct payments – a different way to pay for and arrange your care services

If, following the means test, the local authority concludes that it should contribute funds to meet your care needs, this can be arranged in a couple of ways.

The basic way is for the local authority to both arrange the service and manage the funding, but there is also the option of direct payments.

Direct payments are cash payments that local authorities can make to individuals so that they can organise their own community care services to meet their assessed needs. The idea behind this method of arranging services is that it allows people more choice and control over the way their care and support needs are met. The local authority is required to give you the option of direct payments if you satisfy certain requirements.

You can choose to either:

- employ a carer yourself; or
- use a local home care agency who will allocate carers and/or other services to you (*this can be a good option if you do not wish to take on the responsibility of being an employer*).

#### Direct payments for carers

Carers are **also** able to receive direct payments instead of services arranged by the local authority.

#### The means test

The local authority means test for direct payments is the same as that for other non-residential services and you may be asked to make a contribution towards service provision (up to the maximum charge of £100 a week).

For further information see Age Cymru's Factsheet 24w *Direct payments for community care services in Wales*.

## 9.2 Charging for carers' services

You can only be charged for services provided to you. Therefore, you cannot be asked to pay for any services which your carer is allocated.

By the same principle, carers can also only be charged for the services they receive in their own right – not for any services that are provided to the person they care for.

**Local authorities cannot choose to say that a service is a carer's service when it is a service to you, just because the carer has more income than you, or because you are exempt from charging.**

The Welsh Government's charging guidance applies equally to services that are provided to carers. However, the guidance does note that authorities may wish to exclude carers from charges altogether:

“When deciding whether to charge, and in determining what an appropriate charge is, a local authority **must** consider how it wishes to express the way it values carers within its local community as partners in care, and recognise the significant contribution [they] make”.

It recognises that “carers help to maintain the health and well-being of the person for whom they care, support this person's independence and enable them to stay in their own homes for longer. In many cases, carers voluntarily meet eligible needs that the local authority would otherwise be required to meet. Local authorities **must** consider carefully the likely impact of any charges on adult carers, *particularly in terms of their willingness and ability to continue their caring responsibilities*” (emphasis added).

“Ultimately, a local authority **must** ensure that any charges do not negatively impact on a carer's ability to look after their own health and well-being and to care effectively and safely for the cared for person”<sup>33</sup>.

---

<sup>33</sup> Social Services and Well-being (Wales) Act 2014 – Part 4 and 5 Code of Practice (Charging and Financial Assessment), January 2016, Welsh Government (version 5 – April 2020)

## 9.3 Charges for respite care

Sometimes people who usually receive social care services in their own home may require respite care as a short-term resident in a care home (perhaps to provide a break for a family member who helps to look after them).

Generally, where a local authority arranges a period of respite care and chooses to charge for this provision, it should apply the means test for determining the person's contribution towards the cost "as if the person were receiving non-residential care and support"<sup>34</sup>.

In other words, the authority should apply the means test rules as they apply to people receiving care at home, rather than enacting those used for a (permanent) care home placement.

However, there may be differences to this if a care home stay is planned for a longer temporary period, or if it is a possibility that the care may become permanent – see Age Cymru's Factsheet 58w *Paying for temporary care in a care home in Wales* for further information on this topic.

---

**Note:** Depending on the length of time of particular periods of respite care and how often such stays take place, entitlement to some state benefits may be affected.

---

## 9.4 Information for service users about their charge

A local authority cannot impose a charge (or alter an existing charge) for services until it has taken account of the outcome of the means assessment, calculated the charge based on this information and until the date that a statement of that charge is provided to the service user.

The authority "**must** ensure" that the statement "is provided in a format to meet the communication needs of the person"<sup>35</sup>.

---

<sup>34</sup> Ibid

<sup>35</sup> Ibid

## 9.5 Reviewing a charge

If you feel that an inappropriate decision has been made, you have the right to ask for a review of your charge, stating the reasons why you think this is required. This review could be in relation to the level of the charge or the basis on which the decision was made. You should be informed of your rights to a review on the statement of the charge which is provided to you.

The local authority must acknowledge your request for a review within **5 working days** of receiving it. This acknowledgement should include information for the service user on how the review will be carried out<sup>36</sup>.

“As soon as possible, and in any event within 10 working days of receiving sufficient information or documentation to enable it to determine a review, the local authority **must** make a decision [on] whether the person’s charge [will be] amended as a result”<sup>37</sup>.

---

### Note: Paying a charge during a review

The charge “which is the subject of the review...does not need to be paid during the period of the review, if the person wishes”. However, “a person’s liability for these payments remains” and the authority must inform the person whether or not it is their policy to recover these unpaid amounts, should the review conclude that the original charge is justified<sup>38</sup>.

---

---

<sup>36</sup> The Welsh Government’s guidance does say, however, that “where a local authority considers it can make a decision on a [review] on the basis of the information and documentation contained within it, and can make that decision within 5 working days”, then the acknowledgement rules outlined above would not apply – Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 5 – April 2020)

<sup>37</sup> Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 5 – April 2020)

<sup>38</sup> Ibid

## 9.6 The issue of deliberate deprivation of assets and paying for non-residential care

### What is meant by deprivation of assets?

If you give away assets or otherwise dispose of them – for example, transferring a capital asset or a large amount of savings out of your possession – with a view to putting yourself in a more favourable position with regard to local authority assistance towards care or support costs, the authority may be able to assess you in the financial means test as if you still had those assets.

---

**Note:** Similar principles apply in regard to the Department for Work & Pensions (DWP) and means tested welfare benefits.

---

### Welsh Government guidance to local authorities

The Code of Practice guidance to local authorities on charging for care suggests that the **timing and motive** behind the transfer should be taken into account – for example, there could be other motives for transferring an asset and in order for it to amount to deliberate deprivation, the intention to avoid care charges must be a significant part of the reason for taking this action.

In relation to this, the timing is likely to be a big factor in establishing a motive because – for example:

“At the point the capital was [transferred or] disposed of could the person have had a reasonable expectation of the need for care and support, even if at this point they were not yet receiving this”. Also, would “the person have had a reasonable expectation of needing to contribute towards the cost of this either now or at some future point”? Authorities are advised that it would be unreasonable for them “to decide that deprivation had occurred where if at the time the disposal took place [the person] were fit and healthy and could not have foreseen any need for care and support in the foreseeable future”<sup>39</sup>.

---

<sup>39</sup> Ibid

## If the local authority determines that deprivation of assets has occurred

If the authority, having taken into account the other possible reasons for the transfer of an asset, determines that deprivation of assets has occurred, then – as touched upon above – it will “treat the asset as notional capital...in the person’s financial assessment **as if the deprivation had not occurred**” (emphasis added)<sup>40</sup>. As such, the service user will be expected to contribute towards their care and support costs in line with what they would have been assessed as being able to pay, had they still actually been in possession of the asset (the £100 per week maximum charge would still apply in the local authority’s calculation in regard to this).

If a debt to the authority has occurred, it can take action to recover this.

Under the *Social Services and Well-being (Wales) Act*, where someone has transferred an asset to a third party (a ‘transferee’) as an act of deliberate deprivation, the transferee will be liable to pay the local authority “the difference between what it would have collected” in care fees from the service user and what it actually was able to collect from them as a result of the transfer<sup>41</sup>.

---

**Note:** Deprivation can also occur in regard to **income**. For example, someone “could give away or sell the right to an income from an occupational pension”<sup>42</sup>.

---

## 10 Disability equipment and home adaptations

There is a wide range of specially designed equipment or home adaptations that can assist people with disabilities to manage their daily living tasks more independently and safely – for example, grabrails, raised toilet seats, rising/reclining chairs, stairlifts, modified baths or showers, or hoists to help lift people in and out of bed.

---

<sup>40</sup> Ibid

<sup>41</sup> It should be noted, however, that “the transferee is not liable to pay anything which exceeds the benefit they have received as a result of the transfer” – *Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment)*, Welsh Government (version 5 – April 2020)

<sup>42</sup> *Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment)*, Welsh Government (version 5 – April 2020)

Disability equipment and home adaptations are often provided *alongside* other services, such as packages of home care / personal care support.

### Further information

These topics are covered in detail in the following factsheets, including the charging policies, grants or schemes for local authority or NHS provided equipment, as well as information on purchasing equipment privately:

- Age Cymru's Factsheet 42w *Obtaining disability equipment and home adaptations in Wales*.
- Age UK's Factsheet 67 *Home improvements and repairs*.

## 11 Services that should be provided free of charge

**As indicated at the beginning of the factsheet, there are a small number of services where the local authority must not charge someone, regardless of the person's financial status. As such, there will be no means testing for the following services:**

### 11.1 Transport to attend a 'day service'

The provision of transport to attend a day service cannot be charged for "where the transport is provided as part of meeting a person's [assessed] needs"<sup>43</sup>.

---

**Note:** A day service will be a local authority service which takes place away from the person's home and may, for example, assist the person in meeting others, taking up new interests that could improve their wellbeing, or to enable them to continue practising existing interests.

---

---

<sup>43</sup> Ibid

## 11.2 Reablement and intermediate care – free care for up to six weeks

Reablement and intermediate care services were developed in the early 2000s. Even though, at the time, these were new terms, the services built upon existing provision and ideas to help older people readjust to living at home following a hospital stay, or prevent unnecessary hospital admission.

**In general, intermediate care can be said to be an NHS led service, whereas reablement is social care led (i.e. by the local authority social services department).**

As indicated above, intermediate care services and reablement services must have the aim, through therapy or treatment, to support someone to recover or maintain their ability to live independently at home. Services without these characteristics would not be classified as intermediate care or reablement (for example, in the case of personal care services provided in someone's own home by social services, there may well be no expectation that the person will realistically reach a point when support is no longer needed and thus the support will be provided *indefinitely*; whereas, intermediate care or reablement services are provided on a **short term basis** because the person has been assessed as having the capability to regain some or all of their ability to carry out daily living tasks).

Some of the key points about intermediate care and reablement are:

- **They are provided free of charge for any period up to and including six weeks.**
- **They are a time limited intervention. Usually this will be for up to six weeks, though some episodes may only last for one to two.** Extensions beyond six weeks may *sometimes* be available.

### Extensions beyond six weeks

Welsh Government guidance advises that local authorities should:

“have regard as to whether to extend [a reablement package] in individual cases where a person's needs are such that their outcomes would benefit from a longer period of free reablement support, such as those who may require [further] rehabilitation”<sup>44</sup>.

---

<sup>44</sup> Ibid

Similarly, on intermediate care it is recognised that in certain circumstances patients may need the service for **longer** than the usual six weeks – for example, where “frail older people [are] recovering from major trauma” or “following a stroke”<sup>45</sup>.

For further information, see Age Cymru’s Factsheet 76w *Intermediate care and reablement in Wales*.

### 11.3 Community-based NHS services

You will not have to contribute towards the cost of community-based NHS services arranged through a Local Health Board or GP, such as visits from a district nurse, physiotherapy or speech therapy. Further information can be found in Age Cymru’s Factsheet 44w *NHS services in Wales*.

### 11.4 Fully funded NHS continuing healthcare

The NHS is responsible for meeting the full cost of care (in a care home or in your own home) for those whose ‘**primary need**’ for care is health-based. In other words, your needs are beyond those that the local authority has a duty to meet, due to the level of the health-related element.

Where it is judged that the primary reason for someone needing care is *health-based* (rather than *social care needs based*), someone is entitled to:

- healthcare, which is **free**; rather than
- social care, which is **means tested**<sup>46</sup>.

---

<sup>45</sup> WHC (2002) 128 / NAFWC 43/02 - Welsh Health Circular and National Assembly for Wales Circular: Intermediate Care Guidance, December 2002, Welsh Government

<sup>46</sup> An issue which can often cause debate is the difference between what constitutes a healthcare need and what constitutes a social care need. The Welsh Government previously published ‘Practice Guidance’ which defined the difference as follows: “Whilst there is not a legal definition of a healthcare need (in the context of continuing NHS healthcare), in general terms it can be said that such a need is one related to the treatment, control or prevention of a disease, illness, injury or disability, and the care or aftercare of a person with these needs (whether or not the tasks involved have to be carried out by a health professional)”. Whilst, “in general terms (not a legal definition) it can be said that a social care need is one that is focused on providing assistance with activities of daily living, maintaining independence, social interaction...and (in some circumstances) [finding and] accessing a care home or other supported accommodation. Social care needs are directly related to the type of welfare services that [local authorities] have a duty or power to provide. These include, but are not limited to...practical assistance in the home; assistance with equipment and home adaptations; visiting and sitting services; provision of meals; facilities for occupational, social, cultural and recreational activities outside the home...and assistance in finding accommodation (e.g. a care home)”.

This is called **NHS continuing healthcare** (NHS CHC) and is often described as ‘fully funded care’. If you receive this type of care, part of the overall package may include care and support more usually provided by local authorities – *however*, if it is provided by the NHS as part of continuing healthcare, it will be free.

The assessment procedure for NHS CHC is contained in the Welsh Government’s guidance document, *Continuing NHS Healthcare: The National Framework for Implementation in Wales, June 2014*.

This guidance should be used by all professionals – medical staff, social workers etc – involved in making eligibility decisions for CHC.

---

**Note:** Between May and August 2019, the Welsh Government ran a consultation on a proposal for a revised version of the National Framework mentioned above. At the time of writing – July 2020 – there is not currently a specific implementation date for the revised Framework following the closure of the consultation.

---

If the nature of your needs indicate that you might be eligible for NHS CHC, those involved in your care must actively consider this possibility, inform you or your representatives of your rights, and initiate the relevant CHC assessment procedures.

**To move to the social care means test without addressing the potential right to free NHS service provision may constitute poor professional practice and can be challenged.**

More information on NHS CHC can be found in Age Cymru’s Factsheet 20w *NHS continuing healthcare and NHS-funded nursing care in Wales*.

## 11.5 **Mental health ‘after-care’ services**

If you have previously been in hospital for treatment under certain sections of the *Mental Health Act 1983* (‘sectioned’), you may qualify for care and support services to be provided as an ‘after-care’ service under *Section 117* of the Act.

Section 117 places a joint duty on local authority social services departments and NHS Local health boards to provide these after-care services. **The services must be free of charge.**

Welsh Government guidance advises that “the range of services which can be provided [as after-care under Section 177] is broad”; *however* the services **must** have the purpose of:

- “meeting a need arising from or related to the person’s mental disorder”; and
- “reducing the risk of a deterioration of the person’s mental condition”; and therefore;
- **“reducing the risk of the person requiring admission to a hospital again** for treatment for mental disorder”<sup>47</sup> (emphasis added).

### Organising after-care services

Welsh Government guidance advises that “although the duty to provide after-care begins when the patient leaves hospital, the planning of after-care should start whilst the patient is in hospital”.

“Local health boards and local authorities should take reasonable steps, in consultation with the patient, their family or carer...to identify appropriate after-care services for the patient in good time for their eventual discharge from hospital”<sup>48</sup>.

One option is for the services to be delivered in your own home, though they can also be provided in care home accommodation, or via a day centre or other facilities.

### When the section 117 after-care duty comes to an end

If social services or the NHS believe that you no longer need after-care, section 117 services may be withdrawn. However, the organisations must reassess your needs before they can come to that conclusion.

Circumstances will differ in each individual case as to when it will be appropriate for the section 117 after-care duty to end. Services “should not be withdrawn solely on the basis of [the fact that] the patient has been discharged from the care of specialist mental health services”; or because “an arbitrary period has passed since the care was first provided”<sup>49</sup>.

---

<sup>47</sup> Social Services and Well-being (Wales) Act 2014: Part 11 (Miscellaneous and General), Welsh Government

<sup>48</sup> Mental Health Act 1983: Code of Practice for Wales (Revised 2016), Welsh Government

<sup>49</sup> Ibid

Mind advises that, “if your aftercare services have been taken away and your mental condition has begun to deteriorate, then the services should be put back to stop your condition from getting worse”<sup>50</sup>.

The Welsh Government’s *Mental Health Act 1983: Code of Practice for Wales (Revised 2016)* contains further information on the use of section 117 after-care. A copy can be accessed at:

[www.gov.wales/mental-health-act-1983-code-practice](http://www.gov.wales/mental-health-act-1983-code-practice)

---

**Note:** Where section 117 after-care services have come to an end, depending on circumstances, the person may well be eligible for other social services and/or health service provision (be this whilst living in their own home, or by staying in a care home on a temporary or permanent basis). The services they are eligible for at this stage will be decided via a full re-assessment of their needs – see section 3.4 of this factsheet above and Age Cymru’s Factsheet 41w *Social care assessments for older people with care needs in Wales* for further information.

These other services may attract a charge, as per the information in this factsheet (if it is non-residential care), or in accordance with the information in Age Cymru’s Factsheet 10w *Paying for care and support at home in Wales* or Factsheet 58w *Paying for temporary care in a care home in Wales* (if it is in a care home).

---

## 12 Social security benefits and other financial assistance that may help to meet the cost of care and support at home

### 12.1 Attendance Allowance (AA)

This benefit is for people over State Pension age who, because of an illness or disability, need help with personal care or supervision from another person. For example, you might qualify if you need help getting dressed, washing or going to the toilet.

---

<sup>50</sup> ‘Leaving hospital – Section 117 aftercare’, Mind website: [www.mind.org.uk/information-support/legal-rights/leaving-hospital/section-117-aftercare/#HowLongWillIGetSection117Aftercare](http://www.mind.org.uk/information-support/legal-rights/leaving-hospital/section-117-aftercare/#HowLongWillIGetSection117Aftercare) (last accessed 23 July 2020)

---

**Note:** State Pension age is gradually increasing for both men and women – for example, in April 2020 the State Pension age was 65 and 8-9 months and by October 2020 it will be 66.

---

For further information see Age UK's Factsheet 34 *Attendance Allowance*.

## 12.2 Personal Independence Payment (PIP) / Disability Living Allowance (DLA)

These benefits are for people who are disabled and make a claim before they reach State Pension age.

DLA and PIP both have two parts – a mobility component and a care component (DLA)/daily living component (PIP).

No new claims can be made for DLA, as it is being replaced by PIP – see Age UK's Factsheet 87 *Personal Independence Payment and Disability Living Allowance* for further information.

## 12.3 Carer's Allowance

Carer's Allowance (CA) is paid to people who are unable to work full-time because they are spending at least 35 hours a week caring for someone receiving either:

- AA;
- middle or higher rate DLA care component;
- either rate of the PIP daily living component.

For further information see Age UK's Factsheet 55 *Carer's Allowance* and the information guide, *Advice for carers*.

## 12.4 Pension Credit

Pension Credit (PC) is means tested. Eligibility is based on your income and capital and your age.

- **Guarantee Credit** tops up your income to a set level known as the 'appropriate amount', if your income would otherwise be below this.

The appropriate amount is made up of a 'standard minimum guarantee' – £173.75 per week for a single person and £265.20 for a couple – and, in some circumstances, other '*additional amounts*'<sup>51</sup>.

The amount of Guarantee Credit paid will usually be the difference between the claimant's existing income and the appropriate amount.

- **Savings Credit** provides extra money if you have a modest income (that is higher than the basic state pension) and some savings. However, it is only available if you reached State Pension age on or before 6 April 2016.

See Age UK's Factsheet 48 *Pension Credit* for further information.

## 12.5 Reductions in Council Tax

If you need extra space for a wheelchair, or the living room is mainly for your use (for instance, you now have your bed in a downstairs room) your Council Tax can be reduced by a band. There are also Council Tax discounts in certain circumstances when a carer is living with you.

See Age Cymru's Factsheet 21w *Council Tax in Wales – information about the tax and help you might get towards your bill* for more details.

## 12.6 Help with the cost of heating and insulation

This may be available through various schemes – see Age Cymru's Factsheet 1w *Help with heating costs in Wales*, for more details.

## 13 'Supporting People' services

There is a national, statutory, **Supporting People Programme** in Wales that provides housing-related support services aimed at enabling vulnerable people to live as independently as possible and prevent problems that could lead to hospital stays or the need to move to more dependent forms of accommodation.

---

<sup>51</sup> For example, there is a 'severe disability' additional amount for a claimant who receives any of the following benefits and lives alone (or is classed as living alone for the purposes of the PC means test): Attendance Allowance (AA); the middle or higher rate care component of Disability Living Allowance (DLA); the daily living component (either rate) of the Personal Independence Payment (PIP)

It should be noted that as a housing-related service, the Supporting People Programme is separate to the main social care services provided by local authorities (and detailed in the rest of this factsheet). As such, Supporting People “**cannot fund social care services. [Rather] it complements and enhances such services, but [with a] primary aim...to enable, not care for, people using its services**”<sup>52</sup>.

---

**Note:** Further information in regard to the Supporting People Programme can be found in the Welsh Government’s guidance:

*Supporting People Programme: Practice Guidance 2018*

A copy is available at:

[www.gov.wales/supporting-people-programme](http://www.gov.wales/supporting-people-programme)

---

### Charging for Supporting People services

The Welsh Government’s guidance advises that “charging for Supporting People services is a decision for local authorities [but they] should take into consideration the costs for collection against the income generated when charging”. Furthermore, “local authorities must take their own legal advice in order to ensure that they are able to charge for Supporting People services”.

## 14 Moving from one local authority area to another: continuity of care and support

In the past, moving from one area to another for people with care and support needs could potentially be problematic because of uncertainty surrounding their future care package and a lack of portability of care from one local authority to another. The *Social Services and Well-being (Wales) Act* sought to address this issue in regard to moves *within* Wales. It should be noted that the onus is on the individual receiving services to inform their local authority that they intend to move; however, once they have done so:

---

<sup>52</sup> Supporting People Programme: Practice Guidance 2018, Welsh Government

- The **current authority** “must notify the authority to which the person intends to move ...and must ensure that the information contained within the assessment and the care and support plan is made immediately available to the new authority”.
- The **new authority** must carry out a new assessment “having regard in particular to any change in the person’s needs for care and support arising from the move”. However, “if, on the day the person moves, such an assessment has not yet been carried out, the receiving authority must, in so far as reasonably practicable, meet the person’s needs for care and support in accordance with the care and support plan prepared by the [original] authority until a new assessment is undertaken”<sup>53</sup>.

### Moving elsewhere in the UK

An annex to the Welsh Government’s guidance advises that there are ‘good practice principles’ in regard to the continuity of care when someone moves from one country to another within the United Kingdom (the responsible local authorities in each country “should work together and share information in a timely manner to ensure needs are being met both on the day of the move and subsequently”)<sup>54</sup>.

## 15 Complaints about social care services

You may wish to complain to the local authority social services department about a number of issues around paying for care at home. For example:

- The authority has decided that your needs do not meet its criteria (so you are not being provided with services);
- you are receiving services, but feel that they are inadequate or inappropriate for your needs;
- you feel the charging procedures have not been properly administered;
- you are unhappy with the conduct of social services and/or care staff.

---

<sup>53</sup> Social Services and Well-being (Wales) Act 2014: Part 4 Code of Practice (Meeting Needs), Welsh Government

<sup>54</sup> Ibid

For further information on the complaints procedure; how to submit a complaint and what to expect when you do, see Age Cymru's Factsheet 59w *How to resolve problems and make a complaint about social care in Wales*.

## 16 Useful organisations

### Age Cymru Advice

Free and confidential information and advice on matters affecting the over 50s in Wales.

**Tel: 08000 223 444**

**E-mail: [advice@agecymru.org.uk](mailto:advice@agecymru.org.uk)**

### Age Cymru organisations (local)

Your local Age Cymru may be able to provide advice and support on a range of issues. **Age Cymru Advice** can provide details of your local Age Cymru (see above), or visit the Age Cymru website at:

[www.agecymru.org.uk](http://www.agecymru.org.uk)

### Care Inspectorate Wales (CIW)

CIW inspects and regulates care and social services in Wales.

Tel: 0300 7900 126

E-mail: [ciw@gov.wales](mailto:ciw@gov.wales)

Website: [www.careinspectorate.wales](http://www.careinspectorate.wales)

### Carers UK

A national charity providing information and advice for carers.

Advice Line: 0808 808 7777

Website: [www.carerswales.org](http://www.carerswales.org)

## **Citizens Advice Bureaus (CABs)**

National network of free advice centres offering confidential and independent advice, face to face or by telephone. Details of your nearest CAB can be found at: [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Tel: 03444 77 20 20

## **Dewis Cymru**

This is a website owned and funded by local authorities across Wales. The site was set up by the Welsh Government to assist in the delivery of certain provisions in the Social Services and Well-being (Wales) Act. The Dewis Cymru site contains an extensive database of a wide variety of services that can help people with their well-being.

[www.dewis.wales](http://www.dewis.wales)

## **Elderly Accommodation Counsel (EAC)**

Provides information on all forms of accommodation, support and care for older people.

EAC FirstStop Advice: 0800 377 7070

E-mail: [info@firststopadvice.org.uk](mailto:info@firststopadvice.org.uk)

Website: [www.eac.org.uk](http://www.eac.org.uk)

## **Equality Advisory & Support Service**

A helpline that can advise people on equality and human rights issues.

Tel: 0808 800 0082

Website: [www.equalityadvisoryservice.com](http://www.equalityadvisoryservice.com)

## **Older People's Commissioner for Wales**

Independent champion for older people across Wales.

Tel: 03442 640670

E-mail: [ask@olderpeoplewales.com](mailto:ask@olderpeoplewales.com)

Website: [www.olderpeoplewales.com](http://www.olderpeoplewales.com)

## Public Services Ombudsman for Wales

The Ombudsman looks to see whether people have been treated unfairly or have received a bad service from a public body, such as a local authority social services department.

Tel: 0300 790 0203

E-mail: [ask@ombudsman.wales](mailto:ask@ombudsman.wales)

Website: [www.ombudsman.wales](http://www.ombudsman.wales)

## United Kingdom Homecare Association

A professional association of home care providers in the UK whose members comply with a Code of Practice.

Tel: 020 8661 8188

Website: [www.ukhca.co.uk](http://www.ukhca.co.uk)

## Welsh Government

The devolved government for Wales.

Tel: 0300 060 4400

E-mail: [customerhelp@gov.wales](mailto:customerhelp@gov.wales)

Website: [www.gov.wales](http://www.gov.wales)

## 17 Further information about Age Cymru

Age Cymru is the national charity for older people in Wales.

We campaign, we research and we fundraise to make sure we build a better life for all older people. We ensure older people's voices are heard, we challenge and change attitudes and we fight discrimination wherever we find it.

We provide a range of national and local services and programmes directly to older people in the community and we ensure the highest standards so you can be assured of consistency and quality wherever you see the Age Cymru name and logo.

Our family includes local Age Cymru partners and national partners, Age NI, Age Scotland and Age UK.

## Our information materials

Age Cymru and Age UK publish a large number of free Information Guides and Factsheets on a range of subjects, including money and benefits, health, social care and housing. Some resources, such as this factsheet, are produced 'in-house' by Age Cymru, whilst others are branded Age UK and – depending on the subject matter – contain either information which is applicable in England and Wales, or for the whole of the UK.

## Contact details

### Age Cymru Advice

**Tel: 08000 223 444**

**E-mail: [advice@agecymru.org.uk](mailto:advice@agecymru.org.uk)**

**Website: [www.agecymru.org.uk](http://www.agecymru.org.uk)**



**[www.facebook.com/agecymru](http://www.facebook.com/agecymru)**



**[www.twitter.com/agecymru](http://www.twitter.com/agecymru)**



**[www.youtube.com/agecymru](http://www.youtube.com/agecymru)**

Contact us if you would like:

- To order copies of any factsheets or information guides.
- Further advice if you cannot find the information you need in this factsheet.
- Details of your nearest local Age Cymru organisation.

## Disclaimer and copyright information

This factsheet is not a comprehensive statement of the law in this subject. Age Cymru cannot give individual legal or financial advice and some rules may have changed since the publication of this factsheet. Please note that the inclusion of named agencies, companies, products, services or publications in this factsheet does not constitute a recommendation or endorsement by Age Cymru. Whilst every effort is made to ensure accuracy, Age Cymru cannot be held responsible for errors or omissions.

© Age Cymru 2020. All rights reserved. This factsheet may be reproduced in whole or in part in unaltered form by local Age Cymru organisations with due acknowledgement to Age Cymru. No other reproduction in any form is permitted without written permission from Age Cymru.

Age Cymru is a registered charity 1128436 and a company limited by guarantee 6837284.

Age Cymru  
Ground Floor, Mariners House  
Unit A, Trident Court  
East Moors Road  
Cardiff  
CF24 5TD