

Factsheet 46w ● April 2018

Paying for care and support at home in Wales



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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.*

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 2 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 2.1 below.

1.2 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 services¹;
- 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.

¹ 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.

1.3 **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 3.2 below for further details on the CoP guidance which is most relevant to the subject covered in this factsheet.

2 **How to access local authority services – an introduction**

2.1 **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

Contact details for your local authority should be available in your local telephone directory; local council offices; or a local Age Cymru or Citizens Advice Bureau should be able to provide them. If you have internet access, a list of all the local authorities in Wales, together with links to their individual contact details, can be found on the Welsh Government's website at: www.gov.wales/topics/localgovernment/unitary-authorities

Note: If you have had a hospital stay

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. 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 10.2 below.

2.2 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 10 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.

2.3 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.

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.

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

3.1 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”². 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.

² Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 3 – April 2018)

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).

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, 5, 6 and 7 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 10 below.

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

3.2 Welsh Government guidance – Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment) (version 3 – April 2018)

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

A copy can be accessed on the Social Care Wales website at:

www.socialcare.wales/hub/sswbact-codes

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

Note: The website link above also contains other Code of Practice documents that may be relevant, such as *Part 3 (Assessing the needs of individuals)* and *part 4 (Meeting needs)*.

3.3 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”**³.

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, £60 per week for it, if the service only actually cost them £40 to provide (either by organising it directly, or commissioning another organisation to provide it on their behalf).

3.4 A maximum weekly charge

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

Since 9 April 2018, the maximum charge has been £80 per week. It may change again in April 2019.

See section 4 below for further information on the maximum charge.

3.5 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, 6 and 7 below for a more detailed description of the means test and how the minimum income is calculated.

³ Ibid

4 Calculating a charge – including the effect of the Welsh Government’s maximum £80 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 £80 per week, *plus* also be receiving a low level, low cost service at the same time – see section 4.3 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 7 below).

4.1 The £80 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 £40 per week to provide or arrange, then the maximum charge which could be levied for these would be £40. The person’s means test would then determine whether they would pay this full amount, or something less.

4.2 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”⁴ – 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 £80 per week. If so, then the authority can only charge £80 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 £80.

On the other hand, should the total cost of the service be under £80, 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 5, 6 and 7 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.

4.3 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 £80 per week in total, once the costs of the flat rate charged services were added to the other charge (which would have to be £80 or less per week to comply with the maximum cost guidelines).

⁴ 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”⁵.

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 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 individual⁶.

5 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:

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

⁵ Ibid

⁶ Ibid

5.1 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 3)* – 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 7 below.

Income taken into account in the means test “**must** be net of any tax or National Insurance contributions”⁷.

See section 5.2 below for information on income that will not be taken into account in the means test.

Income received as one of a couple

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

⁷ Ibid

- “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 7 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**”⁸ (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.

⁸ Ibid

5.2 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 3 – April 2018)*

5.3 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 11.4 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.

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

6.1 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 2019).

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)⁹.

Note: For further information on the types of capital that would, or would not, be included in the financial means test, see sections 6.2 – 6.4 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 7 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 4 above, this wouldn't *necessarily* be the maximum weekly charge of £80. 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** £80 per week (so, say the service concerned costs the local authority £50 per week to provide or arrange, because you have over the capital limit, they can require you to pay £50 per week – the full cost of the service¹⁰); *or*

⁹ Ibid

¹⁰ As discussed in section 4 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 £80 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 £90 per week to provide, then they can charge you the maximum weekly cost set down in Welsh Government regulations – i.e. currently £80 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 £50 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, £20 per week towards the total cost, or £25, £32 etc (i.e. whatever the means test determines they can afford to pay, whilst still having sufficient income to live on – see section 7 below).

6.2 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 list¹¹):

- 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”¹².

See section 6.4 below for information on capital that will not be taken into account in the means test.

¹¹ 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 3 – April 2018) – if further information is required

¹² Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 3 – April 2018)

6.3 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 resources¹³.

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”¹⁴, 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”¹⁵. If the person refuses to provide relevant evidence, an authority may consider that it is not satisfied that the service user has 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 couple¹⁶. For example, this might be appropriate where the assessed charge for an individual service user could have an adverse affect on a couple.

¹³ 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

¹⁴ Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 3 – April 2018)

¹⁵ Ibid

¹⁶ Ibid

6.4 Disregarded capital

Some capital is disregarded (ignored) for the purposes of the financial means test. Capital that is disregarded includes¹⁷:

- As touched upon in sections 6.1 and 6.2 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 disregarded¹⁸.
- 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”¹⁹ – also see section 8.6 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)²⁰.
- Any Social Fund payments.
- Compensation paid to Far East Prisoners of War on or after 1 February 2001.
- Payments made to those who caught hepatitis C as a result of contaminated NHS blood products.

¹⁷ 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 3 – April 2018)

¹⁸ Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 3 – April 2018)

¹⁹ Ibid

²⁰ 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.

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

7.1 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)**”²¹.

Essentially it 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 7.2 below for some example calculations of how someone’s MIA is calculated.

²¹ Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 3 – April 2018)

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”²².

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 required, 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;

²² Ibid

- 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
- “internet access, for example [for] those with a visual impairment to aid their communication”²³.

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 8.5 below.

7.2 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 5.3 above.

Example 1

You are single and have a State pension of £125.95 per week, plus occupational pension of £131.50 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 7.1 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%²⁴.

²³ This is not an exhaustive list – see the Code of Practice for full details. 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. For example, 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 3 – April 2018)

The services you receive cost £55 per week in total to provide.

- **Stage 1:**

The basic level of PCGC is **£163.00** for a single person. A calculation of 35% of this figure (for the 'buffer') will give you **£57.05**.

- **Stage 2:**

Again, take the basic entitlement income – i.e. the PCGC of £163.00. A calculation of 10% of this figure (for the disability related expenditure) will give you **£16.30**.

- **Stage 3:**

To then obtain the total protected income add together the figures calculated above – $£57.05 + £16.30 = £73.35$ – then add this to the basic entitlement of the PCGC. So, **£163.00 + £73.35** gives a total protected income of **£236.35 per week**.

- **Result** – *In this example, the service user – once they have paid any care charges – should be left with at least £236.35 per week.*

As their total income, outlined above, is £257.45 per week, they could be expected to contribute £21.10 per week towards the total cost of their services (i.e. £257.45 minus the protected income of £236.35). 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:

i.e. the basic level of PCGC is £163.00 per week. $45\% \text{ of } £163.00 = £73.35$.

Add £73.35 onto £163.00 which gives you the £236.35 per week of protected income.

²⁴ 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.

Example 2

You are single and have a State pension of £136.00 per week, plus occupational pension of £107.09 per week to be included in the means test calculation (thus a total weekly income is **£243.09**).

You do not receive Pension Credit Guarantee Credit (PCGC), as your income is too high. However, based on your age and circumstances – see section 7.1 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 £45 per week to provide.

● **Stage 1:**

The basic level of PCGC is **£163.00**. A calculation of 35% of this figure (for the 'buffer') will give you **£57.05**.

● **Stage 2:**

Again, take the basic entitlement income – i.e. the PCGC of £163.00. A calculation of 18% (for the disability related expenditure) will give you **£29.34**.

● **Stage 3:**

To then obtain the total protected income add together the figures calculated above – $£57.05 + £29.34 = £86.39$ – then add this to the basic entitlement of the PCGC. So, **£163.00 + £86.39** gives a total protected income of **£249.39 per week**.

- **Result** – *In this example, the service user – once they have paid any care charges – should be left with at least £249.39 per week.*

As their total income, outlined above, is £243.09 per week, they should not be expected to contribute towards the cost of their services (i.e. total income of the service user does not exceed their protected income level in the means test calculation). Therefore the local authority should meet the full cost of organising the service provision (£45 per week).

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 £642.30 per week. As per section 5.1 above, the local authority assesses the service user as having 50% of this income - **£321.15 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 £95 per week to provide.

● **Stages 1, 2 & 3:**

As with the previous examples, the basic level of PCGC is **£163.00**. A calculation of 35% of this figure (for the 'buffer') will give you **£57.05**.

Then a further 10% (for the disability related expenditure) will give you **£16.30**.

Again, as above, to obtain the total protected income add together the figures calculated above – $£57.05 + £16.30 = £73.35$ – then add this to the basic entitlement of the PCGC. So, **£163.00 + £73.35** gives a total protected income of **£236.35 per week.**

- **Result** – *In this example, the service user – once they have paid any care charges – should be left with at least £236.35 per week.*

As their total income is £321.15 per week, they may be expected to pay the maximum weekly charge of £80 per week by the local authority (i.e. £321.15 minus the protected income of £236.35 = £84.80).

As stated above, the services cost £95 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.

8 Other issues in regard to charging

8.1 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 £80 a week).

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

8.2 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”²⁵.

²⁵ Social Services and Well-being (Wales) Act 2014 – Part 4 and 5 Code of Practice (Charging and Financial Assessment), January 2016, Welsh Government (version 3 – April 2018)

8.3 Charges for respite care

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

Where a local authority arranges a period of respite care, the Welsh Government's guidance instructs that – should the authority choose to charge for this provision – it must apply the means test for determining the person's contribution towards the cost **“as if the person were receiving non-residential care and support”**²⁶.

In other words, the authority must 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.

After eight consecutive weeks of respite care in a care home, “a local authority will need to consider whether to continue to charge on this basis [i.e. as if it was non-residential care] or whether to commence charging as if the person were receiving residential care”²⁷ – see Age Cymru's Factsheet 10w *Paying for a permanent care home placement in Wales* for further information.

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 – see Age Cymru's Factsheet 58w *Paying for temporary care in a care home in Wales* for further information.

8.4 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.

²⁶ Ibid

²⁷ Ibid

The authority “**must** ensure” that the statement “is provided in a format to meet the communication needs of the person”²⁸.

8.5 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 out²⁹.

“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”³⁰.

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 justified³¹.

²⁸ Ibid

²⁹ 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 3 – April 2018)

³⁰ Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment), Welsh Government (version 3 – April 2018)

³¹ Ibid

8.6 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”³².

³² 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)³³. 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 £80 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 transfer³⁴.

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”³⁵.

³³ Ibid

³⁴ 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 3 – April 2018)

³⁵ *Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment)*, Welsh Government (version 3 – April 2018)

9 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.

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.*

10 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:

10.1 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"³⁶.

³⁶ Ibid

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.

10.2 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 to readjust to living at home following a hospital stay and/or prevent unnecessary hospital admissions.

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”³⁷.

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”³⁸.

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

10.3 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*.

10.4 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:

³⁷ Ibid

³⁸ WHC (2002) 128 / NAFWC 43/02 - Welsh Health Circular and National Assembly for Wales Circular: Intermediate Care Guidance, December 2002, Welsh Government

- healthcare, which is **free**; rather than
- social care, which is **means tested**³⁹.

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.

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*.

³⁹ 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 between a healthcare and a social care need 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)”.

10.5 Mental health ‘after-care’ services

If you receive after-care services under section 117 of the *Mental Health Act 1983*, following a period of detention and treatment in hospital under certain other sections of the Act, you cannot be charged for these services. Section 117 places a joint duty on health and social services authorities to provide these after-care services.

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

11.1 Attendance Allowance (AA)

This benefit is for people aged 65 or over 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. For further information see Age UK’s Factsheet 34 *Attendance Allowance*.

11.2 Disability Living Allowance (DLA)/Personal Independence Payment (PIP)

These benefits are for people who are disabled and make a claim before their 65th birthday.

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.

11.3 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*.

11.4 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' – £163.00 per week for a single person and £248.80 for a couple – and, in some circumstances, other '*additional amounts*'⁴⁰.

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.

11.5 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.

⁴⁰ 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)

11.6 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.

12 ‘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 hospitalisation or the “need to move to more dependent forms of accommodation”⁴¹.

The programme is provided under housing legislation and therefore does not provide personal care, but rather “complementary support for people who may **also** need personal or medical care” (emphasis added)⁴².

According to the Welsh Government, the scheme currently supports “more than 57,000 people each year to live as independently as they can” and of these “37,000 are older people”⁴³.

The services provided may include:

- visiting support to help you remain at home;
- the provision of a warden in a sheltered housing complex; or
- other community care services (but not personal care) provided by the local authority.

Charging for Supporting People services

The Welsh Government’s charging guidance for social care services, referred to throughout this factsheet – *Social Services and Well-being (Wales) Act 2014: Part 4 and 5 Code of Practice (Charging and Financial Assessment)* (version 3 – April 2018) – does not mention, or apply, to the Supporting People Programme.

⁴¹ Supporting People Programme Grant (SPPG) Guidance, Welsh Government, June 2013

⁴² Ibid

⁴³ ‘Supporting People programme’ (13 October 2017), Welsh Government website: www.wales.gov.uk/topics/housing-and-regeneration/services-and-support/supporting-people (last accessed 10 May 2017)

Under Supporting People guidance issued some years ago by the Welsh Government, local authorities were advised that they could impose charges for the provision of housing-related support services, though anyone receiving Housing Benefit should qualify for a Supporting People grant to cover the charges in **full** (and thus any services provided to them through the Supporting People programme would be free).

However, it is currently unclear whether this still applies, or how people who don't qualify for any Housing Benefit will be charged. Queries in regard to the Supporting People Programme can be directed to the Welsh Government (contact details can be found in section 16 below).

13 **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:

- 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”⁴⁴.

⁴⁴ Social Services and Well-being (Wales) Act 2014: Part 4 Code of Practice (Meeting Needs), Welsh Government

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")⁴⁵.

14 Complaints about social care assessments or services

If you are not satisfied with any aspect of the service that you receive from a local authority social services department you could make a complaint. For example, this could be in regard to:

- the financial means test assessment for paying for care;
- the care needs assessment;
- standards of care; or
- delays in service provision.

Note: The Welsh Government has published the following complaints guidance in regard to services provided by or arranged by a local authority social services department:

A guide to handling complaints and representations by local authority social services (August 2014).

A copy can be accessed at:

www.wales.gov.uk/topics/health/socialcare/complaints

The complaints procedure has two stages:

- **Stage One** will involve an attempt at '*Local Resolution*' with the same local authority that made the original decision.

⁴⁵ Ibid

- **Stage Two** would be a *'Formal Investigation'*⁴⁶. At the formal stage of the complaints process, an 'Independent Investigator' must be appointed. This is defined as "a person who is neither a member nor officer of the local authority to which complaints have been made, or the spouse or civil partner of such a person". They may be an employee of a different local authority...or an "independent expert in the matter being investigated"⁴⁷.

The Public Services Ombudsman for Wales

If you have used the two stage local authority complaints procedure, but remain unsatisfied with the outcome and/or handling of your complaint, you can escalate your case to the Ombudsman.

You should give the local authority a reasonable opportunity to investigate and respond to your complaint before approaching the Ombudsman, although this doesn't necessarily mean that you have to have exhausted the authority's complaints procedure⁴⁸. The Ombudsman is impartial and independent from all government bodies. Contact details can be found in section 16.

14.1 Continuation of services during a dispute

If you have already been receiving a service/s from your local authority, but they are proposing a change in regard to your care plan, placement, or services "the authority may need to **defer or freeze the decision** until the complaint is resolved" (emphasis added).

Local authorities "should always consider deferring a decision that will have a significant effect on the life of a service user until the complaint...has been resolved, taking into account the welfare and safety of the person concerned".

⁴⁶ The complaints guidance advises that: "The Formal Investigation stage may commence if the seriousness of the complaint means that it is inappropriate to deal with [it] at Local Resolution Stage, or the complainant remains dissatisfied at the end of the Local Resolution Stage".

⁴⁷ A guide to handling complaints and representations by local authority social services, Welsh Government, August 2014

⁴⁸ For example, if the case seemed particularly serious, or the authority was not carrying out an investigation in compliance with the two stage process outlined above, you might consider approaching the Ombudsman sooner.

“The decision to defer should follow a careful assessment of the needs of the individual, including the different risks that might flow from deferring or not deferring”⁴⁹.

15 Human rights and equalities

The age element of the *Equality Act 2010* became legally enforceable in health and social care in October 2012. Under the Act, it is unlawful to discriminate against someone in the provision of goods and services unless a practice is covered by an exception from the ban, or good reason can be shown for the differential treatment.

This is known as ‘**objective justification**’.

There are **no** specific exceptions to the ban on age discrimination for health or social care services. This means that any age-based or related discriminatory practices by social care organisations or the NHS must now be able to be objectively justified to ensure their legality. Other equality areas such as disability are also included within the Act.

An advice service, called the *Equality Advisory and Support Service*, can be contacted for further information on these issues – see section 16 for contact details.

16 Useful organisations

Age Cymru organisations (local)

Your local Age Cymru may be able to provide advice and support on issues around care assessments and provision of services. They may also operate an advocacy service.

- Telephone Age Cymru Advice on **08000 223 444**;
- E-mail: **advice@agecymru.org.uk**; or
- visit the Age Cymru website: **www.agecymru.org.uk**

⁴⁹ A guide to handling complaints and representations by local authority social services, Welsh Government, August 2014

Care Inspectorate Wales (CIW)

CIW inspects and regulates care and social services in Wales.

Tel: 0300 7900 126

E-mail: ciw@gov.wales

Website: www.careinspectorate.wales

Carers UK

A national charity providing information, advice and practical and emotional support for carers.

Advice Line: 0808 808 7777

Carers Wales: 029 20 811370

Website: www.carerswales.org

Citizens Advice Bureaus (CABs)

National network of free advice centres offering confidential and independent advice, face to face or by telephone.

Tel: 03444 77 20 20

Details of your nearest CAB can be found at: www.citizensadvice.org.uk

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

Website: www.eac.org.uk

Equality Advisory and Support Service

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

Tel: 0808 800 0082

Website: www.equalityadvisoryservice.com

Older People's Commissioner for Wales

Independent champion for older people across Wales.

Tel: 03442 640670

E-mail: ask@olderpeoplewales.com

Website: 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 the NHS or local authority social services department.

Tel: 0300 790 0203

Website: www.ombudsman-wales.org.uk

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

Welsh Government

The devolved government for Wales.

Tel: 0300 060 4400

E-mail: customerhelp@gov.wales

Website: www.wales.gov.uk

17 Further information about Age Cymru

Age Cymru is the leading charity for all 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, we fight discrimination wherever we find it and we tackle elder abuse in all its forms.

Together with our local Age Cymru partners we provide vital services in communities across Wales.

The Age UK family

Along with Age UK, Age Scotland and Age NI, Age Cymru is a member of the Age UK family.

Age UK (Age UK Advice: 0800 169 65 65; website: www.ageuk.org.uk)

Age NI (Age NI Advice: 0808 808 7575; website: www.ageni.org)

Age Scotland (Tel: 0845 833 0200; website: www.agescotland.org.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

Website: www.agecymru.org.uk



www.facebook.com/agecymru



www.twitter.com/agecymru



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.

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Can you help Age Cymru?

Please complete this donation form with a gift of whatever you can afford and return to: Age Cymru, FREEPOST RLTL-KJTR-BYTT, 13/14 Neptune Court, Vanguard Way, Cardiff CF24 5PJ. Alternatively, you can phone 029 2043 1555 Monday to Friday 9am – 5pm or visit www.agecymru.org.uk/donate. Thank you.

Personal details

Title:	Initials:	Surname:
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Address:
Postcode:

Tel:	Email:
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Your gift

I would like to make a gift of: £

I enclose a cheque/postal order made payable to Age Cymru

Card payment

I wish to pay by (please tick) MasterCard Visa CAF CharityCard

Maestro American Express

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Expiry date / Issue no. (Maestro only)

Gift aid declaration

(please tick) Yes, I want Age Cymru to treat all donations I have made for the four years prior to this year, and all donations I make from the date of this declaration until I notify you otherwise, as Gift Aid donations. I confirm I pay an amount of income tax/capital gains tax to cover the amount that all charities and Community Amateur Sports Clubs will reclaim on my donations in the tax year. Date: ___/___/___
I understand that other taxes such as VAT and Council Tax do not qualify.



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