



THE VALE OF GLAMORGAN COUNCIL

**CHARGING FOR CARE AND SUPPORT
SERVICES**

under the

**SOCIAL SERVICES AND WELLBEING (WALES)
ACT 2014**

01st April 2022

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LEGISLATIVE BACKGROUND

Introduction

- 1.1 The Social Services and Well-being (Wales) Act 2014 ('SSWWA 2014') came into force on 6 April 2016. It provides the statutory framework to deliver the Welsh Government's commitment to focus on well-being, rights and responsibilities. It brings together local authorities' duties and functions in relation to improving the well-being of adults who need care and support, and adult carers who need support, into a single piece of legislation.
- 1.2 The Act provides for a single legal framework for charging adults for care and support or, in the case of a carer, charging for support. However, there remain some differences between charging for care in a care home and charging for care at home/in the community. Where there are differences, they are set out in this Charging Policy.
- 1.3 This Charging Policy applies to all financial assessments carried out on or after 1st April 2017, regardless of the type of care provided or where it is received.

Regulations and Code

- 1.4 SSWWA 2014 (s61) provides for regulations to set out in greater detail how the charging arrangements are to operate after 6 April 2016. The Authority must follow the regulations when undertaking financial assessments and determining any charges (Guidance para 5.1) and when exercising its other functions in relating to charging. In the event of any dispute about any part of this Charging Policy, the content of the charging regulations and the Guidance takes precedence. The relevant 'Charging Regulations' are: -
 - a. The Care and Support (Financial Assessment) (Wales) Regulations 2015;
 - b. The Care and Support (Charging) (Wales) Regulations 2015;
 - c. The Care and Support (Choice of Accommodation) (Wales) Regulations 2015;
 - d. The Care and Support (Deferred Payment) (Wales) Regulations 2015;
 - e. The Care and Support (Review of Charging Decisions and Determinations) Wales Regulations 2015.
- 1.5 A link to all the Regulations is available here: [The Care and Support \(Assessment\) \(Wales\) Regulations 2015 \(legislation.gov.uk\)](https://legislation.gov.uk/uksi/2015/1457)
- 1.6 In addition, a Code of Practice (Part 4/5 Charging and Financial Assessment) ('the Guidance') has been issued under s145 SSWWA 2014, which came into force on 6 April 2016. Local authorities, when carrying out

their social services functions, must act under the Guidance and there are references in this Charging Policy to the Guidance and the relevant annexes. A requirement in the Guidance is expressed as 'must' or 'must not', whilst, where a local authority has discretion, it is expressed as 'may' or 'should/should not' (see the Guidance paras 1.3 and 1.4 1).

1.7 A link to the Code of Practice is available from:

[Codes of Practice and guidance | Social Care Wales](#)

KEY PRINCIPLES OF THE CHARGING POLICY

- 2.1** The overarching principle of the Act is that people who are asked to pay a charge must only be required to pay what they can afford (Guidance para 3.4). Local authorities may now exercise their discretion as to whether to charge for care in a care home, for carers and for domiciliary care (Guidance para 3.1). The Authority will continue to charge where a person receives care in a care home and also where the person receives care at home.
- 2.2** The principles which underpin the charging and financial assessment framework are set out in the Guidance (para 3.4), which are set out below. The Authority must therefore: -
- a. ensure that people are not charged more than it is reasonably practicable for them to pay;
 - b. not charge people more than the cost to the authority of providing or arranging the care and support they are receiving (or which they are to obtain themselves through direct payments);
 - c. be consistent, to remove variation in the way people are financially assessed;
 - d. be clear and transparent, so people know what they will be charged;
 - e. promote well-being outcomes, social inclusion and support the vision of independence, voice and control;
 - f. support carers to look after their own health and well-being, and to care effectively and safely;
 - g. be person-focused, reflecting the variety of care and caring situations and the variety of options available to help meet people's needs and well-being outcomes;
 - h. apply charging equally so those with similar needs for care and support are treated the same and minimise anomalies between charging for different types of care and support;
 - i. encourage and enable those who wish to stay in or take up employment, education or training, or plan for the future costs of meeting their needs, to do so;
 - j. be sustainable for local authorities in the long-term.

People who lack capacity

- 2.3** Where a person lacks capacity, they may still be assessed as being able to contribute towards the cost of their care and support. Where possible, the Authority will work with someone who has the legal authority to make financial decisions on behalf of the person who lacks capacity. If there is no such person, then the Authority may approach the Court of Protection (Guidance para 5.5).

Welfare Benefits

- 2.4** A person who is subject to a financial assessment will be offered advice about their potential entitlement to welfare benefits. Where necessary, this assistance may also include help with completion of benefit claims and follow up action, where the person wishes. This advice will usually be provided by the Authority's Finance and Benefits Assessors as part of the financial assessment process. Where possible, the person may be signposted to relevant organisations or agencies for independent assistance, should they prefer (Guidance para 5.8).

Annual Review of Financial Assessments

- 2.5** A person who has received a financial assessment will be reassessed on an annual basis to take into account any changes to income or capital.
- 2.6** A financial reassessment will be undertaken to take into account any additional benefits awarded as a result of any welfare benefits advice provided to the person as part of the financial assessment process. Where additional welfare benefits have been awarded, the charge will be recalculated. Where an existing assessment is re-calculated, resulting in a change in the amount of the charge, the person will be provided with a statement of any revised charge.
- 2.7** If a person's financial circumstances change, they should inform the Council so that a reassessment can be undertaken.

SCOPE OF THE CHARGING POLICY

Where a charge will be made

- 3.1** This Charging Policy applies to those adults (ie persons aged 18 years and over) who receive care and support provided and/or arranged by the Authority to meet a person's eligible needs (see the Guidance para 5.1), whether that care and support is: -
- a. in a care home, or
 - b. in the community; and/or
 - c. provided by means of direct payments.
- 3.2** The SSWWA 2014, together with the accompanying regulations and Guidance, prohibits the Authority from charging a child for the care and support he/she provided under Part 4 SSWWA 2014 (Meeting Needs). The Authority is also prohibited from charging the parents/guardian of a child receiving such care and support. Where the child is a carer in their own right, no charge is to be made for any support provided to them (under Part 4 SSWWA 2014) (Guidance para 5.6).
- 3.3** Where a person wishes to enter into a private agreement to pay for care and support in addition to that provided or arranged by the Authority, this Charging Policy does not apply to the charging of, and paying for, any such private care. Nothing in the SSWWA 2014, the regulations nor the Guidance stops a person from entering into such private arrangements, where they choose to do so (Guidance para 3.6).
- 3.4** After the financial assessment process has been concluded, a person may be liable to pay a charge towards their costs. Where charges are to be paid, the person's liability to pay for their care and support starts on the date on which they first receive it, whether in the community, in a care home or by means of direct payments. However, charges may only be collected by the Authority after the date a statement of the charge is provided to the service user (Guidance para 5.22).

Persons who may not be charged for their care and support services

- 3.5** There are some categories of persons whom Authority will not charge as the type of care and support must be arranged free of charge (Guidance para 5.12). This is where the person receiving care and support services: -
- a. is suffering from any form of Creutzfeldt-Jakob Disease (the disease must have been diagnosed by a registered medical professional);
 - b. is eligible to receive their care and support as a package of aftercare services in accordance with Section 117 of the Mental Health Act 1983;

Services provided without charge

- 3.6** There are some services for which the Authority may not charge, as follows:-
- a. Care and support provided as where it is provided to a person as 'reablement', for a period of up to six weeks (or longer, as agreed) to enable them to maintain or regain their ability to live independently at home. This applies where the reablement is arranged under Act (under Part 2 (General functions); Part 4 (Meeting needs) or by means of direct payments under sections 50 or 52 (Direct Payments)) (see Guidance para 5.12). Where the period of reablement comes to an end, and the person continues to receive care and support services in the community, the usual charging provisions will apply. Where a person had on-going care and support in the community prior to them receiving reablement services, it is only the additional reablement package of care that is non-chargeable for up to six weeks, after which usual charging practices for the entire package will apply;
 - b. Transport to a day service where it is provided by the Authority as part of meeting a person's eligible needs (para 5.12);
 - c. Independent professional advocacy service provided by the Authority in accordance with Part 10 (Complaints, Representatives and Advocacy Services) of the Act (i.e. where a person can only overcome the barrier(s) to participate fully in the assessment, care and support planning, review and safeguarding processes with assistance from an appropriate individual and no such individual was available) (para 5.12);
 - d. The provision of information and advice (under Part 2 SSWWA 2014) to service users, or prospective service users, about the range of and availability of services provided (para 5.12);

- e. The assessment of care needs; carrying out a financial assessment; care planning; care plans; the provision of a statements about a charge for a service; undertaking a review of a charging decision or charge itself are services for which no charge is to be made by the Authority, as such processes do not constitute the provision of care and support (para 5.12);
- f. Carers will not be charged for support services provided to them as a carer. It is noted that, where a service is provided to meet the care and support needs of the person for whom the carer provides care (eg for respite), this is a service to the person being care for and not a service to the carer. For charging purposes, it therefore would be form part of any charge for care and support provided to the person, rather than the carer.

FINANCIAL ASSESSMENT PROCESS

No requirement for a financial assessment

- 4.1** The Authority is not under a duty to carry out a financial assessment in the following circumstances (para 5.18): -
 - a. The person is receiving care and support for which no charge can be made (see 3.4 & 3.5 above);
 - b. The person declines to undergo a financial assessment;
 - c. Where the care and support service provided (including preventative services and assistance) is subject to a flat rate charge (see paras 5.10, 5.11, 5.12, 5.13 & 5.14 below);
 - d. The person declines to provide (in part or at all) the information and/or documents within 15 working days (or other agreed extension of time) which the Authority reasonably requires to undertake the financial assessment.
- 4.2** Where the person has not provided the information/documents requested, the Authority may decide that it has sufficient information to determine the charge, on the basis of the information/documents available. For example, where it is established that the person has savings or owns property, the value of which are in excess of the capital limit, the Authority may be satisfied that the person is able to afford the amount of the charge in respect of their care and support (Guidance paras 5.18 & 5.19).

Information to be provided by the Authority before the financial assessment

- 4.3** In all circumstances, other than those set out in paras 4.1 and 4.2 above, the Authority must carry out a financial assessment and determine what the person can afford to reasonably pay.
- 4.4** Before a financial assessment is carried out, the Authority will provide the following information (Guidance para 5.14 and the Financial Assessment Regulations Reg 3): -
- a. details of care and support being offered or provided to the person which may be charged, including care and support for which direct payments are being considered or made;
 - b. details of the Charging Policy for the provision of care and support, which identifies those elements of the care and support subject to a charge; the standard charge which may be imposed; any flat rate charges and the amount of the maximum weekly charge, where that charge is lower than the standard charge;
 - c. details of the financial assessment process, including the current capital limits (£50,000 for Residential & Nursing Care and £24,000 for Non Residential Care for the 2022/23 financial year);
 - d. details of the information and documents that a person needs to provide for the financial assessment, which will include details of their income, assets and outgoings, to enable a financial assessment to be undertaken;
 - e. the timescales for, and the consequences of not providing the information within the required timescales for the purposes of the financial assessment and/or of refusing to allow the Authority to carry out a financial assessment;
 - f. information about the written statement to be provided by the Authority on completion of the financial assessment process, about the person's ability to pay a charge;
 - g. details of any home visiting facilities, with contact details for a Finance Officer within the Authority who is able to provide further information, if required;
 - h. information about the person's right to appoint a third party to assist, or to act on their behalf, in respect of the financial assessment process;
 - i. the contact details of those offices within the Authority who may be contacted if the person requires more information.

THE CHARGING PROCEDURE

Where the care and support is provided in the person's home

- 5.1** The charge will be determined during the financial assessment process, in accordance with regulations about the treatment of capital and income where the person's care is provided in the community. Further information about the treatment of capital and income is set out in this Charging Policy at paras 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10 & 6.11 below.
- 5.2** Where the Authority decides that a person's financial circumstances are sufficient for them to pay towards their care and support, we will calculate the standard charge for the care and support provided to the person (see Appendix 1). Where the standard charge is higher than the maximum charge (£100 per week for the 2022/23 year), the person will be charged only the maximum charge.
- 5.3** Once the financial assessment process is complete, a written statement of the charge is sent to the person, who will be liable to pay for their care and support from the date that it was first provided. However, payment is not required to be made until after the date on which the statement is sent to the person.

Where the care and support is provided in a care home

- 5.4** We will calculate the standard charge for the care and support provided to the person where their care is provided to a person in a care home. The amount of the standard charge varies depending on the type of the care being provided, with the rates being adjusted every year (usually every April).
- 5.5** The amount of the weekly charge will be determined by the financial assessment process, in accordance with regulations on capital limit and the Minimum Income Amount (MIA). Further information is set out in this Charging Policy at paras 8.1, 8.2, 8.3, 8.4, 8.5, 8.6 & 8.7 below.
- 5.6** Once the financial assessment is complete, a written statement of the charge is sent to the person and payment will not be required until after the date on which the statement is sent to the person. However, once the statement is sent, the person is liable to pay for the care and support from the date it was funded by the Authority (i.e. usually from the date the person moved into the care home).

Review of Charging Decisions

- 5.7** The Regulations and the Guidance Annex E provide a process to enable the person to review the charge being made for their care and support. It also applies to those third parties from whom the Authority is seeking to recover assets/income which the Authority believes has been transferred to them to avoid charges.
- 5.8** Further information about the Charging Review procedures is available at Appendix 4 in this Charging Policy.
- 5.9** Where a person asks that their charge for care and support be reviewed, the services will continue to be provided to them by the Authority. However, the person remains liable for the charges, which will continue to accrue until the review decision is made.

Flat rate charges

- 5.10** The Authority may make a flat rate charge for the following services (Guidance para 6.1):-
- a. care and support provided under Part 4 SSWWA 2014 (meeting needs);
 - b. Preventative services (s15 SSWWA 2014);
 - c. Assistance services (s17 SSWWA 2014).
- 5.11** Such charges are made for low-level, low-cost care and support, typically for care and support which substitutes for ordinary living. The flat rate charge must not charge exceed the cost incurred in arranging or providing for the service.
- 5.12** Where the Authority makes a flat rate charge for a service, the Authority is not under any duty to undertake a financial assessment: it would usually be disproportionate to do so for what is usually a modest charge. However, where a person is paying a number of flat rate charges, the Authority will offer the person a financial assessment where there is reason to believe that the accumulative effect of the flat rate charges is, or may be, unaffordable for the person (Guidance para 6.4).
- 5.13** Where a person pays the maximum weekly charge for their other care and support services, any flat rate charges are to be paid by the person in addition to the maximum weekly charge (currently £100.00 per week) (Guidance para 7.2).

- 5.14** Where the Authority carries out a financial assessment, the amount paid by the person in flat rate charges for services set out in para 5.10 above is taken into account when calculating the Minimum Income Amount (see para 8.1 below).

ASSESSMENT OF CAPITAL

- 6.1** Capital is considered to be the financial resources held by a person which are available for their use. Capital resources are usually considered to be more durable than income, as they usually generate a return (eg savings, investments and property).
- 6.2** A person's capital will be calculated in accordance with Part 4 (Treatment and calculation of capital) and Schedule 2 (Capital to be disregarded) of the Care and Support (Financial Assessment) (Wales) Regulations 2015 and the following principles apply:-
- a. A person will not be charged twice on the same resources, which will be treated as income or capital, but not both (Guidance Appendix A para 2.5).
 - b. Only the capital of the person being assessed can be taken into account in the financial assessment of what they can afford to pay (Guidance para 5.3).
 - c. Where the person holds capital as one of couple, the starting presumption is that each person has an equal share of that capital. The capital of a couple can be assessed but only where this is financially more advantageous to the person being assessed (Guidance para 5.3).
 - d. The value of a capital asset will be assessed in order to take it into account in the financial assessment. Other than National Savings Certificates, valuation will be the current market or surrender value minus:
 - I. 10% of the value if there will be any actual expenses connected with sale involved in selling the asset; and
 - II. Any outstanding debts secured on the asset.

Capital Limit

- 6.3** The capital limit is the total assessed value of a person's capital assets; it is the point at which a person is entitled to means-tested financial support from

the Authority to meet their eligible care and support needs (Guidance para 5.9).

- 6.4** Any capital below the capital limit will be disregarded in the financial assessment. In such circumstances, a person must not be required to contribute to the cost of their care and support from their capital assets (Guidance para 5.10).
- 6.5** Where the person's capital is at or above the capital limit in force, the person will be:-
- a. liable to meet the full cost of their care and support in a care home;
 - b. required to pay the maximum charge, contribution, or reimbursement applicable if they receive care and support in their own home or in the community, where the weekly cost of their care and support is at or above the level of the weekly maximum charge.

Where the Authority arranges a person's care

- 6.6** A person with capital at or above the capital limit can ask the Authority to arrange their care and support to meet their eligible care and support needs, if they choose. However, people in this position will be required to pay the full cost of their care and support in a care home, or the full cost up to the weekly maximum charge in relation to care and support in the community, until such time as the value of their capital is at or below the level of the capital limit (Guidance para 5.11).

Capital to be disregarded

- 6.7** Some types of capital are not included in the assessment of a person's capital i.e. they are 'disregarded' (see Guidance para 2.28). These may include personal possessions; personal injury payments; annuities; life assurance policies and certain types of investment bonds.
- 6.8** Where a person receives care and support from the Authority, and they are uncertain about how their capital is to be treated in any financial assessment, they should seek advice from the Authority's Community Care Finance Team and/or agree to a full financial assessment, which will enable the Authority to reach a proper decision.

Property as a capital asset

6.9 The value of a person's main or only home will be disregarded in a financial assessment where:-

- a. The person is receiving non-residential care and support in the community;
- b. The person is receiving care and support in a care home on a temporary basis.

6.10 The person is receiving care and support in a care home but their **main or only** home is occupied by any of the following people, provide it is occupied by them as their **main or only** home AND the property has been continuously occupied by them since before the person went into a care home (Guidance para 3.1):-

- a. the person's partner, former partner or civil partner except where they are estranged or divorced;
- b. a lone parent with a dependent child who is the person's estranged or divorced partner;
- c. certain relatives (defined in the Guidance para 3.2) of the person or member of the person's family (defined in the Guidance para 3.3) who is:
 - I. aged 60 or over; or
 - II. is a child of the person aged under 18;
 - III. is incapacitated.

Notional capital

6.11 In some circumstances, a person will be treated as possessing capital where they do not possess it. This is called 'notional capital', for example, where it would be available to a person if they applied for it or capital the person has deprived themselves of in order to reduce the amount of a charge. A person who has been assessed as having 'notional capital' will have the value of this reduced over time.

ASSESSMENT OF INCOME

- 7.1** A person's income will be calculated on a weekly basis in accordance with Part 3 (Treatment and calculation of income) and Schedule 1 (Sums to be disregarded in the calculation of income) of the Care and Support (Financial Assessment) (Wales) Regulations 2015.
- 7.2** 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 the person receives income as one of a couple, the starting presumption is that each person has an equal share of that income. The income of a couple can be assessed only where it is financially more advantageous to the person being assessed (Annex B para 2.2).
- 7.3** Where a person receives care and support from the Authority, and they are uncertain about how their income is to be treated in any financial assessment, they may seek advice from the Authority's Community Care Finance Team and/or agree to a full financial assessment, so that the Authority may reach a proper decision about the treatment of the income.

Welfare Benefits

- 7.3** The Authority should take most welfare benefits which people receive into account as part of the financial assessment (eg state pension; Employment and Support Allowance) (Annex B paras 2.11 & 2.13). However, some welfare benefits must be fully disregarded (eg the mobility component of DLA/PIP) (Annex B para 2.12).

Other Income

- 7.4** Other sources of income (net of any tax and national insurance) should be taken into account by the Authority in the financial assessment (Annex B para 2.3 & 2.4), including income from annuities, occupational and personal pensions and investment bonds. However, in all cases, earnings as an employed earner or as a self-employed earner **must** be fully disregarded in any financial assessment (Annex B paras 2.6-2.9).

Income Disregards and Allowances

- 7.5** Other than earnings, some types of income are also disregarded, either in full or in part. For example, income arising from personal injury trusts is to be fully disregarded, as well as income in kind. Some income is partly disregarded, such as the savings disregard based on qualifying income (Annex

B paras 2.28 & 2.29). A full list of income disregards is set out in the Appendices 2 & 3 in this Charging Policy.

Notional Income

- 7.6** In some circumstances, a person may be treated as having income which they do not actually have, which is known as 'notional income'. Where the Authority is satisfied that the income would or should be available to the person, it may treat it as notional income and take it into account in the financial assessment.
- 7.7** Examples of notional income would be where the person would be entitled to Employment and Support Allowance, but has not applied for it, or where the person would be eligible for an income from a personal pension fund but has not made the necessary arrangements to do so (Annex B paras 2.32 & 2.33).

MINIMUM INCOME AMOUNT ('MIA')

Where the person receives care and support in their own home/community

- 8.1** The purpose of the MIA is to ensure that a person is able to afford to pay their daily living costs, as well as the charge for their care and support. A person's income will not be reduced below the MIA, after deduction of the charge for their non-residential care and support (Guidance para 11.3).
- 8.2** In broad terms, the MIA is calculated as follows:-
- a. the amount of the 'basic entitlement' of income support, employment & support allowance, or guarantee credit (including carers premium) (see Appendix 3); plus
 - b. an amount of not less than 35% of the basic entitlement; plus
 - c. a further sum to compensate for disability-related expenditure: at current rates, this is £16.50 per week for a single person and £33.00 per week where both members of a couple are in receipt of disability benefit (see Appendix 3); and
 - d. a weekly amount equivalent to any flat-rate charges being paid by the person for services provided under Part 4 (meeting needs), or for preventative or assistance services provided respectively under ss 15 & 17 of the Act.

Where a person is provided with accommodation in a care home

- 8.3** Where a person's capital is below the capital limit, the Authority will contribute towards the costs of a permanent placement in a care home, where it is to be provided to meet the person's care and support needs.
- 8.4** In such circumstances, the person will be expected to contribute most of their income to pay towards their care home fees. The Authority must allow the person a MIA of £35.00 per week (2022/23 rates) to enable them to spend on personal items (eg clothes and other items not part of their care and support). This is an amount determined by the Welsh Government, usually from each April.
- 8.5** The Authority has a discretion to apply a higher MIA in individual cases (Guidance para 9.4 and Annex B para 3.5).

Short-term & temporary stays in a care home

- 8.6** Where a person is a **short-term resident** in a care home (i.e. a stay not exceeding 8 weeks), the Authority will undertake a financial assessment as if the person were receiving care and support in their own home.
- 8.7** A person may be in a care home as a **temporary resident** for a period of 52 weeks (or unlikely to exceed that timescale). Where a person is a temporary resident, their care and support will be charged under the temporary resident provisions. This approach provides for more generous disregards and allowances within the financial assessment than for a permanent resident.

DISABILITY RELATED EXPENDITURE ('DRE')

- 9.1** The Authority, when carrying out a financial assessment, will allow the person to keep enough income to pay for their necessary DRE to meet any needs which are not being met by their care and support plan.

Where a person receives care and support at home or in the community

- 9.2** Where a person receives their care and support in their own homes/community, a DRE disregard of 45% of their basic entitlement of Income Support/ Guarantee Credit level is to be provided in accordance with the Regulations.

- 9.3** However, historically, the Authority has provided a DRE in excess of 45% in each case, by allowing the sum of £16.50 per week for a single person and £33.00 per week for a couple (if both were in receipt of DLA care/PIP daily living/AA). This reflected the lower rate of the DLA care component in payment in 2005 and if it is now more than the 45% of the basic entitlement which is set out in the Regulations, then this more generous DRE arrangement will continue for the 2022/23 financial year.
- 9.4** The Authority has the discretion to provide for a higher level of DRE to reflect the additional costs of the person's needs, where those costs are not covered by the existing allowance for DRE. A non-exhaustive list of the types of expenditure which the Authority may include as additional DRE is in the Guidance Annex B para 2.39; evidence of the need for and the amount of any such expenditure will be required.
- 9.5** Where the item is available to the person at a lesser cost, the Authority may reasonably decide not to allow the item as DRE (Guidance Annex B para 2.40). Each case will be determined on its merits by the Authority, based on the relevant information.

Where a person receives care and support in a care home

- 9.6** Where a person receives their care and support in a care home, the Authority also has discretion to provide for DRE when undertaking a financial assessment. Where the person has expenditure relating to their care needs, which are not being met within their agreed package of residential care, the Authority may increase the standard MIA to reflect the additional costs. Each case will be determined on its merits by the Authority, based on the relevant information (see Guidance Annex B para 2.39).

CALCULATING THE CHARGE

- 10.1** The Authority will calculate a person's 'assessed income' using the method set out below. The assessed income is the amount which the person will be expected to use to pay towards their care and support needs; it is the same method regardless of the type of the care setting.
- 10.2** The calculation is set out below in stages:-
- I. **Stage 1:** calculate the person's income; *LESS*
 - II. **Stage 2:** the appropriate minimum income amount (MIA); *LESS*
 - III. **Stage 3:** the amount for the person's allowances and disregards, including any

- additional DRE costs (see Appendices 2 & 3); *EQUALS*
- IV. **Stage 4:** the person's assessed income (subject to the maximum charge – see below).

Where a person receives care and support in their own home

- 10.3** The amount the person pays towards their care in their own home will be the amount of weekly cost to the Authority for that care where their assessed income is sufficient for them to pay the whole cost. For example, where the person's assessed income is £25.00 per week, and the cost to the Authority is £20.00 per week, the person will pay £20.00 per week i.e. the whole amount of the cost.
- 10.4** Where the person's income is insufficient to pay the whole amount of the cost to the Authority of their care, they will pay their assessed, available income. For example, where the person's assessed income is £15.00 per week, and the cost to the Authority of their care is £25.00 per week, the person will pay only their assessed, available income of £15.00 per week towards their care.

The operation of the maximum charge

- 10.5** The amount that a person must pay towards their care is subject to a maximum of £100 per week (2022/23 rates). It operates as follows: for example, where the cost of the care to the Authority is £110.00 per week and the person's assessed, available income is £120.00 per week, the maximum charge which the person will be required to pay under the charging regulations will be £100 per week.
- 10.6** Where a person pays for their care and support, and also pays for other services by means of a flat rate charge, the maximum charge does not include the cost of those flat rate charges. Therefore, the Authority is entitled to charge a person the maximum charge of £100 per week as well as flat rate charges for the other services they receive. For further information about the use and treatment of flat rate charges, see paras 5.10, 5.11, 5.12, 5.13 & 5.14 above.
- 10.7** For charging purposes, a week starts on a Monday and ends on a Sunday. Where care and support is provided for only part of a week, in certain circumstances, a person may be required to pay the full charge for that week, up to a maximum of £100 per week.

Where a person receives care and support in a care home

- 10.8** For care and support provided in a care home on a permanent basis, the actual charge to the person will be their available income after deduction of the Minimum Income Amount (see paragraph 8.4 above).

- 10.9** However, because of changes in social security entitlement and the treatment of property at the start of a person's stay in a care home, it is likely that there may be different charges over the first 12 weeks of a permanent stay in a care home. The Authority will advise the person of the different charges to be paid and also provide information as to how the charges have been calculated.
- 10.10** Where a person is a permanent resident in a care home, the charging week is from a Monday (6pm) to Monday (5.59pm).

DIRECT PAYMENTS

- 11.1** A person receiving care and support by means of direct payments will be charged in accordance with this Charging Policy and the Guidance (Part 4 Contributions and Reimbursements for Direct Payments).
- 11.2** A person may receive care and support by means of both direct payments and by services arranged or provided to them by the Authority. Where this happens, the total amount to be funded by the person towards their care and support must not exceed the weekly maximum charge/amount (i.e. must not exceed £100.00 per week for 2022/23).

DEPRIVATION OF ASSETS/INCOME & RECOVERY OF DEBTS

Deprivation of assets and/or income

- 12.1** People with care and support needs are generally free to use their capital and income as they see fit, including making gifts to friends and family. However, there are occasions where a person with care and support needs may have tried to deliberately avoid paying for care and support through depriving themselves of assets - either of capital or income.
- 12.2** The Authority will investigate cases of possible deprivation of assets and/or income and make an assessment on the merits of each case. Where it believes that it has evidence to support a finding of deprivation, the Authority may seek to recover its costs (section 72 SSWA 2014 Transfer of assets to avoid charges). The options available to the Authority in such cases are that it may charge the person as though they were still in possession of the asset/income. In the alternative, the Authority may seek to recover its financial losses from the person to whom the asset was transferred (see Guidance paras 8.1 - 8.3).

Recovery of Debts

- 12.3** Where the person owes money to the Authority, either because of deprivation or because of a failure to pay the charges and/or other monies due to the Authority, it is open to the Authority to recover the debt. The Authority is entitled to issue court proceedings for the recovery of the debt after all other reasonable alternatives for recovering the debt have been exhausted (section 70 SSWWA 2014 recovery of charges, interest etc) (Guidance paras 8.4 - 8.6).
- 12.4** Where a debt has accrued after the introduction of the SSWWA 2014 (April 2016), the time limit for issue of proceedings to recover the debt will be six years from the date upon which amount became due to the Authority but was not paid (Guidance Annex F paras 3.1 & 3.2).

Appendix 1

STANDARD CHARGES FOR CARE AND SUPPORT SERVICES 2022/23

SERVICE	2022/23 CHARGE	NOTES
Home Care/Home Support	Average cost per hour £20.00	Internal and external provider, including extracare schemes
Day Centres for Older People & Dementia Day Services	£64.70 per day	Meals are charged at a flat-rate separately
New Horizons Day Centre	£61.50 per day	Meals are charged at a flat-rate separately
Learning Disability Day Centre / Private Day Care	£110.00	Meals are charged at a flat-rate separately
Direct Payments	Provider rate per day range from: £13.02 per week day hour £14.11 per weekend hour £92.74 night rate Mileage £0.40 per mile	
TeleV+	£9.00 per week	

The standard cost for care and support in a care home for older persons for the Vale of Glamorgan Council area is £732.57 per week (2022/23) and for people with a diagnosis of dementia is £810.43 (2022/23) per week. For placements outside of the area the standard charge is matched with the host local authority. For nursing home placements, the current funded nursing rate is £184.32 per week (2021/22) (Wales) and the Social Services FNC rate is £7.48 per week (2021.22) (This will be reviewed by Health). For residential placements under the age of 65 is determined during the procurement process.

Appendix 2

The Income and Capital disregards are in accordance with Part 3 (Treatment and Calculation of Income), Schedule 1 (Sums to be disregarded in the calculation of income) and Part 4 (Treatment and Calculation of Capital) and Schedule 2(Capital to be disregarded) of the Care and Support (Financial Assessment) (Wales) Regulations 2015

CAPITAL AND INCOME DISREGARDS FOR 2022-23 for Care and Support at Home/Short Stays in Residential Care up to 8 Weeks

Type of Capital included within the Financial Assessment	Disregard	Assessment	Notes
Savings, including ISA's PEP's etc	Nil	See notes	Total of all capital disregard £24,000 or £48,000 for couples if full disclosure. Single

			person above this level charge will be £100 per week subject to level of care
Income Bonds	Subject to verification of life assurance element	See notes	As above
Premium Bonds	Nil	See notes	As above
Stocks and Shares	10% of current value	See notes	As above
National Savings Certificates	Nil	See notes	Obtain current value from NS&I helpline or online calculator As Above
Cash	Nil	See notes	As above
Property	Main Residence	Nil	
Land	All	Value minus 10% for sale expenses	

Income	Disregard	Assessment	Notes
Income Support	Nil	All	
Pension Credit – Guarantee Credit	Nil	All	
Pension Credit – Savings Credit	Single £5.75 max Couple £8.60 max	Nil	No new claims from April 16. Applicable if over 65. Calculate entitlement and disregard the amount up to the maximum

			(including where not in payment)
State Pension	Nil	All	
Job Seekers Allowance	Nil	All	
Child Support Maintenance Payments	All	Nil	
Child Tax Credit	All	Nil	
Working Tax Credit	All	Nil	
Attendance Allowance	Nil	All	Where higher rate is payable and night care is not being provided an additional disregard is made
Constant Attendance Allowance (can be included within other benefits e.g. Industrial Injuries)	Nil	All	Where higher rate is payable and night care is not being provided an additional disregard is made
Disability Living Allowance Care Component	Nil	All	Where higher rate is payable and night care is not being provided an additional disregard is made
Disability Living Allowance Mobility Component	All	Nil	
Personal Independence Payment – Daily Living Component	All	Nil	
Personal Independence	All	Nil	

Payment – Mobility Component			
Employment and Support Allowance (or the other benefits this replaces e.g. Severe Disablement Allowance & Incapacity Benefit)	Nil	All	
Universal Credit	Nil	All	Subject to breakdown
Bereavement Allowance	Nil	All	
Widowed Parent's Allowance	Nil	All	
Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme	All	Nil	
Survivors Guaranteed Income Payments from the Armed Forces Compensation Scheme	£10	Balance	
War Widows/Widowers Pension/Benefit	£10	Balance	Breakdown is required as the MOD (Supplementary Pension) may be included within War Widows/Widowers Pension
War Widows/Widowers MOD Special	All	Nil	

Payment (Supplementary Pension)			
War Disablement Pension / Benefit	All	Nil	Breakdown required to check if other benefits included in payment e.g. CAA – see notes above
Industrial Injuries	Nil	All	Breakdown required to check if other benefits included in payment e.g. CAA – see notes above
Payments to victims of Nationalist Socialist Persecution	£10	Balance	
Carers Allowance	Nil	All	Where the person is also a carer receiving Carers Allowance for looking after a child with a disability, The Carers Allowance should be disregarded in full
Housing Benefit / Supporting People Subsidy	All	Nil	
Income from Annuity, Pension and Investment Bonds	Nil	All	Except where it is purchased with a loan secured on the person's main or only home or a gallantry award e.g. Victoria Cross Annuity. Refer to

			Annex B of Code.
Income from Property not occupied by person (service user)	Nil	All	
Income from Property occupied by person (sub-tenants)	£4.00	Balance	
Income from Property occupied by person where heating is included (service user)	£13.65	Balance	
Income from lodgers or boarders	Disregard the first £20 of the income plus ½ of any balance over £20	Balance	e.g. £50 per week received as income, the first £20 is disregarded plus ½ of remaining £30 (i.e £15) = total disregard of £35
Charitable and Voluntary Payments	All	Nil	If not made regularly, treat as capital
Earnings	All	Nil	Including Christmas bonus, commission, holiday pay
Occupational Pension	Nil	All	
Trust Fund payments – where treated as Income	Nil	All	Subject to verification and Terms of the Trust
Fostering Allowance	All	Nil	
Statutory Sick / Maternity Pay	All	Nil	
Maternity Allowance	Nil	All	

Elected Members Allowance	All	Nil	
Mortgage protection	All	Nil	
Insurance Policies Skipton Fund	All	Nil	
London Bombings Relief Charitable Fund	All	Nil	
Payments in Lieu of Concessionary Coal	All	Nil	
Permitted work – Therapeutic earnings	All	Nil	

CAPITAL AND INCOME DISREGARDS FOR 2022-23 For Permanent Residential Care and Short Stays after 8 Weeks duration.

The current limit of total capital disregard is £50,000 for a single person (Welsh Government 2022/2023)

Type of Capital included within the Financial Assessment	Disregard	Assessment	Notes
Savings, including ISA's PEP's etc	Nil	See notes	Total of all capital disregard £50,000
Income Bonds	Subject to verification of life assurance element	See notes	As above
Premium Bonds	Nil	See notes	As above

Stocks and Shares	10% of current value	See notes	As above
National Savings Certificates	Nil	See notes	Obtain current value from NS&I helpline or online calculator As Above
Cash	Nil	See notes	As above
Property	Only in certain circumstances in line with regulations and code of practice	Value minus 10% for sale expenses	As above
Land	Nil	Value minus 10% for sale expenses	As above

Income	Disregard	Assessment	Notes
Income Support	Nil	All	
Pension Credit – Guarantee Credit	Nil	All	
Pension Credit – Savings Credit	Single £5.75 max Couple £8.60 max	Nil	No new claims from April 16. Applicable if over 65. Calculate entitlement and disregard the amount up to the maximum
State Pension	Nil	All	
Job Seekers Allowance	Nil	All	

Attendance Allowance	Nil	All	If eligible for the first 4 weeks and re-instated on 13 th week, if property owned and taken into account
Constant Attendance Allowance (can be included within other benefits e.g. Industrial Injuries)	Nil	All	If eligible for the first 4 weeks and re-instated on 13 th week, if property owned and taken into account
Disability Living Allowance Care Component	Nil	All	If eligible for the first 4 weeks and re-instated on 13 th week, if property owned and taken into account
Disability Living Allowance Mobility Component	All	Nil	
Personal Independence Payment – Daily Living Component	Nil	All	If eligible for the first 4 weeks and re-instated on 13 th week, if property owned and taken into account
Personal Independence Payment – Mobility Component	All	Nil	
Employment and Support Allowance (or the other benefits this replaces e.g. Severe Disablement Allowance & Incapacity Benefit)	Nil	All	
Universal Credit	Nil	All	Subject to breakdown

Bereavement Allowance	Nil	All	
Widowed Parent's Allowance	Nil	All	
Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme	All	Nil	
Survivors Guaranteed Income Payments from the Armed Forces Compensation Scheme	£10	Balance	
War Widows/Widowers Pension/Benefit	£10	Balance	Breakdown is required as the MOD (Supplementary Pension) may be included within War Widows/Widowers Pension
War Widows/Widowers MOD Special Payment (Supplementary Pension)	£97.95	Balance	
War Disablement Pension / Benefit	All	Nil	Breakdown required to check if other benefits included in payment e.g. CAA – see notes above

Industrial Injuries	Nil	All	Breakdown required to check if other benefits included in payment e.g. CAA – see notes above
Payments to victims of Nationalist Socialist Persecution	£10	Balance	
Housing Benefit / Supporting People Subsidy	All	Nil	
Income from Annuity, Pension and Investment Bonds	Nil	All	Except where it is purchased with a loan secured on the person's main or only home or a gallantry award e.g. Victoria Cross Annuity. Refer to Annex B of Code.
Income from Property not occupied by person (service user)	Nil	All	
Charitable and Voluntary Payments	All	Nil	If not made regularly, treat as capital
Occupational Pension	Nil or 50%	All or 50%	50% disregarded if one of a couple and the spouse/partner remaining at home
Trust Fund payments – where treated as Income	Nil	All	Subject to verification and Terms of the Trust
Statutory Sick	All	Nil	
Mortgage protection	All	Nil	

Insurance Policies Skipton Fund	All	Nil	
London Bombings Relief Charitable Fund	All	Nil	

Appendix 3

ALLOWANCES/OUTGOINGS 2022/23 FOR CARE & SUPPORT AT HOME

EXPENSES	AMOUNT ALLOWED	NOTES
Mortgage Repayments	All or % liability	
Endowment Policies linked to Mortgage Repayments	All or % liability	
Rent where not living with a close relative	All	Net of Housing Benefit & Supported People Subsidy
Rent where living with a close relative – ONLY if payment declared	£8.95 per week	Evidence required if contributing more than the allowance towards rent/mortgage
Ground Rent	All or % liability	
Service Charges	All or % liability	
Home Improvement Loan	All or % liability	
Council Tax (Income Support claimants should not be paying Council Tax)	Actual amount payable or % liability	
House Building and Contents Insurance	All or % liability	

Piper Alarm/TeleV – Evidence required, cost may be covered by Housing Benefit/Supporting People	Actual weekly cost	
Child Maintenance Payments – Evidence Required	All	

ALLOWANCES/OUTGOINGS 2022/23 FOR PERMANENT RESIDENTIAL CARE

EXPENSES	AMOUNT ALLOWED	NOTES
Mortgage Repayments	All or % liability	1 st 12 weeks of permanent residential care placement
Endowment Policies linked to Mortgage Repayments	All or % liability	
Rent where not living with a close relative	All	Allow for 1 st 4 weeks
Rent where living with a close relative – ONLY if payment declared	All (net of Housing Benefit & Supporting People Subsidy)	Allow for 1 st 4 weeks
Ground Rent	All or % liability	1 st 12 weeks if property owned
Service Charges	All or % liability	1 st 12 weeks if property owned
Home Improvement Loan	All or % liability	Evidence required 1 st 12 weeks if property owned
Council Tax (Income Support claimants should not be paying Council Tax)	Actual amount payable or % liability	Check if exempt due to permanent residential care or maximum of 12 weeks payable
House Building and Contents Insurance	All or % liability	4 weeks if property rented If property owned then only Buildings Insurance after 4 weeks.

Water Rates/Water standard charge	All	4 weeks if property rented. 1 st 12 weeks if property owned and unoccupied
Child Maintenance Payments – Evidence Required	All	

Where a temporary stay in residential care continues after 8 weeks then appropriate allowances will be made for home commitments.

Appendix 4

The Vale of Glamorgan Council

Reviewing a charging decision -

Background

The Care and Support (Review of Charging Decisions and Determinations) (Wales) Regulations 2015 allows a person to request, via a consistent process, a review of a decision to impose a charge, in respect of the care and support services they receive.

Making a request for a review

Persons (or their representatives) who can request a review:

- A person who has been given a charge for care and support services they will, or already, receive
- A person who is required to pay a contribution or make a reimbursement they will, or already, secure through Direct Payments
- A liable person to whom property or funds have been transferred from a person whose care and support needs have been, or are being met by a local authority, with the intention of avoiding charges for meeting that need.

When a review can be requested:

- If we have not followed the Act, the regulation or code, or our charging policy
- If an error has been made in the calculation of the charge
- If a charge has been made for care and support that has not been provided
- If meeting the charge would cause financial hardship
- If a liable transferee asserts that the transfer of assets was not to avoid charges or questions the value of the transfer.

Where a person's financial circumstances change, e.g. a change in their welfare benefits or the annual change in level of benefits and state pension, a reassessment will take place. This circumstance does not result in a review request, only where the person is unhappy with the outcome of a reassessment are they able to request a review.

Process for requesting a review

- A review may be requested at any time after a determination has taken place
- A request must state the circumstances and reasons the review is being made
- A request can be made in writing or orally
- A request can be made by a representative of the person seeking the review, but the person must provide their authorisation for this orally or in writing. Where this is done orally, we will provide a statement to the person and their representative confirming the appointment and the extent of the representative's involvement in the review.

A person can withdraw a request at any time, orally or in writing. We will provide a statement to confirm the request has been withdrawn.

Where a previous request for a review has been dealt with and another request in connection with the same circumstances is made by a person, we do not have to consider the review, but will send a statement to the person giving reasons.

Acknowledgement Process

A statement of acknowledgement will be sent to the person confirming receipt of request within 5 working days including the following information:

- Confirmation of the basis of request
- What further information or documentation is required
- Offer a home visit
- How the review will be processed
- That a person can appoint a representative
- That the person does not have to continue to pay but the liability for payments remains
- Direct payments will be paid gross where the person does not wish to pay the contribution during the review period.

If the person making the request for a review is a liable transferee, the acknowledgement will state where information or documentation will be requested from another person, and what that information will be. A statement will also be issued to that person giving the nature of the request, the information required, the timescale, the offer of a home visit and contact details.

The acknowledgement process is not applicable where a decision on a review is made within 5 working days.

Provision of further documentation

- Information or documentation must be provided within 15 working days.
- A person or representative can ask for an extension of time, with explanation. Confirmation of any agreed extension will be made in writing.
- A home visit can be requested by the person for the purposes of providing the further documentation.

If the requested information or documentation is not submitted within 15 days the review will be treated as if it has been withdrawn. A statement will be sent to the person containing the charge payable, the amount due and the date it is due by.

If the requested information or documentation is not submitted from a third person in connection with a review involving a liable transferee a statement must be sent to that third person, the person requesting the review and any representative.

Deciding a Review

Within 10 working days of receiving sufficient information, a decision must be made and a statement sent to the person and any representative including:

- The outcome of the review
- Reasons for the decision
- Whether a person's charge has been amended
- A new statement of the amended charge
- Option of complaints procedure

If only partial requested information or documentation is received, a decision on the review will be made on the basis of the available information within 10 working days. A statement will be issued as above.

If a review decision is not made within 10 working days, then the person will be notified with the reason why and the date by which a decision will be made. Charges will not be accrued during this period.

When making a decision on a review regulation 14(4) of the regulations will be taken into account as well as any wider financial hardship a person may have as a result of their impairment, medical condition or personal circumstances.

Decisions on review will be taken by officers appropriately authorised to take that decision. They will not have been involved in making the original decision.

Payment of charges after review period

- The amount of the charge that has been established as correct as the result of the outcome of the review will be due for the review period
- The option of repaying any accrued charge in periodic instalments will be offered.