

Charging policy for care and support services

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Charging policy for care and support services

Introduction

Unlike NHS Healthcare, local authority care and support services are not generally free of charge. People have always had to pay something towards the cost of their care, if they can afford to do so. The Social Services and Wellbeing (Wales) Act 2014 enables local authorities to decide for themselves whether or not to charge people for care and support services that are arranged and funded by them and, in common with the vast majority of councils, Denbighshire County Council has decided to charge for care. Income received from care charges helps the council to reach its statutory funding commitments and set a balanced budget. It also helps to protect, maintain, develop and extend care and support services and ensure that high quality services are available in the right form to meet the needs of vulnerable adults in the local authority's area.

Statutory basis for charging

The Social Services and Well Being (Wales) Act 2014 ("the Act") provides the legal framework for charging for care and support services.

Section 59 of the Act enables the local authority to charge an individual in receipt of care and support services.

Sections 50 and 63 place a duty on the local authority to undertake an assessment of an individual's financial resources to determine the amount they will be required to pay towards the costs of the care and support services they receive.

The [Care and Support \(Financial Assessment\)\(Wales\) Regulations](#) and the [Care and Support \(Charging\)\(Wales\) Regulations 2015](#) and the [Welsh Government Code of Practice Part 4 and 5 Code of Practice \(Charging and Financial Assessment\)](#) issued under Section 145 of the Act set out the details regarding charging for care and support services.

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Policy

Policy statement

Denbighshire County Council Community Support Services charges for its services in accordance with the Social Services and Well-being (Wales) Act 2014, accompanying Regulations and Code of Practice.

Policy objectives

The Charging Policy is intended to:

1. Be fair to all individuals
2. Be based on the individual's ability to pay
3. Ensure that forms of redress are available and individuals are made aware of them

Equal opportunities implications

The policy seeks to ensure that all individuals are treated equitably. It applies to all people aged 18 or over who receive care and/or support services which are arranged or funded by the Council. This includes the following client groups:

- Older People
- People with a mental health problem (except services provided under Section 117 of the Mental Health Act)
- People with a physical disability or sensory impairment
- People with a chronic illness
- People with a learning disability

The following client group is not currently charged: Any individual previously in receipt of Independent Living Fund (ILF) Award who is now receiving Welsh Independent Living Grant (WILG) as they are already contributing to the cost of their service.

In line with legislation charges are not being introduced for:

1. Any individual receiving after care services / support provided under Section 117 of the Mental Health Act 1983 (applies only to services provided specifically under Section 117 & may not apply to services addressing physical needs)
2. Any individual suffering from any form of Creutzfeldt Jakob Disease (CJD)
3. Any child receiving services or acting as a carer
4. A parent or guardian for services which support a child.

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We have a duty to provide transport for citizens in certain circumstances in line with the Social Services and Wellbeing (Wales) Act 2014. Social Care Charges (Means Assessment and Determination of Charges) (Wales) 2011 and Regulations state that a local authority must not charge for transport to a day service where a need for transport has been identified in the care and support plan.

Services for which there is a charge

Denbighshire County Council charges for the following services, whether they are provided in-house or by the private sector:

- residential care
- domiciliary care and support
- day services
- work opportunities
- night time support
- direct payments / citizen directed support / support budgets
- Shared Lives
- Supported Living
- telecare
- supported independent living (SIL)
- the administration cost of arranging services on behalf of those self-funding their care and support
- set up and administration costs of Deferred Payment Scheme

Flat rate charges

- meals received during the course of attendance at a day centre or in Extra Care Housing settings
- telecare (Careline)

Services not charged for

The following services are currently not charged for:

- Carers' services
- Reablement services that are time limited

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Legislation prevents charges being introduced for:

- Care and support provided as Reablement to an individual (normally up to 6 weeks) to enable them to maintain or regain their ability to live independently at home the provision of transport to attend a day service where the transport is provided by, or arranged by, a local authority and where attendance at the day service and transportation to it are included in the individual's managed care and support plan;
- The provision of assessment of needs, care planning, care plans and provision of statements of charges must not be charged for, since these processes do not constitute the provision of care and support. This includes the provision of information and advice
- For undertaking a review of a charging decision where required to do so.
- Care and support to a child or for support to a child who is a carer, nor for direct payments to secure such support.
- Transport to a day service where the transport is provided as part of meeting an individual's needs.
- Independent professional advocacy where a local authority has arranged for the provision of this in accordance with the code of practice on advocacy under Part 10 (Complaints, Representatives and Advocacy Services) of the Act where an individual 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.

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How charges are calculated

What is included?

In all cases, only the individual's own finances will be taken into account. Income and capital held by a spouse, parent or partner will be disregarded. However, in accordance with legislation:

Where the individual receives income as one of a couple or holds capital as one of a couple, the starting presumption is that each individual person has an equal share of that income or capital. However, the Local Authority can assess the income and capital of a couple but only where this is financially more advantageous to the individual being assessed.

Also see paragraph on page 9 which refers to couples.

Refusal to declare financial circumstances

If an individual or carer does not wish to have a financial assessment or refuses to co-operate with a financial assessment they will be assumed to have the means to pay for the full cost of their care in the case of residential care or up to the maximum weekly amount set by Welsh Government for other care and support services.

Deprivation

If the authority has some reason to believe that the individual may have tried to deliberately avoid paying for care and support through not disclosing or through depriving themselves of assets, either capital or income, the authority would seek to recover those costs. The Code of Practice sets out rules relating to deliberate deprivation in Annex F.

Where an individual transfers capital or a capital asset to a third party, or otherwise disposes of a capital asset in order to avoid or reduce paying charges, they will be assessed as if they still had that capital. Where an individual has transferred the asset to a third party to avoid the charge, the third party may be liable to pay to the Local Authority the difference between what it would have charged and actually charges the individual receiving care and support services.

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Capital

If an individual has more than the capital limit as set for Residential and Nursing Care purposes by the Welsh Government, they will be expected to pay the full cost of the services they receive in a care home, or up to a maximum weekly charge as set by Welsh Government for non-residential care and support services. This will apply until such time as their capital falls below the threshold. This capital limit is reviewed every year by Welsh Government. The Care and Support (Financial Assessment) (Wales) Regulations 2015 Annex A set out rules relating to capital which is held. Capital holdings also includes cash held at home.

Property

For non-residential care and support services, in calculating the value of an individual's capital the value of the property in which they live as their main or only home must be disregarded. The value of any other property or land owned or part-owned by the individual will be regarded as capital and included in the financial assessment. If the value of such additional property is higher than the capital limit, the individual will be expected to pay the full cost of their services up to the maximum weekly charge set by Welsh Government.

For residential services, the value of the property in which an individual lives is disregarded during any temporary stay. Its value is also disregarded for a period of 12 weeks from the date they become a permanent resident of a care home. However, if the value of other property, land and capital is higher than the capital limit, the individual will be expected to meet the full cost of their residential services from the outset.

The value of an individual's former home is disregarded if certain other conditions apply as set out in Annex A, Clause 3 of the Care and Support (Financial Assessment) (Wales) Regulations 2015. A precise valuation of property will be sought if the value is in dispute.

A Deferred Payment will be offered to those people entering or in a care home, who have an interest in a property, who meet the eligibility criteria and who do not otherwise hold sufficient capital or income to meet the full cost of their residential care. For more information, please see the separate Deferred Payment Agreements leaflet and Annex D of Part 4 and 5, Code of Practice (Charging and Financial Assessment).

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Shared capital and property

Where capital is owned jointly, the individual's share will usually be assumed to be half unless there is evidence to the contrary. Where property and land is involved, the individual's beneficial share of the property or land will be determined. The Local Authority will obtain a valuation of the individual's beneficial share of the property.

Future care costs compensation awards

These will be considered on an individual basis, dependent upon the specific arrangements within the award.

Income

Income is calculated as detailed in the Care and Support (Financial Assessment) (Wales) Regulations 2015 and Annex B of the Code of Practice. It includes benefits and rent received.

Income received for other members of the household will not be included - for instance Child Benefit or Income Support or Pension credit received on behalf of a partner. Also see paragraph on page 9 about couples.

Earnings are also disregarded in order to encourage those who are able to work.

Income is calculated net of any tax and national insurance payments.

Minimum income amount

The Local Authority will leave the individual with a minimum income amount (MIA) after charging has occurred.

For residential care and support, the MIA is a figure set by Welsh Government on an annual basis (see Annex B and Regulation 13 (Part 2, Charging under Part 5 of the Act) of the Regulations).

For non-residential care and support this is equivalent to the individual's "basic entitlement" to a relevant welfare benefit, plus a "buffer" of at least 35% of that amount.

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This is in addition to retaining a contribution towards any disability related expenditure that an individual has, of at least 10% of the basic amount. The 'basic entitlement' does not include the Severe Disability Premium. (See Annex B and Regulation 12 (Part 2, Charging under Part 5 of the Act) of the Regulations).

Disregarded expenses

For non-residential services:

Certain expenses are disregarded:

1. The cost of private care, if that care would otherwise be provided by the Authority and is, therefore, included in the Care and Support Plan
2. The installation, rental or loan repayment costs of any necessary item of equipment or adaptation as identified in the Care and Support Plan
3. The Authority also has the discretion to disregard other disability or medical needs related expenditure as identified in the Care and Support Plan.

For residential services:

The LA has the discretion to disregard expenses incurred by residents for disability related items which are not provided by the care home or by the Health Board.

Couples

For non-residential services:

If both members of a couple receive a service, they will be assessed as individuals. They will only be assessed as a couple using the appropriate applicable amount and premiums if it is financially advantageous to them to do so.

If one member of a couple is receiving a service the Authority will normally assess as an individual but may request financial information for both partners, although the partner is under no obligation to provide this. This is because it may be financially advantageous to the individual to be treated as half of a couple, especially where the majority of the income or capital is held in the individual's name.

An individual may still choose to be assessed as an individual person. Where this is the case, a maximum of 50% of outgoings will be taken into account in the assessment.

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For residential services:

Where the individual does not reside with their spouse or civil partner and 50% of any personal or occupational pension is being paid to that partner or in respect of that partner, this sum is disregarded. This does not automatically extend to unmarried couples but the Authority has the discretion to consider this in individual cases.

Charges

Charges are liable from the first day care and support is provided. Payment of the charge will not be required until a notification from the Authority has been issued detailing the contribution to be made.

The financial assessment calculates the most an individual will be asked to pay. For Respite Residential Services, of no more than 8 weeks, the charge will be further subject to a maximum weekly charge set by Welsh Government as set out in Regulation 7 of the Care and Support (Charging) Wales Regulations 2015.

In the case of non-residential care and support services the charge will also be subject to a maximum weekly charge set by Welsh Government as set out in Regulation 7 of the Care and Support (Charging) Wales Regulations 2015. The individual will only pay for the services they receive which may cost less than their assessed weekly charge. These services will be charged by monthly invoice in the following month in which the care and support was provided.

Charges are reviewed every year, the charges applicable in the current financial year are shown in the Fees and Charges for 2020 leaflet.

Flat rate charges such as Telecare and other Housing Related services may be charged directly by the service provider. These charges will be taken into account in the financial assessment for other services but are not subject to the maximum weekly charge for care and support as set by Welsh Government.

Support Budgets, Direct Payments and other outcome focussed services are a more flexible way of delivering non-residential services which can be varied to suit the individual.

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Charges for these services will be a contribution towards the full cost with a maximum weekly contribution as set by Welsh Government. The individual's contribution is always counted towards the cost of their Support Budget, Direct Payment before any funding support provided by the Council. In effect the Council will top up the individual's contribution with additional funding up to the value of the Support Budget, Direct Payment.

The individual's payment of their weekly contribution will not vary during the year.

Interest

Denbighshire will charge interest on all Deferred Payment Agreements at the rate set by Welsh Government. This is 0.15% above the 'relevant rate'. The relevant rate being the market gilts rate specified in the most recently published report by the Office for Budget Responsibility. The relevant rate will change every six months on the 1st January and the 1st of July, as shown in the Fees and Charges for 2020 leaflet.

Interest will also be charged at 2% above Bank of England base rate for debts where a charge has been placed on an interest in land (Section 71 of the Social Services & Well-being (Wales) Act 2014). The debt is only liable for interest once the person has passed away.

Debt

Invoices which are not paid will be considered as a debt and will be pursued by the Council's Sundry Debtors Department. This may lead to recovery action through the Courts if payment is not made.

A Deferred Payment will be offered where appropriate. In cases where a Deferred Payment has been refused or the individual is ineligible, the Local Authority has the power under Section 71 of the Act to create a charge over the individual's interest in land to secure payment due for care and support services where payment has not been made.

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Additional costs, first and third party top-ups

Some care homes charge higher fees than the standard fees paid by the Authority. If the care and support services required can be provided by care homes which accept the standard fees, then the Authority will only pay these fees.

The individual may choose a care home that charges more than the Local Authority would usually expect to pay for the provision of the accommodation of that type for that individual.

Where the individual has chosen a care home that is more expensive, an agreement will need to be made as to how the difference in cost will be met. This additional cost is the difference between the amount the Local Authority's standard fees and the actual costs of the individual's chosen care home.

The individual will have to identify a third party who is able to pay the additional cost of the chosen accommodation for the full duration of their stay. The Authority will assess the ability of that third party to meet the additional cost for the duration of the arrangement. In some cases, the individual may be permitted to meet the additional cost themselves.

Reassessment and methods of appeal

Financial assessment / reassessment

There will be instances where a financial review/reassessment will be necessary.

Examples of this include:

- where an individual's income or capital has changed,
- where there has been a change in their circumstances or
- where there has been a change to their Care and Support plan.

It is possible that after the financial review/reassessment there will be no change in the weekly amount a customer is assessed to contribute. The individual or their representative should contact the Financial Assessment Officer who will revise the financial assessment as necessary. The individual will be notified of the decision in writing.

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Request for a review

If an individual does not agree with the financial assessment, the charges applied or the contribution requested, they can request a review. The request for review may be made any time after the Local Authority has made its decision and this has been communicated to the individual. The individual must state the reason for a request for review and this can be made either orally or in writing.

The request for review is not limited to the individual, a representative can act on behalf of the individual to make a request for a review.

Where an individual has transferred assets in order to reduce their charge or contribution, the 'liable transferee', i.e. the individual to whom the asset has been passed to may request a review of the decision to charge them in the same way as an individual above.

The individual or their representative should contact the Financial Assessment Officer who will:

1. Check that the financial information used in the calculation is correct
2. Look at any new information provided by the individual
3. Check that the assessed contribution has been calculated correctly
4. Decide whether the decision was fair and correct.

The individual will be notified of the decision in writing.

Waiver

If an individual feels they cannot meet the expense of the charge or contribution, they may ask for the charge or contribution to be waived. Applications for a waiver of charges are considered by a Panel of Community Support Services Staff, including Service Managers. The Panel may recommend that charges or contributions are waived in cases of exceptional circumstances or financial hardship. An individual must advise the Authority if they elect to suspend payment of their charge or contribution during the period of the review, however the Authority will recover any unpaid amount that has accrued once the outcome of the review is confirmed.

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Appeal

Where an individual is still unhappy with the outcome of the review or waiver they may appeal to the Head of Service. An individual can appeal where they consider the Council has not made a properly considered decision in determining its review, for example:

- Not following the Charging Policy for Care and Support Services (this policy)
- Not properly considering relevant information.

The individual will be notified in writing of the outcome.

Complaints

Where an individual is still unhappy with the outcome of the Head of Service review or waiver they can make a formal complaint to the Council through its formal complaints procedure. The individual will be notified in writing of the outcome of the complaint. An individual can only make a complaint where they consider the Council has not made a properly considered decision in determining its review, for example:

- Not following the charging policy for care and support services (this policy)
- Not following the Social Services and Well-being (Wales) Act 2014.
- Not properly considering relevant information.

Benefit advice

Denbighshire County Council provides advice and support to ensure that people receive the Benefits to which they are entitled. This service is provided by the Citizen Advice Bureau and referrals are made by the Single Point of Access (SPoA). All people who receive a chargeable service are offered assistance to maximise their benefit uptake as an integral part of their Financial Assessment.

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Data protection

All information gathered as part of the application of this policy will be bound by the Data Protection Act 2018. Non-sensitive personal data may be shared across Council departments for legitimate purposes such as:

- Updating Council records
- Providing services
- Preventing and detecting fraud

Please Denbighshire County Council's website for more information about our [privacy notice](#).

This privacy notice includes details about the Council's duty to protect the public funds it administers, and the requirement to participate in a data matching exercise carried out by the Auditor General.

Appendix – Relevant guidance and documentation

1. Fees and charges leaflet for the current year
2. Guidance about paying for care available on the [DEWIS website](#)
3. The Social Services and Well-being (Wales) Act 2014 [Codes of practice](#)