



Comisiynydd Pobl Hŷn Cymru
Older People's Commissioner for Wales

Navigating Social Services

Factsheet 6: Paying for Care



The Older People's Commissioner for Wales

The Older People's Commissioner for Wales is an independent voice and champion for older people across Wales. The Commissioner and her team work to ensure that older people have a voice that is heard, that they have choice and control, that they don't feel isolated or discriminated against and that they receive the support and services that they need.

The Commissioner and her team work to ensure that Wales is a good place to grow older, not just for some but for everyone.

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Paying for Services

A Local Authority can charge you for the care and support you receive (or, for carers, the support you receive). Some of the detail on how charging works in each Local Authority will depend on whether you are receiving care in a care home, or in your own home or in the community.

The Local Authority can only charge what it costs them to provide the care and support (or support for carers), but they can make a charge for arranging that care and support. A Local Authority does not have to charge a carer for support in recognition of the significant contribution that carers make, although it can do so if it wishes.

However, the Local Authority must not charge for certain types of care and support. These include:

- Transport to attend a day service (if the transport is provided by the Local Authority and transport is required to meet your care and support needs, or support needs for a carer).
- Re-ablement (for up to the first 6 weeks of a period of re-ablement).
- Advocacy services required to allow you to participate in decisions in relation to meeting your care and support needs (or support needs for carers). For more information, please see section on Entitlement to Advocacy.
- Providing you with information and advice. This includes information setting out how much you must pay for your care and support (or support if you are a carer), known as the 'statement of determination', and the carrying out of a financial assessment.

Additionally, a Local Authority must not charge for care and support for:

- for a person who is suffering from any clinically diagnosed form of Creutzfeldt-Jakob disease
- for after care services in accordance with Mental Health Act 1983 (Section 117).

A Local Authority must carry out a Financial Assessment to assess your finances in order to work out whether it is possible for you to pay the cost of your care and support (or support if you are a carer).

The Local Authority will use the financial assessment to determine whether you can afford to pay the 'standard charge' for your care and support (or support for carers). The 'standard charge' is the amount that you must pay unless the financial assessment says you cannot afford to do so.

To work out if you can afford to pay the 'standard charge', your Local Authority must use the national regulations on financial assessments to calculate your income (i.e. benefits you receive) and capital (i.e. savings, property). However, a Local Authority does not have to work out how much you can afford to pay if a service charges a flat rate for everyone or if a service is free of charge.

Where a person lacks capacity, they may still be assessed as being able to contribute towards the cost of their care and support. Local Authorities must consult and engage with family members and, where possible, they should work with someone who has the legal authority to make financial decisions on behalf of that person.

Additionally, charges for care and support also apply to people in prison and they will also be financially assessed.

For more information, please refer to Section 59 of the Act, The Care and Support (Financial Assessment) (Wales) Regulations 2015, The Care and Support (Charging) (Wales) Regulations 2015 and Parts 4 and 5 of the Code of Practice (Charging and Financial Assessment).

Financial Assessments

Before carrying out a financial assessment, a Local Authority must provide you with the following details in a format that is accessible to you:

- Details of your care and support and an indication of which services may be charged for
- Details of any direct payments that you wish to have
- Details of the Local Authority's Charging Policy, including:
 - which services are to be charged for
 - the cost of these services (the 'standard charge')

- the services that have a flat rate charge
- the national maximum weekly amount that a Local Authority can charge or a lower maximum weekly charge that the Local Authority has voluntarily decided to set
- Details of the Local Authority's financial assessment process
- Details of any information or documents that they require from you and details on how and by when to provide them (and information on what will happen if you fail to provide this). The Local Authority must give you at least 15 working days to provide this information. You can ask the Local Authority for more time if there are reasons why you may need longer and the Local Authority must agree and let you know how much more time you are allowed. If they refuse to allow you more time, they must give reasons for its their refusal.
- Information on what will happen if you refuse to allow the Local Authority to carry out a financial assessment;
- Information on the 'statement of determination' on how much you can afford to pay for your care and support (or support for carers) and support that the Local Authority will give you following your financial assessment
- Details of the 'capital limit' (which is currently set at £50,000 for residential care and £24,000 for non-residential care) and information about what can happen if your capital (i.e. savings, property) is higher than this
- Details of any home visiting facility that the Local Authority provides to help you fill the forms in
- The names of people within the Local Authority area who may be contacted if you requires additional information or assistance during the financial assessment process
- Information about your right to appoint a third party to assist, or to act on your behalf, during some or all of the financial assessment process and the contact details of organisations that can do this.
- The contact details of a person in authority who can be contacted if you require more information.

There are certain circumstances where a Local Authority does not have to carry out a financial assessment. These include:

- where a service charges a flat rate

- if you decline a Financial Assessment
- if you fail to provide the information needed within the set time
- if you are suffering from any clinically diagnosed form of Creutzfeldt-Jakob disease (CJD)
- for after care services in accordance with Mental Health Act 1983 (Section 117)
- for re-ablement services (for up to the first 6 weeks of a period of re-ablement)
- if you have been assessed as only needing advocacy services

Local Authorities should provide you with information and advice to help you understand if you are entitled to any benefits.

An assessment of how much you can afford to pay is likely to happen at least once every year. However, if your circumstances change following a financial assessment, the Local Authority must reassess how much you can afford to pay for your care and support (or support for carers). Additionally, they must also reassess your financial situation if you ask them.

Once complete, the Local Authority must provide a statement to you setting out the amount you have to pay. This statement must explain how the assessment has been carried out, what the charge, contribution or reimbursement will be and how often it will be made, and, if there is any fluctuation in these amounts, the reason for this. The Local Authority must ensure that this is provided in a format that is accessible to you. This could be provided alongside your care and support plan or separately.

For more information, please refer to The Care and Support (Financial Assessment) (Wales) Regulations 2015, The Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017 and Parts 4 and 5 Code of Practice (Charging and Financial Assessment), Page 10.

Flat rate charges

Local Authorities can make a flat rate charge for low level, low cost care and support that will usually involve services that replace ordinary day-to-day tasks (e.g. meals or laundry). It is not acceptable for Local Authorities to set flat rate charges for all care and support service as a potential way of avoiding its duties under the Act.

Flat rate charges must not be more than the amount it costs the Local Authority to provide service. Where services have a flat rate charge, the Local Authority does not have to carry out a financial assessment. However, a Local Authority must consider the accumulative impact on your income if you have to pay a number of flat rate charges. In this situation, even though services with a flat rate charge are exempt from financial assessment, a Local Authority must offer you the opportunity to have a financial assessment if you feel that you may not be able to afford to pay for a number of flat rate charges.

A Local Authority may also charge a flat rate for preventative services. However, Local Authorities should avoid a situation where the flat rate charge that they set results in the low take up of preventative services and assistance.

For further information, please see The Care and Support (Charging) (Wales) Regulations 2015 and the Part 4 and 5 Code of Practice (Charging and Financial Assessment), Page 15.

Financial Assessment (for care and support that does not include accommodation in a care home)

When conducting a financial assessment for care and support (or support for carers) the Local Authority must:

- Calculate your capital (e.g. savings, property). This also includes a set list of additional income that will be treated as capital. Please see The Care and Support (Financial Assessment) (Wales) Regulations 2015 (regulation 19) for further details.
- Subtract the value of your only or main home from the calculation (as property is only taken into account for financial assessment for residential care).

If, following this assessment, your capital is more than £24,000 (known as the capital limit) then you will have to pay the full cost of your care and support (or support for carers). If you have more capital than the £24,000 capital limit, you can still ask your Local Authority to arrange your care and support (or support for carers). However, you will still have to pay the full cost of your care and support up to the £90 weekly maximum charge until your capital is the same level or below the £24,000 capital limit.

If your capital is £24,000 or below, the Local Authority will assess how much you can afford to pay towards your care and support (or support for carers), known as a 'means test'. When doing so, they must not include your capital (i.e. you cannot be required to contribute to the cost of your care and support from the capital that you have if it is below the £24,000 capital limit).

For further information, please see The Care and Support (Financial Assessment) (Wales) Regulations 2015, Regulation 3 of The Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017 and Parts 4 and 5 Code of Practice (Charging and Financial Assessment), Page 21 and 23.

Weekly Maximum Charge

For care and support that does not include accommodation in a care home, the Local Authority must not charge you more than a weekly maximum charge for all of the care and support you receive. This weekly maximum charge is current set at £90. This means that a Local Authority must not charge you more than this maximum weekly charge regardless of how much care and support you may require. If the cost of your care and support is less than the £90 maximum weekly charge, you will be charged less.

However, the maximum weekly charge will not include the cost of any services that charge a flat rate (as a financial assessment is not required for services where this is a flat rate charge). The cost of any services that charge a flat rate will therefore be made in addition to the weekly maximum charge.

The Local Authority will:

- Work out the cost (the standard charge) of all of your care and support

- Deduct the cost of any services that charge a flat rate (as you will need to pay for this in addition/separately)
- Apply the maximum weekly charge for non-residential care and support (i.e. £90 or a lower amount if the Local Authority chooses to set a lower amount for their area) or a lower amount if the cost of your care and support is less than £90,
- Use the amount calculated to work out, based on your income, what you afford to pay towards this cost

For more information on the Maximum Weekly Charge, please refer to Regulation 7 of The Care and Support (Charging) (Wales) Regulations 2015, Regulation 3 of The Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017 and the Part 4 and 5 Code of Practice (Charging and Financial Assessment) Page 17.

Assessing income (non-residential care)

When working out how much you can afford to pay, the Local Authority must consider your income level. Your earnings from your employment must not be included when working out how much you can afford to pay. A Local Authority can assess the income of a couple, but only if it would be financially better for you.

However, income from most welfare benefits will be included in the financial assessment with the exception of:

- Direct payments
- Guaranteed Income Payments made to Veterans under the Armed Forces
- Compensation Scheme;
- The mobility component of Disability Living Allowance;
- The mobility component of Personal Independence Payments;
- Working Tax Credit

For further information on earnings and welfare benefits that must not be included, please refer to The Care and Support (Financial Assessment) (Wales) Regulations 2015 and Parts 4 and 5 Code of Practice (Charging and Financial Assessment) (Annex B - treatment of income, page 35).

Where your disability benefits are included in the assessment of what you can afford to pay for your care and support (or support for carers), the Local Authority should allow you to keep enough of the benefit to pay for necessary disability-related expenditure to meet any needs that are not being met through your care and support. For further detail on this, please refer to Regulations 12 and 27 (Minimum Income Amount for a person with needs for non-residential care and support) of The Care and Support (Charging) (Wales) Regulations 2015.

When considering what disability-related expenditure to 'disregard' from your assessment, they can also consider the costs you may incur from special items or requirements such as additional costs for bedding due to incontinence, for example. A full list to illustrate what Local Authorities have discretion to disregard as disability-related expenditure can be referred to in The Parts 4 and 5 Code of Practice (Charging and Financial Assessment) (Annex B - treatment of income, page 43).

On the financial assessment section you may want to include a couple of sentences about Councils powers if they think anyone is trying to avoid paying care home charges.

Minimum Income Amount

If you receive care and support (or support for carers) outside of a care home, you will still need to pay your daily living costs such as rent, food, utilities etc. A Local Authority must therefore leave you with enough money to meet these costs, known as the 'minimum income amount'.

The Minimum Income Amount, which was previously known as the Personal Expenses Allowance, is the minimum amount of income that you must be left with each week to spend as you wish. The Minimum Income applies when you are contributing towards your care and support.

The Local Authority must ensure that you are left with enough money that would be equal to your 'basic entitlement' to a relevant welfare benefit plus an additional 35% 'buffer'. For further details, please refer to Regulation 12 and 27 (Minimum income amount for a person with needs for non-residential care and support) of The Care and Support (Charging) (Wales) Regulations 2015.

Financial Assessment (for accommodation in a care home)

When conducting a Financial Assessment for care and support (or support for carers) the Local Authority must:

- Calculate your capital (e.g. savings, property). This also includes a set list of additional income that will be treated as capital. Please see The Care and Support (Financial Assessment) (Wales) Regulations 2015 (regulation 19) for further details.

If, following the assessment, your capital is more than £50,000 then you will have to pay the full cost of your care and support. If you have more capital than the £50,000 capital limit, you can still ask your Local Authority to arrange your care and support. However, you will still have to pay the full cost of your care and support until your capital is reduced to the £50,000 capital limit (or your capital is reduced to below the limit).

If your capital is £50,000 or below, the Local Authority will assess how much you can afford to pay towards your care and support.

For further information, please see The Care and Support (Financial Assessment) (Wales) Regulations 2015, Regulation 3 of The Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017 and Parts 4 and 5 Code of Practice (Charging and Financial Assessment), Page 19 and 23.

Property disregards

Whilst the value of your home will be included in the calculation of your capital if you are going to receive care and support through accommodation in a care home, there are certain circumstances where the value of your home must not be included, known as 'property disregards'. These include:

- If you are temporarily receiving care and support in a care home and you intend to return to that home.
- If you are temporarily receiving care and support in a care home and you are taking reasonable steps to dispose of your home to secure a more suitable property.

- If you are receiving care and support in a care home and you no longer live in your main and only home but it is lived in (for part or all of the time) by one of the following people:
 - your partner, civil partner or former partner, except where you are estranged or divorced.
 - a lone parent with a dependent child who is your estranged or divorced partner.
 - your relative or member of your family (spouse, parent including an adoptive parent, parent-in-law, son or daughter including adoptive, son or daughter-in-law, step-parent, step-son or daughter, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece), who is either aged over 60, is incapacitated or who is a child of the resident aged under 18.

For this to apply, your property has to have been continuously occupied prior to you going into a care home. 'Incapacitated' can be defined as the person being in receipt of certain benefits (or eligible for certain benefits): incapacity benefits, severe disablement allowance, disability living allowance, personal independence payments, armed forces independence payments, attendance allowance, constant attendance allowance, or similar benefit.

In most cases it will be obvious whether or not a property is occupied by a qualifying relative as their main or only home. If it is unclear, a Local Authority can undertake a factual inquiry to reach a decision. An emotional attachment to a property alone is not enough for the disregard to apply. If a qualifying relative has to live somewhere else for a particular reason (i.e. due to their employment or prison sentence) but the property remains their main or only home, the property disregard will apply.

A Local Authority may also use its discretion to apply a 'property disregard' in other circumstances (e.g. where the property is the sole residence of someone who has given up their own home in order to become your carer). However, the Local Authority will need to balance this discretion with ensuring that your assets are not maintained at the expense of the public purse.

In order to allow you time to make decisions on how to pay for your care home costs, and where your capital is below the financial limit (£50,000), a Local Authority must apply the '12-week property disregard' when:

- first enter a care home; or
- if your qualifying relative who was occupying your property unexpectedly dies or moves into a care home themselves.

Additionally, a Local Authority has discretion to apply the 12-week property disregard if there is a sudden and unexpected change in your circumstances.

For further details on property disregard, please refer to The Care and Support (Financial Assessment) (Wales) Regulations 2015 and Parts 4 and 5 Code of Practice (Charging and Financial Assessment) .

Assessing income (care homes)

When working out how much you can afford to pay, the Local Authority must consider your income level. Your earnings from your employment must not be included when working out how much you can afford to pay. However, income from most welfare benefits will be included in the financial assessment with the exception of:

- Direct payments
- Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme
- The mobility component of Disability Living Allowance
- The mobility component of Personal Independence Payments
- Working Tax Credit

For further information on earnings and welfare benefits that must not be included, please refer to The Care and Support (Financial Assessment) (Wales) Regulations 2015, Regulation 4 of The Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017 and Part 4 and 5 Code of Practice (Charging and Financial Assessment) (Annex B - treatment of income, page 35).

Where your disability benefits are included in the assessment of what you can afford to pay for your care and support (or support for carers), the Local Authority should allow you to keep enough of the benefit to pay for necessary disability-related expenditure to meet any needs that are not being met through your care and support.

Any disability-related expenditure that could be 'disregarded' from your assessment must not be being met by your

residential care package. This could include the costs you may incur from special items, such as additional costs for specialist shoes, for example. A full list to illustrate what Local Authorities have discretion to disregard as disability-related expenditure can be referred to in Parts 4 and 5 Code of Practice (Charging and Financial Assessment) (Annex B - treatment of income, page 43).

The Local Authority can only include your income when assessing what you can afford to pay for your care and support (or support for carers). However, a Local Authority can assess the income of a couple but only if it would be financially better for you.

Minimum Income Amount (care homes)

The Minimum Income Amount, which was previously known as the Personal Expenses Allowance, is the minimum amount of income that you must be left with each week to spend as you wish - the Local Authority must not put pressure on you to spend your Minimum Income Amount in a particular way. It must not be used to cover any aspect of your care and support that is being provided for by the Local Authority. Also,

The Local Authority must not reduce your income to lower than £29.50 a week. However, there may be circumstances where you may need more than just your Minimum Income Amount. For further details, please refer to Regulations 13 and 28 (Minimum Income Amount where a person is provided with accommodation in a care home) of The Care and Support (Charging) (Wales) Regulations 2015, Regulation 3 of The Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017 and Parts 4 and 5 Code of Practice (Charging and Financial Assessment) (Annex B - treatment of income, page 44).

Additional cost

A Local Authority must arrange for you to be accommodated in your preferred choice of accommodation, providing certain criteria are met (for further details, please see section on Choice of Accommodation section, Factsheet 4). If you choose a care home that is more expensive than the Local Authority would usually expect to pay for that type of accommodation, an arrangement will need to be made as to how the additional cost will be met. This is known as the additional cost and is the difference between the amount that the Local Authority would expect to pay and the actual cost of your chosen care home.

If you have chosen a more expensive care home the Local Authority must be sure that you understand the full implications of this and that the additional cost will need to be met for the full duration of your stay in that care home. The Local Authority must provide the person who will be paying the additional cost with access to sufficient information and advice to ensure they understand the terms of conditions. They may ask for proof from the person who will be paying the additional cost that they can afford to meet the cost.

If, however, you have been accommodated in a more expensive care home solely because the Local Authority has been unable to find a care home at its usual cost, it is the Local Authority that must pay the additional cost.

For further information on additional costs, please refer to Parts 4 and 5 Code of Practice (Charging and Financial Assessment), Annex C - Choice of Accommodation and other related costs, page 50.

Deferred Payments

If your care and support needs are to be met through accommodation in a care home, you have a right to take out a deferred payment agreement with your Local Authority, providing certain conditions are met. A deferred payment agreement will delay the payment of your care and support costs until a later date. This does not write off the payment, it simply delays it as the Local Authority provides funding as a loan which you will then pay back (following the sale of your home after your death for example).

To qualify for a deferred payment, your home must provide adequate security to cover the cost of your care and support together with any interest and administration fees that may be charged by your Local Authority as a result of arranging the deferred payment. However, a Local Authority must give you an estimate of the administrative cost of the deferred payment before entering an agreement. Additionally, the Local Authority must also inform you of the interest rate that will be charged (which cannot be more than 0.15%) before entering an agreement.

Deferred payments can be refused in certain circumstances. For example, if the value of your home is not enough to cover the cost of the loan that will pay for your care and support.

If a Local Authority thinks you may benefit or be eligible for a deferred payment agreement it must make information available to you (in a way that is accessible to you) and explain how the deferred payment agreement operates.

For further information, please refer to The Care and Support Deferred Payment (Wales) Regulations 2015 and Parts 4 and 5 Code of Practice (Charging and Financial Assessment), Annex D - Deferred Payment Agreements, page 54.

Deprivation of assets

If you have an asset (e.g. savings or property) that you transfer to someone else to avoid using it to pay for your care and support, the Local Authority can still assess you as if you still have that asset. A Local Authority can decide that a deprivation of assets has occurred if they believe that you have deliberately reduced your assets to avoid paying for your care and support.

For further information, please refer to Parts 4 and 5 Code of Practice (Charging and Financial Assessment), Annex F - Recovery of Debt and Deprivation of Assets, page 73.

