

Non-Residential Charging Policy

Social Services and Well-being (Wales) Act 2014

Cardiff Council
Adult Social Services



A policy in relation to charging for
non-residential care and support
services

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1. Introduction

This policy sets out the responsibilities of Cardiff Council concerning charging for costs incurred when providing non-residential care and support.

This policy is part of a suite of policies and procedures around charging for care and support.

Details of practice and specific processes are to be found in the individual authorities' procedure documents, which sit underneath this policy. This policy **must** always be read in conjunction with the Social Services and Well-being (Wales) Act 2014, associated Regulations and Codes of Practice.

2. Legislative Context – Summary

The Social Services and Well-being (Wales) Act 2014 (henceforth 'the 2014 Act') is the legal framework that brings together and modernises social services law in Wales. The 2014 Act sets out the requirements for local authorities in relation to charging and financial assessment under [Section 59](#) of the 2014 Act on those who are to receive care and support, or support in the case of carers.

This policy and its related procedures are written with particular reference to the following documents, which, in addition to the 2014 Act itself, should be the principle points of reference for those in need of further information:

The Act:	The Social Services and Well-being (Wales) Act 2014
Regulations:	The Care and Support (Financial Assessment) (Wales) Regulations 2015 The Care and Support (Charging) (Wales) Regulations 2015 The Care and Support (Deferred Payments) (Wales) Regulations 2015 The Care and Support (Review of Charging Decisions and Determinations) Wales Regulations 2015 The Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017 The Care and Support (Charging) (Wales) (Amendment) Regulations 2018

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	The Care and Support (Charging) and (Financial Assessment) (Wales) (Miscellaneous Amendments) Regulation 2019 The Care and Support (Choice of Accommodation) (Wales) Regulations 2015
Codes of Practice:	Part 4 and 5 Code of Practice (Charging and Financial Assessment)
Other legislation:	Mental Capacity Act 2005 United Nations Principles for Older Persons United Nations Convention on the Rights of Disabled People Human Rights Act 1998

Individuals who require care and support will be financially assessed in line with the above legislation and guidance as to their ability to pay towards care and support services they receive.

3. Principles

Cardiff Council are committed to giving people a stronger voice and real control over the support they need, to remove barriers to their well-being.

The 2014 Act places responsibility on individuals exercising functions under the 2014 Act, Local Authorities, and other public bodies for meeting needs and delivering outcomes, with the Local Authority being obliged to meet any eligible need and/or help deliver any relevant outcome, which would not otherwise (i.e. without intervention) be met.

We will ensure that charging, where it occurs, is consistent, fair and clearly understood. Individuals who are asked to pay a charge will only be required to pay what they can afford.

We will take into account the principles set out in the charging and financial assessment framework introduced by the 2014 Act.

We will ensure there is information and advice about charging available in appropriate formats, which take account of individual communication needs, in particular for those with a sensory impairment, learning disability or for whom Welsh or English is not their first language. This is to ensure that individuals are able to understand why they are being charged and how charges have been calculated.

Where an individual lacks capacity they will still be subject to a financial assessment in order to determine if they are required to contribute towards the cost of their care and support. We will use appropriately skilled staff to communicate with an individual, taking into consideration their capacity as well as any medical condition or impairment they might have. Where possible we will consult with family members

who may have the legal authority to make financial decisions on behalf of an individual who lacks capacity. If there is no such person, then an approach to the Court of Protection may be required.

4. Summary of Key Duties and Requirements

The following services are chargeable under this policy:

- Domiciliary (home care) services
- Day care services
- Supported living services
- Direct payments
- Independent living service
- Telecare
- Respite care (up to 8 weeks)

The following adult social care services are provided free of charge:

- Day care transport
- Employment and training schemes in day services
- Community equipment
- Assessment of needs, care planning and reviews
- Provision of information and advice
- Provision of independent professional advocacy and mediation services

Meals are not included in the policy as they are charged at a flat rate regardless of income, as they are a substitute for an ordinary living expense. Similarly, telecare equipment (Tier 1 and 2) are regarded as flat rate charges and payable separately.

Service User Exemptions

We have discretion to charge an individual for care and support provided to meet their needs. We will not charge for care and support provided or arranged in the following circumstances:

- To meet the needs of a child;
- For an individual who has Creutzfeldt-Jakob Disease which has been diagnosed by a registered medical practitioner.
- For an individual who has been offered or is receiving a service as part of a package of after-care services under Section 117 of the Mental Health Act 1983.

- For a carer for support services provided directly to them as a carer. If the service is provided to the person with care and support needs (eg respite) it would form part of any charge for care and support provided to that person.
- In receipt of Reablement and Intermediate care services (first 6 weeks only)

If services are delivered jointly with a Local Health Board the individual will only be charged for the social care element of each service.

Financial Assessment

For services that are chargeable we will undertake a financial assessment to determine how an individual will be charged.

The financial assessment will consider an individual's:

- Income and savings
- Allowable expenditure (such as housing costs); and
- Extra expenses they may have due to a disability or condition.

The financial assessment will make sure that all individuals retain a minimum income amount (as specified by Welsh Government). This is a level of 'protected income' that will not be considered in the financial assessment.

All individuals will have at least this level of income to pay for their housing, living and disability related expenses, before they are asked to pay an assessed charge for adult social care services.

Completing the Financial Assessment

Where an individual has been assessed as requiring a service covered under this policy, we will offer each individual a financial assessment.

A visiting officer will arrange to visit individuals at home to complete the financial assessment. If a visit is not possible, the individual will be informed of the information required which can be posted or e-mailed to us. The financial assessment will be completed based on all the information received.

If an individual delays completing the financial assessment by more than 15 working days after the request is made they may be required to pay the subsidised cost of the service up to the agreed maximum charge per week, until a financial assessment is completed. We may extend this period if a request for an extension of time with reasons for the delay is made. If the financial assessment, when completed, results in a lower charge than this, consideration will be given to refunding the difference depending on the circumstances of each case. The Social Services Director will hold discretion in this matter, in consultation with the other Senior Officers of the Council.

Net disposable weekly assessable income

The assessable income is the amount of money an individual will have after their expenses have been taken into account. This amount of money will be considered, then we will work out what charge we should make.

The assessed charge for services received will be the lesser of an individual's "assessable" income, or the subsidized hourly rate for the service that they receive, up to a maximum charge (set by Welsh Government). If an individual's assessed charge is less than our minimum charge, the person will receive their service free of charge.

Minimum Income Amount

We assess an individual's ability to pay a contribution towards the cost of their care; it ensures that each individual maintains a portion of their income that is at least the level of the minimum income amount. This is intended to cover such costs, provided they are reasonable, as:

- Food, clothes, insurance, including building & contents, mortgage protection, life assurance, water rates, utility bills such as gas, electricity and telephone, transport (including bus fares), TV license, subscriptions to satellite or digital TV companies, repair and replacement of household items, Other expenditure such as credit card debt or personal loans (including County Court Judgments).

There is also a disregard to allow for disability related expenditure.

An individual will be financially assessed in their own right. Only the income of an individual in receipt of care and support will be counted, not that of their partner, spouse or carer. However, it may be beneficial for some individuals who are married or live with a partner to tell us about their joint income as it may result in a lower charge. We will always use the assessed charge that is best for the individual in receipt of care and support.

Capital, Assets and Savings

Where individuals have savings or capital (excluding the value of their main home) exceeding the threshold (which is annually specified by Welsh Government) they will be asked to pay the subsidised charge for the service that they receive up to the maximum weekly charge amount.

Therefore, these individuals will not require a financial assessment, however benefits advice will be offered if appropriate.

Calculation of Income

In the financial assessment process, individual's sources of income are considered or disregarded, depending on how the income is generated. Welsh Government

provides mandatory guidance on which sources of income we must disregard in the financial assessment and gives us discretion on how we treat other sources of income.

Certain benefits will be included as income in the financial assessment and details of the benefits can be found in our Non-Residential Charging Procedure.

Where any welfare benefit payment has been reduced (other than a reduction because of voluntary unemployment), for example because of an earlier overpayment, any amount taken into account will be the gross amount of the benefit before reduction.

We also consider any private pension, annuity income, or other regular income from investments. An annuity is a type of pension product that provides a regular income for a number of years in return for an investment. Such products are usually purchased at retirement in order to provide a regular income. While the capital is disregarded, any income from an annuity may be taken fully into account except where it is:

- purchased with a loan secured on the individual's main or only home; or
- a gallantry award such as the Victoria Cross Annuity or George Cross Annuity.

We do not take into account certain income or benefits in the financial assessment. These change regularly and more detail can be found in the Non-Residential Charging procedure.

We will take into account the individual circumstances of the payment before making a decision on whether to disregard payments. In general, a charitable or voluntary payment which is not made regularly is treated as capital, whilst regular payments will be disregarded.

Expenditure Allowance

We will take into account housing and council tax costs, net of any benefits. This means that if an individual does not receive any help with housing or council tax costs, they will be taken into account. Allowances are made for each individual, depending on their housing tenure and circumstances, including:

- Rent net of housing benefits/Universal Credit
- Council Tax net of Council Tax reduction
- Essential service charges and ground rent net of assistance funding
- Mortgage net of income support or pension credit assistance, and life insurance payments made in respect of the mortgage amount
- Payments under court order (e.g. child maintenance)

Disability Related Expenditure

Disability Related Expenditure (DRE) is an allowance included in the assessment for additional expenses an individual may have due to a disability or condition. This will be in line with limits set by Welsh Government and in line with any fairer charging policy.

Where individuals believe they have disability related costs over and above this allowance, they have the right to seek a review and a more detailed consideration of their disability related costs may then be undertaken.

The Maximum Charge Payable

The maximum charge for non-residential (including respite) adult social care services is set each year, details can be found in the Residential Charging Procedure. Individuals will be charged, the lesser of:

- Their net disposable weekly income;
- The subsidised rate for the service they receive; or
- The agreed weekly maximum charge.

Individuals will only be charged what they can reasonably afford to pay, and after any service charges are made, they will be guaranteed to still retain a level of income equivalent to the 'minimum income amount' (MIA). We will continue to subsidise the cost of the services that we arrange or deliver.

Welsh Government sets the level of the maximum charge each year.

Charging Period and Charge Payable

Charges will be raised for each four-week period. Where a charge is payable, it will be above our minimum charge and no more than the individual's assessed contribution or maximum weekly charged whichever is the lesser amount.

All individuals will be informed of the outcome of their financial assessment in writing. This correspondence will state the date from which their charge commences. If for any reason the individual overpays a charge, they will be notified and we will reimburse them or credit the overpayment against future charges for service.

Decline to provide financial details

Individuals have the right to choose not to provide their financial details to us. In such cases, the council is unable to undertake a financial assessment and the service user will be charged for each hour of care they receive at our subsidised rate, up to the agreed weekly maximum charge.

Financial Representatives

In circumstances where an individual lacks capacity and has a third party acting formally on their behalf we will contact the representative for information on financial matters and, should they take responsibility for making payments, the representative will be billed directly for the care contributions.

Change of Financial Circumstances

If an individual's financial circumstance changes, they must advise us as soon as possible, as this may affect their assessed charge. Changes, which should be notified, include:

- Receipt of a new benefit
- Changes in capital
- Changes to income or allowable expenditure
- Changes to living arrangements (e.g. the service user or their partner moves to a care home, the service user moves to another residence or the number of people in the service user's household changes)
- At any time, individuals may inform us of any other changes to their financial circumstances, if they would like a financial assessment to be undertaken.

After an individual has told us about changes in their financial circumstances, a new financial assessment will be completed using the most up to date information that is provided.

If the revised financial assessment results in a decrease in the weekly charge, this will usually be backdated to the date that the individual's circumstances changed. This will be explained in writing to them.

If it results in an increased charge the individual will be informed of the outcome of their financial assessment in writing. This correspondence will state the date from which their charge commences.

We will consider people's financial assessments on at least an annual basis. This re-assessment ensures that an individual's changing financial circumstances are correct when assessing charges for services and that they are only asked to pay what they can reasonably afford.

Methods of Payment

There is a range of methods to pay charging invoices. Details of these methods are included on the back of the bill sent out each month.

Debt Recovery

Where an individual accrues a debt we will take all reasonable steps to ascertain the reasons why this has occurred and only when it is clear that it is as a result of an

individual's deliberate non-payment will debt recovery be considered in line with the requirements of the 2014 Act.

Review and Complaints

An individual may request a review of their financial assessment where they feel an inappropriate decision has been made, either in the level of the charge or in relation to the basis upon which the decision to impose a charge was made. If they wish the individual may provide additional information that may be considered, for example, additional disability related expenditure. We will set up a Review Panel headed by the Social Services Director to consider these requests.

If an individual is unhappy with the Review Panel's decision they will be able to make a formal complaint about this to us in accordance with the Council's Complaints policy.

5. Putting Policy into Practice

This policy outlines the key duties and requirements in relation to charging for non-residential care and support across the region. More detailed guidance notes and procedures will be available to support and assist practitioners with the interpretation of this policy and the relevant sections of the 2014 Act.

6. Policy Approval and Review

Policy Approved By:	
Date Approved:	
Review Frequency:	Every 3 years
Date Policy To Be Reviewed:	April 2023 or as required
Responsible Officer(s):	