

Neath Port Talbot County Borough Council

Social Services Health and Housing Cabinet Board

17 March 2016

Report of the Director of Social Services Health and Housing– Nick Jarman

MATTER FOR DECISION

WARDS AFFECTED: ALL

Residential and Non-Residential Care Charging Policy

Purpose of the Report

1. To establish a Residential and Non Residential Care Charging Policy in accordance with the Social Services and Wellbeing (Wales) Act 2014 ie SSWB Act 2014.

Executive Summary

2. Previous policies for both residential and non-residential charges have been brought together under the SSWB Act 2014 and associated Code of Practice. The attached charging policy comes into effect from the 6th of April 2016. The policy provides an overview of the changes to the charging arrangements and confirms that this Council will charge service users for services received in line with the legislation.

Background and changes arising from the Act

3. The Council provides a number of different social care services including residential care, home care, day services, assisted technologies such as Lifeline, Telecare and direct payments to various service users. The following table shows the number of financial assessments carried out totaling 3324 service users.

Service	Number
Residential Care	728
Home Care	845
Direct Payments	276
Day Care	343
Lifeline/Telecare	959
Supported Living – top up	173

4. The main changes set out in the legislation are:-

- The authority now has discretion to charge for its services where previously we had a duty to charge
- Charges for care can now be backdated to the day the service was first provided
- The authority has the ability to put a land charge on service user property to cover debt owed. The Act also allows for interest to be charged on these deferred payment arrangements
- Respite now to be assessed under non-residential charging and capped under current arrangements at £60 per week previously not means tested
- Deferred payment agreements to be formalised
- Rules around residential charging to be brought in line with non-residential charging e.g. Review Process

Financial Impact

5. As a consequence of the SSWB Act 2014 it is projected that the income generated for the Council will be reduced by circa £200k. The income generation position will be monitored through the authority's budget monitoring process and an update brought back to committee as the financial year progresses. Any shortfall will need to be found from other budgets within the Social Services Health and Housing budget.

Legal Impact

6. The charging policy is in line with the SSWB Act 2014 and associated regulations. New arrangements and legal documentation will need to be put in place in relation to Deferred Payment Agreements.

Equality impact assessment

7. A Screening Assessment has been undertaken to assist the Authority in discharging its Public Sector Equality Duty under the Equality Act 2010. After completing the assessment, it has been determined that this function does not require an Equality Impact Assessment. The charges proposed by the Council are in line with the legislation.

Workforce impacts

8. There are no workforce related impacts.

Risk management

9. Failure to determine the new charging policy would mean the Authority would not be able to charge for its residential and non-residential services from the 6th of April 2016. There are other new risks associated with projected lower income generation levels and the implementation of deferred payment arrangements.

Consultation

10. There is no requirement under the Constitution for external consultation on this item.

Recommendation

11. It is recommended that Members approve the Residential and Non-Residential Care Charging Policy as set out in Appendix A.

Reason for Proposed Decision

12. To set a charging policy for recovery of income in line with the requirements of the Social Services and Wellbeing (Wales) Act 2014.

Implementation of Decision

13. The decision is proposed for implementation after the three day call in period.

List of Background Papers

14. Social Services and Wellbeing (Wales) Act 2014 and associated Regulations.

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NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

**RESIDENTIAL AND NON-RESIDENTIAL CARE CHARGING
POLICY**

**IN ACCORDANCE WITH THE LEGAL REQUIREMENTS OF THE
SOCIAL SERVICES AND WELL-BEING (WALES) ACT 2014 –
PART 5 (CHARGING AND FINANCIAL ASSESSMENTS)**

EFFECTIVE DATE – 6TH APRIL 2016

1. Introduction

From 6th April 2016 the Social Services and Well-being (Wales) Act 2014 (referred to in this document as “The Act”) will introduce one unified charging framework, which will replace all existing Acts and Regulations, relating to charging for Residential and Non-Residential Care.

Under The Act (which also incorporates Charging Regulations, and a Code of Practice), the Welsh Assembly Government has given discretion to local authorities to raise income from charging – this income will continue to be essential, in enabling this authority to manage resources effectively, sustainably, and to strive for continuous improvement in the future.

This Charging Policy should be used in accordance with the guidance provided in The Act, Charging Regulations and Code of Practice (all of which can be found on the Care Council for Wales’ Care Information and Learning Hub, and also on the Welsh Assembly Government’s website) – the relevant links can be found below:-

Social Services and Well-being (Wales) Act 2014 – referred to as “The Act”

<http://www.legislation.gov.uk/anaw/2014/4/contents/enacted>

Charging Regulations

<http://www.ccwales.org.uk/regulations-and-codes/>

Code of Practice (Parts 4 and 5)

<http://gov.wales/topics/health/socialcare/act/code-of-practice/?lang=en>

Statements referring to any relevant fees, charges, hourly rates etc will be produced/updated annually (or when required), to reflect any changes to this policy, changes to The Act, or to meet any Welsh Assembly requirements (or changes in other legislation) - a copy of the latest figures can be found in Schedule 1 (at the rear of this document).

2. Charging and Financial Assessments

The authority will use its discretion (under The Act) to impose a charge, or set a contribution, towards the costs of social care/services, and will do so, in line with the requirements of The Act.

The overarching principle is that people who are asked to pay a charge, must only be requested to pay what they can afford, and they must not be charged more than the cost incurred in providing/arranging their care and support.

A financial assessment will therefore calculate how much, if anything, a person can afford to pay, towards the cost of their care, on a weekly basis. This authority will therefore use its discretion to assess clients, on both their income and capital assets (but disregarding any relevant sums) – please note that a full list of the income and capital assets to be included/disregarded, in the financial assessment, can be found in the Code of Practice (Annex A and Annex B).

Any assessed client contribution will be subject to a protected minimum income threshold (referred to as a Personal Expenses Allowance, with regards to Residential Care Charging), which is set at a level intended to safeguard service users' independence and social inclusion - the calculation of the protected minimum income amounts, are set out in the Code of Practice (Sections 9.4 and 11.3).

3. Residential and Non-Residential Charging

Although The Act provides for one unified financial framework, there are a few subtle differences to the financial assessments carried out for Residential Care, and Non-Residential Care – these are explained below:-

3.1. Residential Care

If a client is assessed (by Care Management) as possessing a Residential/Nursing need, then a care home placement would be the most suitable way of meeting these needs. Such clients may qualify for local authority financial assistance, if they have capital below the relevant capital limit.

With regards to Residential Care, a client who qualifies for financial assistance will be required to pay an assessed client contribution, direct to the care provider, with the authority also making a financial contribution (up to the agreed contracted rate), directly to the care home – the payment made by the authority will be net of any assessed client contribution.

Should a client choose not to declare their financial circumstances (or confirm that they possess capital in excess of the capital threshold), then they will be asked to make their own arrangements to fund their placement (if they reside/intend to reside in an Independent Sector care home), or will be assessed by this authority to pay the maximum weekly charge (if the client resides/intends to reside in a Gwalia care home).

If a client is admitted to a care home for a short (Respite) stay, and this stay is to be no longer than 8 weeks, then the client will be financial assessed under Non-Residential Charging (please see below).

However, if a client enters a care home on a Long Term basis, or a planned stay in excess of eight weeks, then the client will need to be financially assessed, under Residential Charging.

In addition, for cases where the stay exceeds 8 weeks, but is less than 52 weeks, the authority can make allowance for certain household expenses (that a client may still be required to meet), on a property that they wish to return to (providing that they list these outgoings on the Declaration of Financial Services form).

Therefore, although The Act has attempted to combine Residential and Non-Residential Charging (as much as is possible), there are certain areas where Residential Charging must be different - i.e. as with regards to ownership of property, the value of the client's main residence will not be taken into account, when calculating a charge for Non-Residential care/services.

However, where a client enters Long Term Residential/Nursing Care, and is a Home Owner (and the property will be left empty, where the client is admitted to a care home), the authority will include the value of the property, in any financial assessment (subject to a twelve week disregard) – in these cases, the authority would arrange to provide financial assistance, but would eventually recover all costs (from the date that the property is being included, in the financial assessment) following the eventual sale of the property.

NB It should be noted that property can be disregarded, in certain circumstances (i.e. where a family member is still residing at the address), and the authority also has certain discretion to provide property disregards – however, due to the unique individual nature of property ownership, the Code of Practice (Annex A) should firstly be referred to, for specific guidance.

3.1.1. Deferred Payments

A Deferred Payment Agreement enables a local authority to meet a proportion (or all) of the cost of a client's Residential/Nursing Care, whilst placing a charge on the client's property, as security against the deferment. Agreements (which are described in Annex D of the Code of Practice) will be for the duration of a client's stay in a care home, such shorter period, as the client so wishes, or until the client decides to sell their property, in order to pay for their Residential/Nursing Care.

In order to qualify for a Deferred Payment, the authority must firstly be satisfied that the client has an interest in the relevant property, the client's weekly income is insufficient to meet the full cost of their care fees, the client's capital is not in excess of the capital limit (which would allow the client to fund their own placement), and the value of the equity (in the property) does exceed the capital limit - additional requirements can also be found in Annex D, in the Code of Practice.

Where this authority enters into Deferred Payment Agreements, interest will be charged (the amount of which will be confirmed in the Deferred Payment Agreement), in addition to any associated administrative (including valuation) costs.

3.2. Non-Residential Care

Non-Residential Care services would consist of Domiciliary/Home Care, Domiciliary Respite Services, Residential Care based Respite Care (of up to 8 weeks), Telecare/Lifeline, Day Care Services, and Direct Payments.

Clients who are in receipt of more than one of the above services will be provided with a single financial assessment, based on the total cost of all of the services provided.

3.2.1. Non-Residential Financial Assessment Options

Where a client does not have a partner and is the only person in a household in receipt of a service, the financial means of other adults in the household do not need to be taken into account in undertaking a financial assessment. Where appropriate, the relevant income and costs of the household will be divided evenly between all the adult members of the household to arrive at the allowable income and expenses for the individual.

However, situations may arise where it would be more beneficial to a client, if their contribution were to be calculated on the basis of the household. Clients will therefore be encouraged to have a financial assessment carried out on both an individual and a household basis, to determine the most financially advantageous arrangement. If the resultant financial assessment is based on the household's income, the service user would remain responsible for paying for the care provided.

Where a client has a partner, the financial assessment will be based on the combined income & expenditure of both partners, but the service user will be the partner responsible for paying for the care provided.

In these circumstances, a client may specifically request an independent financial assessment based on their individual means, in which case 50% of relevant joint costs will be taken into account to calculate the allowable expenses.

Alternatively, where there are joint or multiple clients in a household, the combined income of all clients, and the total relevant household expenditure, will be taken into account in calculating a single financial assessment for the household. A household assessment will be based on the total cost of the combined services received by the household. In such circumstances, one member of the household will be responsible for ensuring payment is made for the care provided to the whole of the household.

If all clients specifically request independent financial assessments based on their individual means, the cost of each service and the entitlement to financial assistance will be calculated separately for each service user within the household.

The disclosure of personal financial information will enable the authority to calculate to what extent, the client is entitled to financial assistance, towards the full cost of the service. The financial assessment will also therefore calculate, the amount that the client will be required to pay (if anything) towards the above services – this Charging Policy therefore reflects both the level of service provided, and also the client's financial means.

The amount that a client may be expected to pay will be based on the weekly cost of the service, less the amount that the client can afford to pay (i.e. based on their income and capital, and less any relevant outgoings/minimum guaranteed income) – each client will then be provided with a “Maximum Charge” that they could be required to pay, towards the care/services they receive (even if their available income is higher than the cost of the service, they will pay no more than the “Maximum Charge”).

Expenses are allowable for Housing Costs (Mortgage Payments and Rent, or equivalent) net of Housing Benefit, Contributions towards Supported Living costs, and Council Tax payments (net of Council Tax Benefit) – this information must be provided (on the Declaration of Financial Circumstances form, and documentary evidence provided), in order to be considered in the financial assessment.

The client's charge would be based on the contact/assessed hours of care (or number of Day Service attendances), by the rate charged - the rate charged will be no more than the cost of the services, it may not necessarily reflect the actual cost to the authority of providing/commissioning the service, but in any instance,

the client would not be required to pay in excess of the weekly “Maximum Charge” for the service (or combination of services). Refunds will only be issued for notified cancelled calls (with regards to Domiciliary/Home Care services).

Clients who do not wish to take part in a financial assessment will be required to pay the full cost of the service provided, subject to a weekly “Maximum Charge”.

4. Circumstances where a Charge cannot be applied

The authority cannot charge for certain types of care and support, and these must therefore be offered free of charge. Although a full list of examples can be found in Section 5.12 (of the Code of Practice), the most relevant exemptions are:-

- Where the client is a Child, or is a Child Carer (under 18 years of age).
- Where a client receives after-care services/support under Section 117 of the Mental Health Act 1983.
- Where re-ablement has been arranged, to enable a client to maintain or regain their ability to live independently at home. In this case, the client would therefore be entitled to up to 6 weeks “free care” (and consideration should also be given as to whether this period could be extended, based on individual circumstances).

5. Statement (and Effective Date) of Residential and Non-Residential Charges

Assessed charges will become due from the date that the care/service is provided, but clients must firstly have been notified of the maximum that they “may” be expected to pay – this notification must have been provided, prior to the service commencing. This information will be communicated to clients, by means of an “Invitation to Request a Means Assessment” document.

Clients who require a financial assessment will be required to complete a “Declaration of Financial Circumstances” form, and provide evidence of their income and capital assets – this information should be provided within 15 working days of the date the “Invitation” was issued, and where client’s fail to respond, the authority may impose the standard charge, up to the level of the Maximum Charge.

Once a financial assessment has been carried out, a confirmation letter (and attached breakdown of the assessed charge) will be sent to the client (or financial representative).

If a client's financial circumstances/care plan subsequently changes, then this may have an impact on the assessed charge, and any such changes may therefore require for the client to be financially re-assessed – in any instance where a client's financial circumstances change, then the relevant changes should be communicated to the authority (in order for a determination to be made whether a re-assessment is required, and whether the changes will affect the client's assessed charge). Any changes in the client's charge will be back-dated to the date that the change in circumstances occurred.

Clients will be financially re-assessed in each financial year, with the re-assessed annual charge, being sent to the client (or financial representative).

6. Deprivation of Assets (Income and Capital)

If a client deliberately deprives themselves of assets (in order to reduce/avoid charges or qualify for financial assistance), then the authority will treat the client as still possessing the asset(s), and will include the value of these assets in any financial assessment (Notional Capital). Such a determination would result in a client being requested to meet the full cost of their care (Residential Care), or the Maximum Charge (Non-Residential Care). The timing of any deprivation would impact on whether the authority would pursue the client, or the person who received the benefit of the deprivation - further guidance regarding this should be sought from Annex F, in the Code of Practice.

7. Payment of Charges

The majority of Non-Residential Charges (i.e. Domiciliary/Home Care, Day Care) will be collected by Direct Debit (calendar monthly), as this is the preferred method of payment. Any Respite charge may be payable to the Care Provider (unless the client already receives an alternative service, and these charges are already collected by Direct Debit).

Where a client is in receipt of Direct Payments, the client's assessed charge (if applicable) will normally be paid directly into the Direct Payments Account (by the client), and the authority will also make payment (i.e. a net amount, following the deduction of any assessed client contribution) directly into the client's Direct Payments account – the combination of these contributions will thus ensure that the client has sufficient funds, in order to meet the cost of the care/services set out in their care plan.

With regards to Residential Care (as mentioned above), the client will be required to pay the assessed client contribution direct to the care provider, with the authority also making any relevant financial contribution, direct to the care home.

Should the client choose a Residential/Nursing home, whose charges are in excess of the authority's contracted rate (for the Local Authority area where the care home is located), then the family/representative will be required to enter into/negotiate a separate arrangement (referred to as a Top Up, 3rd Party, or Additional Payment), to pay these fees directly to the relevant care home.

8. Review Process

Following a client receiving formal notification of their assessed charge, for Residential and Non-Residential Care, they may seek a review of the assessment (the request may be made orally, or in writing), where they feel the decision has been undertaken inappropriately, or where they feel that meeting the charge would cause financial hardship (this is dealt with in Annex E of the Code of Practice).

The authority must send the client (within 5 working days of receiving the request) a statement of acknowledgement, and request any documentary evidence, which may be required to carry out a review/re-assessment - NB the client may decide that they do not wish to pay their assessed charge whilst the review is ongoing (but must advise the authority of this, within 5 days of receiving the statement of acknowledgement).

The client has an obligation to return any requested financial documentation within 15 days of the authority's request (or ask for additional time if the client is currently unable to present the required confirmation – NB if this is the case, the authority must offer a Home Visit to the client). If the client does not present the required information (or ask for an extension) within 15 days, the authority can reasonably assume that the client's request has been withdrawn.

Where sufficient information has been provided, the authority must carry out the review within 10 working days (by an officer other than the person who made the original decision), and communicate the decision to the client – if the review leads to an amendment in the charge, the authority must send an amended statement of charge to the client.

It should be noted that where the authority is unable to carry out the review within 10 days it must advise the client that (the client) may elect not to pay the assessed charge, whilst the review is being completed (the authority cannot later

recover any accrued arrears during a period that it was at fault in failing to carry out a timely review, regardless of the eventual determination).

Where the review leads to a lesser client contribution, any overpayments should be credited to the client. Where the review leads to no change (or a higher assessed client contribution), the client will be asked to repay any arrears that may have accrued (i.e. if they decided to suspend their payment, pending the outcome of the review), and also any additional costs (if the client contribution has increased). Before requesting any accrued/additional costs be paid, the authority should decide whether repayment would cause the client any financial hardship (offering to agree a suitable repayment plan, if applicable).

Where a client still remains unsatisfied with the authority's determination, they will be entitled to make a formal complaint (which will be considered through the formal Social Services, Health and Housing Complaints Procedure).

9. Formal Recovery of Charges

Where an invoice has been raised and/or a debt is/remains outstanding, the authority must take all reasonable steps to collect the debt – this would include speaking to/visiting the client, offering a suitable repayment plan, and ascertaining the reason that the debt has not been paid (i.e. not merely assuming that the client has made a decision not to pay).

Should the above steps prove unsuccessful, the authority has recourse (dealt with under Annex F in the Code of Practice) to place a Land Charge on a client's property (if applicable), or to undertake Court Action, i.e. in order to collect any outstanding debt.

SCHEDULE 1

Charges for Services – April 2016

Long Term Residential Care

Charges – Service Users Per Week (Max Charge)

Gwalia Homes – Existing Residents (admitted prior 01/04/12)	£536.90 week
Gwalia Homes – New Residents (admitted 01/04/12 onwards)	TBC
Residential Care – All Other Providers	£512.94 week

Charges – Other Local Authorities (Per Week)

Elderly Care – Gwalia Homes	TBC
Learning Disabilities Accommodation	£1,701.40 week
Additional Hours RCO	£15.06 hour
Additional Hours NCO	£21.87 hour

Fees Paid to Providers of Residential Care (Per Week)

Basic Fee (performance related)	
Excellent	£518.94 week
Good	£515.94 week
Adequate	£512.94 week
EMI Nursing Care Supplement (added to above figure)	£27.52 week
Residential Care for Under 65's (Basic Fee)	£506.94 week
Adult Family Placement	£432.52 week
Gwalia Homes (Basic Fee)	TBC

Non-Residential Care Charges

*All charges below are subject to £60 maximum per week

*Short Term Residential Care (less than 8 weeks) £60.00 per night

Non-Residential Services

*Domiciliary Care	£13.80 hour
*Domiciliary Respite Services	£13.80 hour
*Direct Payments	value of direct payment per week

Community Alarm/Telecare – Per Week

*Lifeline/Category 1	£2.50 week
*Home Safety/Category 2	£3.75 week
*Telecare/Category 3	£5.50 week

Day Care Services – Per Day

*Day Care (Per Attendance) £27.50 per day

Other Local Authorities Only

Day Care for the Elderly	£50.00 per day
Day Care for the Elderly (Excluding Transport)	£38.00 per day
Day Care for Learning Disability clients (Excluding Transport)	£70.00 per day