NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Social Care, Health and Wellbeing Cabinet Board

5 April 2018

Report of the Director of Social Services, Health and Housing – Andrew Jarrett

Matter for Decision

Wards Affected: ALL

Residential and Non-Residential Care Charging Policy

Purpose of the Report

1. To update the Residential and Non Residential Care Charging Policy in accordance with the Social Services and Wellbeing (Wales) Act 2014 i.e. 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 2018. 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, and assisted technologies such as lifeline, Telecare and direct payments to various service users. The following table shows the current number of financial assessments carried out totalling 3,194 service users. Members should note that not all service users make contributions to the cost of their care.

Service	Number
Residential Care	679
Home Care	858
Direct Payments	415
Day Care	97
Lifeline/Telecare	972
Supported Living - top up	173

4. The main changes to the charging policy are (following approval of Welsh Government Regulations, expected 9th April 2018) :-

   - An increase in the amount of money people can keep without having to use it to pay for residential social care from £30,000 to £40,000 (capital limit).
   - A rise in the maximum charge for non-residential care and support from £70 to £80 a week.
   - An increase the minimum amount a person in residential care can keep from their income to spend as they wish from £27.50 to £28.50 a week.
   - Highlight the distinction between short term and long term stays in a residential home.

Financial Impact

5. The increase in the weekly maximum charge for non-residential care from £70 to £80 is projected to generate additional income in excess of £100k.

6. An independent research company was commissioned by Welsh Government to identify the cost of the increase in the capital limit, the Authority has received additional funding in the RSG of £355k. This will be closely monitored to ensure sufficient funding has been received.

Legal Impact

7. 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

8. This function does not require an Equality Impact Assessment. The charges proposed by the Council are in line with the legislation.

Workforce impacts

9. There are no workforce related impacts.

Risk management

10. There are no risk management issues associated with this report.

Consultation

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

Recommendation

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

Reason for Proposed Decision

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

Implementation of Decision

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

List of Background Papers

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

Officer Contact

16. Andrew Jarrett - Director of Social Services Health and Housing
Tel 01639 763279 email: a.jarrett@npt.gov.uk

17. Geoff Powell, Group Accountant Social Services
    Tel: 01639 686602 email: g.powell1@npt.gov.uk

18. Stuart Mason, Assessments Manager
    Tel: 01639 686623 email: s.c.mason@npt.gov.uk

Appendix A

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)

APRIL 2018

1. Introduction

From 6th April 2016 the Social Services and Well-being (Wales) Act 2014 (referred to in this document as "The Act") introduced one unified charging framework, which replaced all previous 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 gives 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 Appendix A (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 a client 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 earnings) – 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 Amount" (Community Care) or "Personal Expenses Allowance" (Residential Care), which is set at a level intended to safeguard a clients' 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 privately fund their placement (unless they request that the authority contracts with the care home, and makes the arrangements on their behalf).

If a client is admitted to a care home for a planned short stay (previously referred to as Respite), and this stay is to be no longer than 8 weeks, then the client can be financially assessed under Non-Residential Charging (please see below), subject to the client receiving a Respite Allocation from the authority - 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.

For cases where the stay exceeds 8 weeks, but is less than 52 weeks, Residential Charging assessments would be carried out on an Temporary (Extended Care) basis - for cases where there is no planned discharge date (and/or the placement is known (on admission) to exceed 8 weeks), then the placement should be treated as Temporary (Extended Care) from the date of admission.

Should a client be known to require a Long Term placement (on admission), but subsequently move to an alternative home at a later date (e.g. their original home of choice did not initially possess vacancies), then the client should be treated as a Long Term placement, from the date of the initial admission (i.e. the admission to the first/original care home).

In addition, (and with regards to Temporary placements) 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 – e.g. 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 (but subject to a twelve week disregard, in certain circumstances) – 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 (and the occupation of said properties), 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), until the equity in the property falls to the relevant capital limit, 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) exceeds 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 can be charged (the amount of which to 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), Lifelink Extra Assistive Technology package (previously referred to as Telecare/Category 3), 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.

Clients who are in receipt of a Lifelink, or Lifelink Plus Assistive Technology packages (previously referred to as Lifeline/Category 1 and Home Safety/Category 2), will pay a **Flat Rate Charge** for the service they receive – these Flat Rate Charges would therefore be in addition to any assessed charge, and would not fall within the "single financial assessment" referred to in the above paragraph.

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 client 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/sessions), 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".

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 (and 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".

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 an attached statement providing a 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 income/assets (in order to reduce/avoid charges or qualify for financial assistance at an earlier date), then the authority will treat the client as still possessing these, and will include the value of the income/asset in any financial assessment (Notional Income/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 shorts stay (previously referred to as Respite) charges may be payable to the Care Provider (unless the client already receives an alternative service from the authority, 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 these contributions will thus ensure that the client has sufficient funds, in order to meet the cost of the care/services (as set out in their care plan).

Should the client therefore wish to purchase additional care/services, outside of their care plan, then they would be expected to use their own funds to purchase this additional care.

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 (unless the authority cannot commission a placement where no additional cost applies) 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 provider.

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.

(NB 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 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 including communicating with/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 deliberate decision not to make payment).

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 2018

Long Term Residential Care

Charges – Service Users per Week (Max Charge)	To 31st Mar 18	1 April 2018
Pobl Homes – Existing Residents (admitted prior 01/04/12)	£547.00	**£563.40**
Pobl Homes – New Residents (admitted 01/04/12 onwards)	£723.00	**£744.70**
Residential Care – All Other Providers	£538.00	**£555.70**
Charges – Other Local Authorities (Per Week)		
Learning Disabilities Accommodation	£1,732	**£1,784 week**
Additional Hours RCO	£15.37	**£16.12 hour**
Additional Hours NCO	£22.32	**£23.04 hour**
Fees Paid to Providers of Residential Care (Per Week)		
Basic Fee	£522.15	**£539.33**
Quality Premium	£15.85	**£16.37**
EMI Nursing Care Supplement (added to above figure)	£28.34	**£29.27**
Residential Care for Under 65's (Basic Fee)	£522.15	**£539.33**
Adult Family Placement	£436.85	**£450.00**
Pobl Homes (Basic Fee)	£675.63	**£694.94**
Pobl Homes (Spot Purchase)	£701.38	**£721.46**

Non-Residential Care Charges

* Highlighted Charges below are subject to £80 maximum per week (following approval of WG Regulations)

*Short Term Residential Care	£70.00 night	
*Up to 7 seven days		**£80.00**
*Every week or part week thereafter (up to 8 weeks)		**£80.00**

Any stay longer than 8 weeks whole period will be charged as per long term residential care.

Non-Residential Services	To 31st Mar 17	**1 April 2017**
*Domiciliary Care	£14.00	**£15 hour**
*Domiciliary Respite Services	£14.00	**£15 hour**
*Direct Payments	value of direct payment	
Community Alarm/Telecare – Per Week		
Lifelink (previously Lifeline/Category 1) – Flat Rate	£2.50	**£2.50**
Lifelink Plus (previously Home Safety/Category 2) – Flat Rate	£3.75	**£3.75**
*Lifelink Extra (previously Telecare/Category 3)	£5.50	**£5.50**
Day Care Services – Per Attendance		
*Day Care (Per Attendance)	£28	**£29**
*Community Connecting Team (per session)	£14	**£14.50**
Other Local Authorities Only – Per Day		
Day Care for the Elderly	£51	**£52.50**
Day Care for the Elderly (Excluding Transport)	£39	**£40.20**
Day Care for Learning Disability clients (Excluding Transport)	£72	**£74.20**
Other Charges		
Meals	£4.50	**£4.50**
Rent Cluster Houses (per week)		
Sycamore Crescent	£84.94	**£90.57**
Southville Road	£75.22	**£76.84**