



**Swansea Council**

**Social Services**

**Charging Policy (Social Services)**

**- Paying for Social Services  
under the Social Services &  
Wellbeing (Wales) Act 2014  
(first implemented April  
2016)**

**Issued on behalf of the  
Director of Social Services**

**Version 3  
(Updated March 2019)**

**Revised policy, to commence 1st April 2019.**

## Change Log

<b>Charging Policy (Social Services) Version 3</b>
<b>Effective Date of Revised Policy (v3):</b> April 2019
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<b>Main Changes to v2.4 (as requested by SSSF&amp;C):</b> <ul style="list-style-type: none"><li>- Cover- remove People Directorate/ Update to Director of Social Services</li><li>- Addition of Change Log, replacing control sheet</li><li>- Contents / page numbering</li><li>- Revised Appendix List of Charges 2019/20</li><li>- Added in Appendix 2: Background/ Links to Welsh Government Regulations/ Codes of Practice relating to social services charging (taken out from main policy)</li><li>- Updated link to policy on public website</li><li>- Changes to section 7 Tables to reflect position in 2019/20</li><li>- Direct Payments moved to Table 3 (section 7) to reflect client contribution/ means tested.</li></ul>

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## 1. Introduction

1.1 The Social Services and Wellbeing (Wales) Act came into force on 6th April 2016. This changed the way social services are delivered in Wales, to meet the needs of the individual and to make services sustainable for the future.

The Act gives people a stronger voice and real control over the support they need to remove barriers to their wellbeing. It focusses on earlier intervention to prevent needs becoming critical, and promotes investment of resources in the short term, to give best value to the public purse overall.

The Act also promotes integration between the health and social care sectors to the greatest extent possible in order to achieve improved wellbeing outcomes.

Under the Social Services and Well-being (Wales) Act 2014 (SSWB Act), a local authority can only charge:

- up to the cost of providing the service
- what the person can afford.

1.2 This policy has been produced in accordance with the legal requirements set out in The Social Services and Well-being (Wales) Act 2014 (“**the Act**”) and sets out Swansea Council’s position on charging for social services.

**It became effective from 6<sup>th</sup> April 2016** for all social services clients, with this Version 3 of the Policy coming into effect from 1<sup>st</sup> April 2019.

1.3 The new legal framework is intended to cover both Adults and Child social services and requires that the Local Authority replaces the Fair Charging and CRAG regulations under one, single Charging Policy.

Swansea Council’s Charging Policy (Social Services) provides detail on:

- i. Welsh Government’s national charging framework
- ii. Our approach and the key principles behind the charges
- iii. How different types of services and support are charged/ not charged for
- iv. How changes will impact on community based service, residential care, direct payments, child and family services, respite care and other services
- v. How any discretion given to Local Authorities is applied in practice, including deferred payment agreements
- vi. Financial assessment processes, including reviews and appeals
- vii. List of charges that apply from 6<sup>th</sup> April 2016 (Appendix 1)

## **2. Legal Framework**

2.1 The Social Services and Well-being (Wales) Act 2014, the regulations made under the Act and a code of practice issued by the Welsh Government together set out the requirements that local authorities must follow when determining whether to charge for care and support services and also when assessing the client's contribution towards those costs. For example:

- i. People with care and support needs may have a financial assessment to work out how much they must pay, whatever kind of help they receive
- ii. There is a maximum charge per week for non-residential care and support (including respite stays) and no-one will pay more than this for non-residential care and support
- iii. A person with assets exceeding the set capital threshold, will be liable to pay the full cost if they decide to live in a residential care home
- iv. Applying Section 5.12 (Part 5 of the Social Services & Well-being (Wales) Act 2014), people may qualify for get 6 weeks of home care free of charge, where care and support is provided as 'reablement' under Part 2 of the Act.
- v. Exemptions from charging where the services and support are provided under section 117 of the Mental Health Act 1983, and for people with Creutzfeldt-Jacob Disease who receive care and support.
- vi. No-one should be charged for information or advice
- vii. There may be a charge for helping people or carers to find and use certain services
- viii. Local councils must make sure everyone knows what they are being charged, and why (statement of charge)

### **2.2 Summary of the national charging and financial assessment legislative framework.**

- i. A single financial assessment framework covering both residential and non-residential care and support
- ii. Set information to be provided to a person before they are assessed, with 15 working days for person to provide information and documentation an authority requires.
- iii. Where a person is a short-term resident (i.e. a stay not exceeding eight weeks commonly known as respite care) in a care home, and a local authority uses its discretion to charge for this, it must undertake a financial assessment of a person's means to do this as if the person were receiving non-residential care and support, or receiving direct payments for non-residential care and support.
- iv. Income from a War Disablement Pension is disregarded.

- v. A requirement to provide a client with a significant amount of information **before** a financial assessment can be made.
- vi. Statement of charge, contribution or reimbursement must be provided before the charge can be collected. A charge will apply from when the person first receives their care and support.
- vii. The ability to suspend a deferred payment agreement if the person's income exceeds their appropriate minimum guarantee.
- viii. The ability to charge interest and administration fees on the amount deferred to make agreements affordable for local authorities.
- ix. The process for reviewing charges and charging decisions for non-residential care is to be extended to residential care.

### **3. Charging and Financial Assessment Explained**

3.1 The intent behind the Social Services and Well-being (Wales) Act, Parts 4 and 5, is to introduce **one set** of financial assessment and charging arrangements, and to ensure greater transparency within these arrangements.

This policy follows Welsh Government guidance by ensuring that Swansea Council implements a single 'charging policy', which complies with the requirements of the Social Services and Wellbeing (Wales) Act 2014.

#### **3.2 A Council's Discretion to Charge for social services**

Under the Act, each local authority has the discretion to impose a charge, or set a contribution towards the costs of social care, or a reimbursement for direct payments. When doing so, the Authority must follow the requirements set out in the Act, Regulations and Code of Practice.

In imposing these charges a local authority cannot charge certain persons (exemptions) or for certain forms of care and support, and must apply certain financial 'limiters' to ensure the person is reasonably able to meet a charge, whilst retaining a certain amount of their income to meet daily living costs.

These 'limiters' or rules vary depending on whether the person is receiving residential or non-residential care and support, for example:

- i. A person is required to pay no more than a set weekly maximum amount for non-residential care and support.
- ii. A person is able to retain a certain amount of their capital assets which cannot be used towards care and support costs.
- iii. A local authority is now required to provide a statement of a charge, reimbursement or contribution agreed and for this to be revised as necessary.

- iv. A local authority can, in some circumstances, apply a flat rate charge for preventative services and 'assistance'.

### **3.3. For which care and support services can a local authority exercise its discretion to charge?**

- a) Care and Support may include one or more of a range of services, including:
  - i. Assistance (Part 2, of The Act: Information, Advice and Assistance)
  - ii. Re-ablement - improving daily living skills following a stay in hospital or period of illness
  - iii. Non-residential Care (Home Care/ Domiciliary Care)
  - iv. Residential Respite Care or Short Breaks
  - v. Residential Care
  - vi. Day Care, whether the person attends a day centre or other day-time activities
  - vii. Flexible Support/ Family Support
  - viii. Community equipment and minor adaptations
  - ix. Life Lines and other Telecare equipment and services
  - x. Supported living arrangements
  - xi. Transport
  - xii. Community based Respite
  - xiii. Jointly funded services
  
- b) Also care and support may be meeting needs within:
  - i. Child and Family Services (Section 14 of this policy)
  - ii. Direct Payments (Section 15 of this policy)
  - iii. Support to carers (Section 16 of this policy)
  - iv. Preventative Services (Section 16 of this policy)
  - v. Secure Estates (Section 16 of this policy)
  - vi. Appointeeship (Section 16 of this policy)

General public information on charging will be made available to citizens, their carers or advocates during the assessment process to ensure they are aware that we charge for social care services and what that means for them.

## **4. What is a Financial Assessment?**

- 4.1 The Regulations (See point 2.2) set out a series of requirements that a local authority must take into account when undertaking a financial assessment of a person's ability to pay a charge, or when setting a contribution towards their social care costs or reimbursement for a person receiving direct payments.
  
- 4.2 The Regulations specify the information that the Authority must provide to a person before undertaking a financial assessment, the timescale for a local authority to request and obtain information from a person, and the processes to follow.
  
- 4.3 The Regulations also set out the circumstances where there is no duty to carry out a financial assessment (Exemptions). These Regulations also contain instructions on the treatment and calculation of income and capital. Separate schedules identify

specific forms of capital assets, forms of income and stipulate how each should be treated in a person's financial assessment.

4.4 Once a financial assessment has been carried out, a statement of the assessed charge will be sent to the client (or their financial representative).

4.5 Discretion to apply locally-determined criteria for financial assessments. Local Authorities must decide what allowances, disregards or other aspects they wish to incorporate within the financial assessments they undertake beyond those required by legislation.

Any discretionary allowances say for reasons of hardship can only take place *with the written agreement of the Head of Adult Services, or Director of Social Services*, and this agreement is then clearly stated within the financial assessment and care and support plan.

If a decision to award allowance is granted by the Head of Adult Services, then this award decision should continue until the care and support plan is reviewed or a new financial assessment takes place.

Under this Charging Policy, the discretionary powers exercised by the Local Authority in respect of what services are charged for, exemptions, contributions or reimbursements are reviewed annually, alongside the list of charges (**Appendix 1 to this policy**).

## **5. Financial Assessments and Care Needs Assessments.**

5.1 Whilst some types of social care and support are provided free, many types will be subject to a charge. After the authority has completed a care needs assessment to work out what support a person needs and how much it will cost to provide, where appropriate the Council will offer to undertake a financial assessment to work out how much of that cost the Council will cover and how much the person can afford to pay themselves. During the financial assessment process, the service user will be asked to declare and provide evidence of their income, savings and capital. They will be given a specified period in which to do this. If the necessary information or evidence is not provided in good time, the service user will be required to fund the cost of their care themselves (subject to any limits specified in the relevant legislation).

5.2 Normally, any reduction in the full contribution that is calculated by the financial assessment will take effect from the same date as the care identified in the service user's care needs assessment commences. For any period not covered by a care needs assessment, the service user will need to fund the full cost of their care themselves. The amount a person is required to pay will be reviewed at least once every year. If a service user's personal or financial circumstances change, they (or their representative) have a responsibility to inform the Council of any changes.



## 6. Swansea Council's approach to charging

6.1 Swansea Council's approach to charging is that it should support corporate strategic priorities, to be sustainable in the longer-term, and that charging arrangements are applied equally e.g. all clients, with broadly the same assessed need for care and support, are treated equally, and therefore the same charges should apply subject to a financial assessment.

6.2 The Act allows for local authorities to act commercially and to raise income from charging. This is an important part of the range of options that help us manage our resources effectively. Charging can assist the Council in meeting rising local population needs with reducing resources.

As new models of service delivery are commissioned or provided that empower adults to have more control, supporting people to have greater independence, there may need to be a greater consideration of the full range of charges as set out in this policy.

### 6.3 Summary of the Charging Regulations under the Act

- i. **Section 59** provides a local authority with the discretion to impose a charge for the care and support, or the support to a carer, it provides or arranges under **sections 35 to 45** of the Act to meet a person's needs.
- ii. **Sections 60 to 62, 66 and 67** set out, or allow to be set out in regulations, how this discretion can be applied including that a determination to impose a charge should be on the basis of a financial assessment undertaken of a person's ability to pay a charge.
- iii. **Sections 63 to 65** allow regulations to be made governing financial assessments.
- iv. **Sections 50, 52 and 53(3)** permit regulations to be made which mirror these charging provisions in relation to contributions or reimbursements for direct payments.
- v. **Section 69** allows regulations to be made about charges for prevention services and assistance provided under **sections 15 and 17** of the Act respectively.

6.4 Swansea's charging policy ensures that the Authority's **discretionary powers** (highlighted in Tables 3 & 4 on pages 11 to 13) under the Act are applied fairly, and that all charges practices, such as undertaking a *financial assessment* or agreeing a *statement of charges*, are always aimed at reducing any discrepancies or anomalies for each individual's care and support.

6.5 Swansea Council has determined to use its discretion whether to charge for care and support services it provides. The care and support services for which a charge will be made, and the level of those charges, are contained in Appendix 1 of this policy.

**Table 1 - Swansea's Key Principles**

<b>Key Principle</b>	<b>What each citizen expects</b>	<b>What Swansea Council expects</b>
<b>Continuity</b>	I need time to plan for my future, and to find the resources that can meet my own care and support needs	We have a corporate charging policy which seeks to recover the full cost of services where this is legally permitted and appropriate. We will charge for social care services in accordance with the national charging framework (see Appendix 1) and maintain current charges where possible. Interest charges and administrative charges on Deferred Payment agreements in line with the regulations <i>are under consideration (see table 3)</i>
<b>Fairness</b>	I am paying a fair contribution to the cost of my care	We give individuals the right information about charging at the right time. We provide clear explanations of how we charge and what we charge for. We ensure individuals are given clear information about how their contributions have been calculated. We do not charge individuals more than they can afford to pay. We apply the charging rules fairly and transparently.
<b>Equal</b>	I understand that Swansea has a policy of fair charging	We will treat all people with dignity and respect recognising the value of each individual. Swansea is committed to eliminating all forms of
	that complies with national regulations and code of practice	discrimination on grounds of age, gender, disability, marriage or civil partnership, race, religion, beliefs, or sexual orientation. We are working towards Welsh Language standards, and the active offer to carry out services in Welsh. Public information can be requested in other formats which can be arranged on request.
<b>Transparency</b>	I understand my statement of charges and how they have been calculated	We give clear and simple information about charging. We give clear information about financial assessment before and during the process. We give clear explanations about how an individual contribution has been calculated. We give clear information before and during a review.
<b>Sustainable</b>	I expect the Council to look towards the future, as I am considering my own care and support needs and financial situation	We ensure we make full use of the range of universal services, as well as preventative and early intervention services to meet a person's own well-being outcomes. We agree to a care and support plan that is appropriate and proportionate to meet the eligible assessed need for care and support within the resources we have available. We ensure that care and support plans are reviewed regularly, and within each year, to ensure appropriateness and effectiveness is achieved as well value for money.
<b>Voice and Control</b>	I expect to have voice and control over decisions on my care and support plan	Where someone lacks capacity to make a decision, we will work with an agreed representative, or offer an advocate where appropriate and will act in his or her best interests in line with Part 10 of the Act

## **7. Charges for care and support services**

The Act and Regulations specify circumstances when the authority can and cannot charge for care and support services.

Swansea Council will not charge for services where it is either:

- i. Not permitted to do so by the new regulations or advised not to do so by the Welsh Government code of practice.

OR

- ii. Where it has chosen to exercise its discretionary powers not to do so after taking into account corporate strategic priorities and population wellbeing outcomes.

All directly provided or commissioned social services, whether community based or residential, will be subject to charging, unless specifically excluded by the Act and Regulations or by the authority using its discretionary powers not to charge.

7.1 The following table (Table 2) details charges that cannot be made, under the national charging framework

**Table 2 - Charges that are not generally being applied by Councils in Wales.**

<b>Name of Service</b>	<b>Charged prior to April 2016</b>	<b>Chargeable under the Act/ Regulations</b>	<b>Charge to apply in 2019/20</b>
Children's services	No	No	No
Care and support provided to a child.	No	No	No
Care and support provided to a child who is a carer	No	No	No
Intermediate Care / Reablement – up to first 6 weeks after leaving hospital	No	No	No
Social Work practice	No	No	No
Assessment of care and support needs, care and support planning or conducting a review of this plan, provision of care and support plans, provision of statements of a charge, undertaking a review of a determination of a charge or a charge itself	No	No	No
Carry out a financial assessment	No	No	No
Nursing forms of care	No	No	No
Independent Advocacy (provided under Part 10 of the Act)	No	No	No
Care and support provided to those with Creutzfeldt-Jacob Disease	No	No	No
After-care services/support provided under section 117 of the Mental Health Act 1983	No	No	No
Transport to a day centre where the transport is provided by the local authority as part of meeting a person's care and support needs	No	No	No

7.2 The following tables (Table 3 and Table 4 ) detail when the authority has made discretionary decisions to impose a charge / not to charge. For social care services

**Table 3 - Swansea Council made a decision to impose a charge from April 2016.**

<b>Name of Service</b>	<b>Charged prior to April 2016</b>	<b>Chargeable under SSWB Act Yes/ No / Discretionary</b>	<b>Flat Rate/ Means Tested <u>if</u> applied</b>	<b>Charge to apply in 2019/20 Yes/ No</b>
Residential care	Yes	Discretionary	Means tested	Yes
Home Care/ Domiciliary	Yes	Discretionary	Means tested Up to maximum charge	Yes
Respite (short term resident) and respite at home	Yes	Discretionary Up to 8 weeks / episode	Means tested Up to maximum charge	Yes
Day Services	No	Discretionary	Means Tested Up to maximum weekly charge	Yes
Flexible Support	No	Discretionary	Means Tested Up to maximum weekly charge	Yes
Temporary resident	Yes	Discretionary Up to 52 weeks	Means tested	Yes
Reablement – 7 <sup>th</sup> week onwards	Yes	Discretionary	Means tested (temporary residential care financial assessment or Non-residential financial assessment where appropriate)	Yes
Telecare	Yes	Discretionary	Flat rate	Yes
Lifelines	Yes	Discretionary	Flat rate	Yes

Direct Payments	No	Discretionary	Means tested up to maximum weekly charge	Yes
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**Table 4 –Swansea Council has decided not to impose a charge for the following services**

Name of Service	Charged prior to April 2016	Chargeable under Act / Regulations Yes/ No / Discretionary	Flat Rate/ Means Tested if applied	Charge to apply in 2019/20 Yes/ No
Provision of Information and Advice	No	No	N/A	No
Assistance	No	Discretionary	Flat rate	No
Preventative Services	No	Discretionary	Flat rate	No
Night Time Care	No	Discretionary	Means tested	No
Carers	No	Discretionary	Means tested	No
Appointeeship	No	Discretionary	Flat rate with exemptions	Yes
Transport <i>E.g. Transport costs for transport needs not included in a client's care plan</i>	No	Discretionary	Flat rate with exemptions	No
Administrative Costs relating to Deferred Payments	No	Discretionary	Flat rate	No

Decisions to charge or not to charge under the authority's discretionary powers will be reviewed annually when setting the budget for the next financial year, or more regularly if required, and within corporate governance arrangements. These revised charges will, in normal circumstances, be applied at the start of the next financial year.

There may be circumstances, such as during 2016/17 as a transitional year under the Act, in which a new charge or change to the existing charge are required to take place during a financial year.

Any changes to charges will be subject to the normal processes of business case review, public consultation, and equalities impact assessment as require

## **8. Working out how much a person will pay towards their care**

8.1 The overarching principle is that people who are asked to pay a charge must only be required to pay what they can afford. The Authority must take into account, when deciding whether to charge and in setting the level of any charge, contribution or reimbursement they require to be paid or made, the principles upon which this policy is based.

People who require care and support will be entitled to financial support from the Council in certain circumstances based on their financial means and some will be entitled to care and support at no charge.

A list of Swansea Council social services charges is reviewed, and published annually: <https://www.swansea.gov.uk/payingforsocialservices>

There are three charging categories for social services:

- i. Means tested charging following financial assessment
- ii. Flat-rate charges payable without a financial assessment;
- iii. Care and support provided free of charge (exempt from charging or where discretionary powers are exercised).

A financial assessment will be carried out for all care and support that is subject to means-tested charging, provided or arranged by the Authority.

To make a financial assessment, the authority will inevitably have to ask the person subject to the financial assessment to provide detailed information about their personal and financial circumstances and will allow 15 working days for them to do so.

The Council will consider and decide cases where a service user makes a reasonable request for an extension of time i.e. longer than 15 days, giving reasons why the extension of time is required and, if refused, will give the reasons for the refusal.

## 8.2 No requirement for a financial assessment

There are some circumstances where a Local Authority is not required to undertake a financial assessment. They include situations where:

- i) We charge a flat rate charge for particular care and support (including for preventative services and assistance (not currently charged for)) and as such, carrying out a financial assessment would be disproportionate to the charge levied.
- ii) The person fails or declines to provide information and/or documentation reasonably required to undertake the assessment. In such circumstances we can charge the service user up to the weekly maximum charge where it applies.

*NB: where only partial information is received, we can charge on the basis of available information / documentation if we consider that we have sufficient information to do so.*

- iii) The person is receiving care and support for which no charge can be made

## **9. How a financial assessment is carried out**

9.1 A financial assessment will calculate how much, if anything, a person can afford to pay towards the cost of their care (or contribute towards their personal budget) on a weekly basis.

The financial assessment should only take into account the income and capital of the person being assessed. If any type of capital is jointly held (other than land), the capital will be treated as if an equal share is held i.e. 50%, unless the authority is satisfied a greater or lesser percentage of capital is held by the person being assessed.

### **i) Treatment of Capital**

A person's capital is taken into account in the financial assessment unless it is subject to one of the disregards. Detailed information on the treatment and calculation of capital when making financial assessments is provided in:

- **Part 4 - Care and Support (Financial Assessment) (Wales) Regulations 2015**
- **Annex A - Parts 4 and 5 Code of Practice (Charging and Financial Assessment)**

### **ii) Treatment of Income**

In assessing how much a person can afford to pay, the authority will take into account their income. In the main, income is treated the same, whether a person is in a care home or in receipt of care and support in the community.

However there are some differences between the two as to how income is treated.

Detailed information on the treatment and calculation of income when making financial assessments is provided in:

- **Part 3 - Care and Support (Financial Assessment) (Wales) Regulations 2015**
- **Annex B - Parts 4 and 5 Code of Practice (Charging and Financial Assessment)**

Some items to note:

- i. Income must be considered as net of any tax or national insurance.
- ii. The earnings of service users and their partners will be disregarded in the assessment of financial means.
- iii. Similarly the earnings of other household members whose income forms part of the assessment of financial means will also be disregarded.



- iv. Tax credits will be treated as income and will be disregarded in the assessment of financial means.
- v. Income from pensions will be taken into account in assessing service user's financial means.
- vi. Any benefits not specifically disregarded will be taken into account in determining a service user's financial means.
- vii. Partial disregards now apply to War Widows / War Widowers pensions and War Disablement pensions.

Where a service user or their representative advises the Authority of any expenses that can be disregarded as income, they will be required to provide reasonable documentary evidence of those expenses before they can be disregarded as income.

If no such evidence is provided, or the evidence provided is held to be not of a satisfactory standard by this Authority, the financial assessment will be made without disregarding the expense in question.

### **iii) Protected Minimum Income Amount (MIA) Threshold**

Service users' contributions will be subject to a protected minimum income threshold, which is set at a level intended to safeguard their independence and social inclusion.

The calculation of the protected minimum income threshold is set out in the Regulations.

The value of the threshold is set out in List of Charges (Appendix 1 of this Policy).

## **9.2 Changes in Financial Circumstances**

Where there is a change in a service user's financial circumstances, the service user or their representative is required to notify the Authority, so that their entitlement to financial assistance can be reassessed. Where a re-assessment changes the service user's contribution, the service user will be advised of the amended contribution to be payable from the new effective date in a revised Statement of Charges.

The effective date of the new charge will normally be the date on which the change in their circumstances occurred.

## **9.3 Changes in the Level of Service Provided**

Where there is a change in the level of service provided, the charge for the services received may need to be reassessed.

Where a re-assessment changes the service user's contribution, the service user will be advised of the amended contribution to be payable from the new effective date in a revised Statement of Charges.

The effective date of the new charge will normally be the date on which the change in the service provision occurred.

## 10. Rights of citizens

This policy seeks to promote the independence and social inclusion of care and support recipients, citizens and carers.

As such due regard has been given to:

- United Nations Principles for Older Persons
- United Nations Convention on the Rights of the Child
- UN Convention on the Rights of Persons with Disabilities, as included within the Social Services and Well-being (Wales) Act 2014.

### 10.1 Accountability

In implementing this policy, the Swansea Council has put forward the legal context for this approach, our key principles for managing the changes and what is expected in terms of practice.

These charging arrangements are backed by clear lines of accountability and responsibility through the Council's corporate governance arrangements and within the social services and financial functions.

### 10.2 Empowerment

Each person can expect fairness, equal treatment and transparency in their journey through these charging arrangements, and where this is a human rights or mental capacity issue, they can expect to be offered access to advocacy services to help negotiate their way through to a satisfactory conclusion.

### 10.3 Welfare Benefits **Advice**

Swansea Council can provide access to appropriate welfare benefits advice, particularly to those who receive care and support to aid them in their understanding as to the benefits to which they may be entitled.. Access to specialist advice should be made available to carers of those who receive care when requested.

Information gathered as part of the Financial Assessment, can be shared with the Benefits Advice Team in order to provide welfare advice that would be beneficial to the service user.

## 11. Statement of Charges

11.1 The way people pay for care if they have the financial means to do so will now be uniform across Wales - there will be one set of assessment and charging arrangements for all adults who are required to pay for their care. This national charging framework will

apply to both residential and non-residential care. There are a few discretionary areas available to local authorities and these are outlined in this local policy.

11.2 The Care and Support (Charging) (Wales) Regulations 2015 require a local authority that makes a determination about the amount which it is reasonably practicable for a person to pay for care and support and to provide a statement or letter setting out the calculation of the payment that must be made.

The regulations do not specify the exact content / format of the statement to be issued.

## **12. Uplifts to Charges**

12.1 The Council has the flexibility to consider potential uplifts to charges on a regular basis, to take account of inflationary costs to expenditure services and where possible to operate on a full cost recovery basis.

12.2 The calculation of uplifts will as a consequence take account of amongst other things:

- Staffing costs
- Administrative costs
- Increases to rates
- Costs imposed on the Authority by external service providers.

12.3 Where appropriate a clear methodology will be used to determine uplifts, and where necessary an Equality Impact Assessment will be undertaken and public consultation as required.

## **13. Non-residential care**

The term “**Non Residential Care**” applies to the following services:

- a) Community Based Services ie. Domiciliary / Home Care Services and Domiciliary Respite Care Services
- b) Day Care
- c) Telecare and Lifelines

Service Users who are in receipt of the services listed in points b) and/or c) in addition to the services mentioned in point a) will require a single financial assessment based on the total cost of all the services provided to determine if the person is entitled to assistance with the cost of the service.

If the services user is only receiving any of the services mentioned in b) and / or c), no financial assessment is required as flat rate charges apply.

Service Users who do not wish to take part in a financial assessment will be required to pay the full cost of the services provided, subject to a weekly maximum where applicable.

In 2011, Welsh Government announced a cap or **maximum weekly charge** on the amount councils can charge for non-residential care and support. Under section 59 of the Act, or under sections 50-53 of the Act in connection with direct payments, local authorities must not charge more than a weekly maximum charge to a person in receipt of non-residential care and support (the maximum amount is specified in Appendix 1).

The charge for care provided will be calculated as follows:

### **13a) Community Based Services**

The weekly assessed charge for Domiciliary Care is calculated by multiplying the actual hours of care by the agreed notional hourly rate. There will be no enhancement to the number of hours to reflect double manning, weekend work or out of hours visits. Likewise time spent travelling to and from a service user's home will be disregarded in arriving at the number of hours of care received. The notional hourly rate that will apply in any one year will be set by the Council.

The Hourly Rates are set out in Appendix 1 of this policy. Exceptionally, there may be a need to revise the rate during the year. The hourly rate will be no more than the full cost of the service, and will not necessarily reflect the actual cost to the Council of providing or commissioning domiciliary care services. This service is the subject of a commissioning review within the Sustainable Swansea –fit for the future programme. Any changes to charges would be considered as part of an annual review of charges.

### **13b) Day Services**

Day services usually take place in a location other than a person's home, and as such are included as community based services. A timetable of attendance at a local authority day service for a part or whole day or number of days may be set out in the care and support plan agreed with the service user.

From 2018/19, Following the annual review of charges in 2017, charges are applied to people receiving day services for older people, and to day services for adults/ special needs, subject to financial assessment.

### **13c) Telecare and Lifelines**

Telecare is a term used to describe a range of electronic, electrical and other devices which help to maintain an individual's independence, safety and health and wellbeing, usually, but not exclusively, within their own homes.

The most familiar example of this is the Lifeline Telephone used by many thousands of Swansea citizens to provide an immediate link to a continuously staffed call centre in an emergency.

This range of provision sometimes operates below the thresholds of current social care eligibility with a more preventative focus with a flat rate charge for lifelines to cover the costs of equipment, installation and call response.

Telecare for eligible people will continue to be subject to charging arrangements already in place. Flat rate charges for Telecare and lifelines are not currently covered by the financial assessment process.

## 14. Residential Care

For more detail refer to:

□ **The Care and Support (Charging) (Wales) Regulations 2015** □ **Care and Support (Financial Assessment) (Wales) Regulations 2015**

□ **Parts 4 and 5 Code of Practice (Charging and Financial Assessment)**

□ Chapter 9 Charging for care and support in a care home □ Annex D: Deferred Payment Agreements.

### 14a) Long Term Residential Care

When a decision is taken to charge for residential care, as with all charging, a financial assessment is then undertaken. The Authority aims to support the person to identify options of how best to pay any charge. Where a decision is taken that a person has **long term** care and support needs which are best met within residential care, then property is taken into account within the financial assessment.

The main examples of capital considered are the value of property and savings a person holds.

A person's financial circumstances may lead to the offer of a deferred payment agreement (DPA) against the value of a property taken into account within the financial assessment. Deferred Payments are described in more detail in Annexe D of the code of practice.

The Act states that a local authority **must** ensure that the person has a genuine choice and must ensure that more than one option is available within its usual commissioning rate (standard rate) for a care home of the type a person has been assessed as requiring. However, a person **must** also be able to choose alternative options, including a more expensive home.

Where a home costs a local authority more than it would usually pay, a person **must** be able to be placed there if certain conditions are met and where a third party (or in certain circumstances the resident) is willing and able to pay the additional cost.

However, an additional cost payment **must** always be optional and never as a result of a shortfall in the funding a local authority is providing to a care home to meet a person's assessed care needs. Local authorities must follow the Care and Support (Choice of Accommodation) (Wales) Regulations 2015.

This service is the subject of a commissioning review within the Sustainable Swansea –fit for the future programme. Any changes to charges would be considered as part of an

annual review of charges. **Commissioning (standard) rate is also subject to annual review, as with all charges.**

#### **14b) Short Term Residential Placements (commonly known as respite care) and Temporary Residential Placements**

In each case the charge will be no more than the full cost of the service, and will not necessarily reflect the actual cost to the Council of providing or commissioning domiciliary respite services.

**14bi) Short-term residential placements** (Respite Care) are those which are generally up to 8 weeks only, and in practice is likely to be 1, 2 or in exceptions 3 or 4 weeks. Persons are now to be subject to the maximum weekly charge, for short-term placements, with a financial assessment. The guidance has taken into consideration that for a non-permanent resident, such an individual would still have outside daily living costs to meet (such as a mortgage) and a desire to support carers.

Where a person is a short-term resident in a care home (Respite Care) the local authority must undertake any financial assessment of a person's means as if the person were receiving non-residential care and support, or receiving direct payments for non-residential care and support.

#### **14bii) Community Based Respite Services (Domiciliary Care and Domiciliary Respite Services)**

The weekly assessed charge for Domiciliary Care and Domiciliary Respite Services will be calculated by multiplying the *actual hours* of care by the agreed notional hourly rate. Persons are subject to the maximum weekly charge, with a financial assessment. The notional hourly rate that will apply in any one year will be agreed by the Council. The hourly rates are set out in Appendix 1 of this Policy.

**14biii) Temporary residential placements** are those where the stay is for up to 52 weeks (or in exceptional circumstances is unlikely to substantially exceed 52 weeks) and therefore fees should be charged at the residential rate with a financial assessment. If it is known from the outset that a stay will exceed 8 weeks, this should be considered a temporary placement from the outset and not a short term (respite) period.

### **15. Self- Funders**

Under Part 5 of the Social Services and Well-being (Wales) Act 2014, a local authority may impose a charge for providing or arranging the provision of care and support or support of citizens with the means to pay.

Swansea Council may incur administrative costs in recovering fees and charges for arranging for the provision of care and support for an adult whose financial resources are above the financial limit (often referred to as a "self-funder"), but who nonetheless asks the authority to meet his or her needs.

In such circumstances, the Council's approach will be to charge according to our financial policy of full cost recovery. The Council will also seek to recover any additional charges (these may be referred to as a "brokerage charge" or "commissioning charge") to maintain and support a placement. Such charges will be backdated to the date on which the placement commences, or to the date when contact was made by the self-funder requesting the Council's assistance.

## **16. Child and Family Services**

The Act prevents local authorities from charging a child for the care and support they receive, or for support provided to a child who is a carer.

While the Act contains a provision to allow a parent or guardian to be charged, the Regulations and code currently preclude this on the grounds that this provision was included in the Act to "future proof" it and not by a desire to introduce such charging at this time.

The Authority must not therefore charge for care and support to a child, or for support to a child who is a carer, provided under Part 4 of the Act (Meeting needs), nor must authorities seek payment of a contribution or a reimbursement towards such costs when direct payments are being made to secure such care and support.

## **17. Direct Payments**

### **See Care and Support (Direct Payments) (Wales) Regulations 2015**

17.1 Under the Act it is expected that more people will be able to receive Direct Payments if preferred. This means citizens will be given the money to organise the care and support needed to meet their own agreed, well-being outcomes.

17.2 The most significant new provision of the Act is that it enables direct payments to be used to purchase care and support from the authority which made the payment as well as other providers. Also the Regulations allow direct payments to be used to cover residential care costs, for example short periods of reablement, or longer term periods.

17.3 Where direct payments are not made to the service user direct, additional conditions must be satisfied. For example, whether the payment can be used to pay relatives, where vetting is required or conditions on how the payment can be used.

17.4 In respect of direct payments, the Authority can decide whether to make net payments or gross payments. Since Prior October 2018, the authority has made Direct Payments as gross payments.

17.5 The weekly assessed charge for care and support facilitated by a Direct Payment will be calculated by multiplying the assessed hours of care set out in the care package by the agreed notional hourly rate for personal assistance. The notional hourly rate that will apply in any one year will be agreed by the Council.

17.6 Any determination of contribution towards a direct payment will be set out within the person's statement of charge.

17.7 Swansea Council will seek to protect public funds from fraud, misuse, or wilful mismanagement of money or assets, and will take action to recover any monies lost as a result of such activity.

## **18. Other Services**

Local authorities have a duty to arrange care and support for those with eligible needs, and a power to meet non-eligible needs should it wish to do so. They also now have more discretionary powers, for example:

To impose charges in relation to care and support it provides or arranges (under section 59 of the Act) See section 6 of this policy.

### **18a) Assistance or Preventative Services**

Under the Act (section 69) a local authority has discretion to choose whether or not to charge for preventative services and assistance. At present Swansea Council does not charge for this range of services as they are an important driver in managing future demand and building up citizens, families and communities capacity to manage their own care and support.

See Section 6 of this policy

### **18b) Services to Carers**

Swansea Council commissions a ranges to services to support carers and young carers. Carers are vital in maintaining care and support at home, promoting independence and well-being. At present Swansea does not charge for the provision of support to carers.

See Section 6 of this policy

### **18c) Secure Estates**

The charging framework also applies to people who are detained in the secure estate. Whilst detainees have restricted access to paid employment and welfare benefits (and earnings are disregarded for the purposes of financial assessments), any capital assets, savings, income and pensions will need to be considered when undertaking a financial assessment as with any other person in receipt of care and support.

### **18d) Appointeeship**

A weekly administration charge can be made in future against the income and capital assets for some service users who receive support from Social Services to manage their



financial affairs where they have been assessed as lacking the mental capacity to do so (See Table 3).

## **19. Mental Capacity**

The charging policy takes into consideration the capacity of the person as well as any medical condition or impairment they might have.

Where a person is assessed as lacking capacity to manage their own financial affairs they may still be assessed as being able to contribute towards the cost of their care and support.

Under the Act, the Authority is putting into place additional support to improve access to representation and advocacy, to enhance how they communicate, and participate in decisions, how they are involved in activities such as financial assessments and how they agree to any charges.

Swansea Council will work with the individual who has the legal authority to make financial decisions on behalf of the person who lacks capacity.

For example:

- a. Enduring or Lasting Power of Attorney (EPA or LPA);
- b. Department of Works and Pensions appointee;
- c. Court of Protection Deputy for property and affairs

If a person is found to lack the mental capacity to manage their financial affairs and there is no-one who has the legal authority to make financial decisions on their behalf, then an application as appointee or Court of Protection Deputy may be made by the Local Authority, if there is found to be no other suitable third party willing or able to act.

Where a person has mental capacity, they may still give their consent for another person to act as their financial representative. Where consent has been given, the Authority will work with the financial representative on matters concerning the person's (client's) financial affairs

## **20. Deferred Payment Agreements (DPA)**

**See Care and Support (Deferred Payment) (Wales) Regulations 2015 Also refer to Parts 4 & 5 Code of Practice Annex D.**

The new regulations set out the conditions a person and their property must meet in order to be eligible for a deferred payment agreement, the level of a deferred payment a local authority can enter into and the arrangements regarding administration costs and interest which may be charged for setting up and operating a deferred payment agreement.

The Authority can under the regulations agree to enter into a deferred payment agreement where the person and their property meet certain conditions prescribed. Principally these are where a person has an eligible property but whose other forms of capital are under the

level of the capital limit and they do not have sufficient income to meet their care costs in full.

A deferred payment agreement enables a local authority to meet the cost of a person's residential care in whole or part while placing a charge on their property as security against the deferment. As a property is not taken into account when undertaking a financial assessment for a charge for non-residential care and support, deferred payments are only applicable in relation to residential care. A property would be included as an asset within the financial assessment based upon a professional valuation of the current sale value (this value may be subject to future revaluation).

The overall purpose of a deferred payment is to enable a person who enters a care home, and who has a property which has been taken into account in their financial assessment to set a charge for this, to exercise choice as to when or whether they sell their property to meet this charge. The aim of a deferred payment is to afford a person time to get their financial affairs in order, or time to arrange for the sale of their property where this is to occur, and to provide them flexibility as to when they sell the property.

Agreements can be for the duration of a person's stay in a care home, much shorter period as they wish, or until they decide to sell their property to pay for their residential care. The agreement may state the actual date of sale or disposal of the property, set a period such as **90 days** after the date of death of the person with whom the Authority has made the agreement, or such longer time as appropriate.

Before entering into a DPA, the Authority will provide a person with a statement of charges, which will include an estimate of the administrative charges required for setting up the agreement and for the whole period when the agreement remains in force. Please note that third party top up payments are not included in any current agreement with the Council

**Termination of a Deferred Payment Arrangement-** The person may terminate the agreement at any time prior to the specified time, by giving the Authority reasonable notice, in writing and paying any outstanding amounts.

## **21. Reviews**

### **Parts 4 & 5 Code of Practice Annex E – Review of Charging Decisions and Determinations.**

21.1 Section 73 of the Act requires the Authority to make provision for reviews of charging decisions and determinations made. The principles and requirements in place prior to April 2016 for reviews in relation to non-residential care determinations and charging decisions now apply to both residential and non-residential care determinations and charging decisions.

21.2 A person receiving care and support, either in the community or in a care home, has the right to request a review of a decision to impose a charge. Where a person feels an inappropriate decision has been made, either in the level of the charge, reimbursement or contribution or in relation to the basis upon which the decision to impose this was made, the person will be able to request the local authority to review

the decision. This initial review should involve the authority itself reassessing the decision made and deciding whether its original decision was correct, particularly where further information was now available.

21.3 The review process is also extended for reviews of situations where a person has been deemed to be a liable transferee, having received an asset with the intention of avoiding or reducing charges for a person deemed to be liable for a charge. This process will provide a consistent review process for such decisions so that where a person wishes a determination in relation to charging, or the level of a charge, reviewed, they will be able to ask an authority to do this in a relatively straight forward way and in doing so, potentially obviate the need for a person to make a formal complaint to the authority.

21.4 We will operate a review process as set out in the Regulations and code of practice to enable reviews to be sought of a determination of a charge, contribution or reimbursement, or the level of these, or where a person has been deemed to be a liable transferee.

21.5 It is hoped the vast majority of these requests would be satisfactorily resolved through the review process. However, if a service user or their representative remains unhappy with the decision after it has been reviewed then they have the opportunity to follow the complaints procedure as detailed in The Social Services Complaints Procedure (Wales) Regulations 2014.

21.6 Welsh Government Guidance on these regulations (A guide to handling complaints and representations by local authority social services) advises that a complaint or representation may be made up to 12 months after the date on which the matter which is the subject of a complaint or representation occurred. Alternatively, if later, the date on which the matter which is the subject of the complaint or representation came to the notice of the complainant or the person making the representation. However, this time limit will not apply if the local authority is satisfied that there are good reasons for a complaint or representation not being made within the time limit and, despite the delay, it is still possible to investigate the complaint effectively and fairly.

## **Appendix 1. Swansea Council List of Charges (to apply in 2019/20)**

**These are the amount clients will be charged for social care services, subject to any limits on the maximum charge specified by Welsh Government.**

### **a) Residential care and support services**

Charges for residential care are means tested. Residents may only be required to pay a contribution towards the total weekly cost. In certain circumstances, residents may be required to pay the full cost of residential care.

The costs shown below for privately owned care homes are indicative of the weekly costs at homes which accept the Council's usual rates. Some homes may charge more.

<b>Long Term Residential Care</b>			
<b>Charges for Services per category</b>	<b>Weekly charges in 2018/19</b>	<b>Weekly charges in 2019/2020</b>	<b>% Increase/ Comment</b>
<b>Council owned residential care homes</b>			
Elderly care	£557.05	£584.90	5%
Dementia Care	£557.05	£584.90	5%
Learning Disabilities	£1,459.69	£1,532.67	5%
Mental Health	£1,459.69	£1,532.67	5%
Younger Adults	£1,459.69	£1,532.67	5%
<b>Privately owned care homes</b>			
<b>Residential Care</b>			
Older persons	£530	£551	3.96%
Mental Health	£530	£551	3.96%
Learning Disabilities	£530	£551	3.96%
Younger Adults	£572	£572	0%
<b>Nursing care</b>			
Older persons	£605.92	£631	4.14%

Nursing care- Other			
Mental Health	£605.92	£631	4.14%
Learning Disabilities	£605.92	£631	4.14%
Dementia Nursing Care	£621.92	£649	4.35%
Younger Adults	£619.92	£631	1.78%

Short Term Residential Care (Local Authority and Private Sector)			
Charges for Services	Weekly charges in 2018/19	Weekly charges in 2019/2020	Comment
<b>All adults Short term residential care</b> up to 8 weeks (known as Respite care, re-ablement (from week 6 and up to week 8) or temporary short-term emergency or planned placement)	£80	£90	Maximum weekly charge to be confirmed by Welsh Government
<b>Temporary residential care (up to 52 weeks).</b> Where the placement is known to last more than 8 weeks from the outset or from week 9 when a short term residential care placement has been extended, the charging rates will be the same as the <b>long term residential rates</b> shown in the previous table			

## b) Non-residential, community-based care and support Services

- Domiciliary Care – is care in the client’s home provided by a private sector provider
- Home Care – is care in the client’s home provided by the Local Authority

Charges for Services	Charges in 2018/19	Charges in 2019/2020	% Increase/ Comment
<b>Means tested up to the maximum standard charge as outlined in the categories below</b>			
<b>Home Care</b>			
Domiciliary Care or Home Care, including respite at home, supported living	£15.00 per hour	£17.00 per hour	13.33% Agreed by Council last year
<b>Day Services Older People</b>			
Older Persons Day Services	£40 per day, up to a maximum charge of £80 per week	£42 per day, up to a maximum weekly charge of £90 per week	5%

**Day Services Younger Adults**

Younger Adults/ Special Needs Day Services	£50 /day	£52.50/day up to a maximum weekly charge of £90 per week	5%
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c) Flat rate charges for other services provided by Swansea Council

These charges are not subject to a means test or a maximum weekly charge.

Charges for Services	Charges in 2018/19	Charges in 2019/20	% Increase/ Comment
Telecare / Lifeline	£2.63	£2.76/week	5%
Meals (within community-based, day services)	£3.50 /day	£3.68	5%
Court of Protection Deputyship	<p>£745 application fee; £775 for first year management £650 per year thereafter - if over £16,000 in net assets, or 3.5% if these are under £16,000;</p> <p>Other additional charges may apply: - £300 property management fee - £216 preparation and lodgement of an annual report.</p>	No change	These are fixed rate charges for Local Authorities set by the Court of Protection (Part 19 of the Court of Protection Rules 2007) and revised rates apply from 1 April 2017
Pre Deputy support charge	£5 per week	No change	Approved by Cabinet and commenced on 1 April 2017. Fees taken retrospectively from date of case management to date of Court order when replaced by Court fees above.

## **Appendix 2: Important links**

The national framework for social services charging came into effect on 6 April 2016.

### **Link to Welsh Government Regulations:**

<https://socialcare.wales/hub/sswbact-regulations>

*The following code of practice was issued under parts 4 and 5 of the Act on 18 December 2015, and last updated in April 2018 (version 3)*

### **Code of Practice relating to social services charging:**

<https://gweddill.gov.wales/docs/dhss/publications/180409pt45en.pdf>