



Report of the Cabinet Member for Adult Social Care and Community Health Services

Adult Services Scrutiny Performance Panel – 2 June 2021

BRIEFING ON ANNUAL REVIEW OF CHARGES (SOCIAL SERVICES) 2020/21

Purpose	<ul style="list-style-type: none"> • To provide a briefing on the annual review Swansea Council’s charging policy (social services) 2020/21
Content	<p>This briefing report presents a summary of this year’s annual review of social services charging (2020/21) as well as:</p> <ul style="list-style-type: none"> • additional background on how the annual review takes place and the role of the Social Services Finance & Charging group • changes to social charges in 2021/22, following decisions taken at Cabinet, • update on national policy development, with reference to the recent Norfolk case judgement • links to the most recent annual review of charges report • Appended List of Charges (social Services) to apply in 2021/22):
Councillors are being asked to	<p>To give their views about Swansea Council’s social services charging policy and the annual review process.</p>
Lead Councillor(s)	<p>Cllr Clive Lloyd, Cabinet Member for Adult Social Care & Community Health Services</p>
Lead Officer(s)	<p>Dave Howes, Director of Social Services</p>
Report Author	<p>Simon Jones, Social Services Performance & Improvement Officer</p>

1. Background

1.1 This report will cover the outcomes of the fourth annual review of social services charges, as reported to Cabinet in March 2021.

1.2 Welsh Local Authorities are granted, by Welsh Government, some discretion in how charges for residential and non-residential and community-based social services to adults are applied through a statutory local policy.

1.3. Within these regulations, a local authority can only charge:

- up to the cost of providing the service
- what the person can afford to pay for an assessed for service

1.4 Charges for social care services relating to children, and carers have yet to be considered.

2. Annual Review of Charging (social services)

2.1 Swansea Council's Charging Policy (social services) was approved by Cabinet in April 2016. The policy and list of charges have been reviewed every year since.

2.2 By reviewing our approach to charging for social care on an annual basis, Swansea Council is following Audit Wales model of good practice.

2.2 A Social Services Finance and Charging (SSF&C) group, chaired by the Director of Social Services, supports the implementation of the policy and work to improve a range of financial / business processes.

2.3 There are several task groups reporting into the main SSF&C group, and currently working in the following areas:

- WCCIS implementation- linked to financial systems interfaces
- Process Improvements
- Fees
- New Charges
- Annual Review

2.4 Social Services Finance and Charging group has driven improvements in the Council's invoicing, debt management and debt recovery processes.

2.5 Although Swansea Council' has adopted the principle of full cost recovery to service delivery, within social care, charges can only recover some or all of the costs of services from citizens.

2.6 Any income generated by charges can reduce the costs of services to Council taxpayers, and can help safeguard our most vulnerable citizens.

2.7 It is our belief that any proposals to charge for, or indeed to subsidise, the costs of services should be based on detailed analysis, thereby encouraging

transparency, fair access, and the annual review helps to support this process.

2.8 In 2020-21, Swansea Council generated **£16.8m** related to social services. (£18.58m in 2019/20) The following table shows the income generated by service category on behalf of individual contributions, over the last four years. Clearly the pandemic has impacted on how we are delivering a number of social care services.

Service Category	2017/18	2018/19	2019/20	2020/21
Community Alarms	476,322	487,686	450,380	395,850
Day Services	283,698	433,814	559,804	241,030
Direct Payments	680,232	886,157	1,371,828	1,341,393
Domiciliary Care	2,047,926	2,790,267	2,803,476	2,823,830
Other/Administration	332,493	392,490	545,833	378,394
Residential Care	11,235,249	11,579,594	12,845,876	11,628,620
Totals	15,055,919	16,570,007	18,577,198	16,809,117

NB. 2020/21 these are provisional figures, ahead of end of year budget report

3. Main Changes this year

3.1 The full Annual Review of Charges report (Background Papers) provides a clear analysis of how current charges are being applied.

3.2 Cabinet accepted the main findings and recommendations of the full annual review report, which means that changes are set to come into effect on 1 April 2021/22.

3.3 The main changes agreed by Cabinet (March 2021) are as follows:

- No new service charges will be applied in 2021/22.
- An inflationary increase of 1.75% be applied to all social services charges
- Charges for community alarm services remain the same, and are to be considered as part of a corporate commissioning review.
- List of social services charges to apply from 1 April 2021, for the year 2021/22.
- The new List of charges 2021/22 as set out in Appendix A of the annual review report be agreed, and appended to the Council's Charging Policy (Social Services).

4. Framework for Social Services Charging

4.1 There is a national framework for social services charges set by Welsh Government with caps of weekly charges and thresholds for capital and personal allowances. <https://gov.wales/charging-social-care>

4.2 Welsh Government regularly updates national regulations, codes of practice and guidance, and an annual statement by the Cabinet Minister publishes any changes to national thresholds for charging and personal allowance for citizens

4.3 Swansea's main charging policy was last amended in March 2018, at which time a full EIA was completed. At this time, actions were taken to bring Swansea's charging more in line with rest of Wales, for example introducing charges for adult day services and respite care.

4.5 Work being undertaken this year, on behalf of the Social Services Finance and Charging group includes:

- Interface between Wales Community Care Information System WCCIS (care management) system and Abacus financial system to improve service provision records
- Joint funding agreements
- Paying for care and support on behalf of individuals for people with complex needs (linked to regional work)
- Social Care Workforce costs (see Section 7)

5. Recent Policy Developments

5.1 The current regulations are that the maximum charge for non-residential care and support is currently £100.00 per week. The capital limit for the purposes of residential care is presently £50,000 and the capital limit for the purposes of non-residential care charges is £24,000. These limits may be subject to change by the new Welsh Government.

5.2 In December 2020, there was a landmark high court judgement in favour of a 24-year-old woman with Down Syndrome, over the decision by Norfolk county council to change the basis on which it calculated the charges made to her for council-provided care.

5.3 **Case:** SH, R (On the Application Of) v Norfolk County Council & Anor [2020] EWHC 3436. In passing judgement, Mr Justice Griffiths noted that the Council had "exercised its discretion to charge SH the maximum permissible (disregarding only those elements it is required to disregard by law), and, at the same time, has lowered the overall cap on her charges by reducing the council's minimum income guarantee".

5.4 The Court held that the Norfolk charging policy was unfair, perverse and discriminatory. In that the policy had a disparate impact on people who had more severe impairments (who had high care needs and significant barriers to paid work) compared to people with less severe impairments who were able to supplement their income with earnings from employment or self-employment (which is ignored for charging purposes).

5.5 It has been noted ([Luke Clements](#)) that the £100 weekly charge limit in Wales has the perverse effect of reducing the charges for wealthy people but

not for the poorest. Also that poverty is the greatest barrier that disabled people face in their struggle to 'live independently'.

5.8 The Head of Adult Services is consulting with the Council's legal team to consider whether any additional guidance and public information is needed on how financial assessments are carried out within the Council. It is the belief of the Social Services Finance and Charges group that Swansea is taking already reasonable steps to mitigate any inequality or unfairness, when applying discretionary charges by carrying a fair and robust financial assessment focused on each individual's own circumstances..

6. Financial Implications

6.1 The Council's Medium Term Financial Plan objectives assumes that any additional general fund income generated through social services charging are to help to meet additional cost pressures within the service.

6.2 There are no financial implications arising from this briefing report.

7. Workforce Impact

7.1 Each year, there are additional challenges for Council's in ensuring we have high quality social services staffed by a professional, motivated and rewarded workforce.

7.2 The Social Care Workforce Grant for 2021-22 has an additional criteria this year to focus on applying the Real Living wage (foundational). Councils are expected to consider how all or part of this funding can be used to support payment of the Real Living Wage in Social Care, or for taking steps towards payment of the Real Living Wage within the wider social care sector.

7.3 The Social Services Finance & Charging group has a task group looking at whether implementing and funding this development across the wider social care workforce may require changes in how services are costed, and charged for.

For example, two areas of consideration by the Task group may be:

- Swansea are one of only two councils in Wales that do not have an additional rate for EMI Residential (i.e. residents with dementia).
- Swansea are currently at the bottom of a recently published All Wales list of fees for Residential Care, and towards the lower end for nursing care fees.

7.4 There are no specific workforce implications arising from this briefing report.

8. Equality and Engagement Implications

8.1 This annual review report recommended no changes to the main charging policy, with an update to the current list of charges to apply a modest inflationary increase (1.75%) to apply from April 2021. An updated Equalities

Impact Assessment screening form was undertaken, with the agreed outcome a full EIA assessment was not required this year.

9. Legal Implications

9.1 There may be additional work needed at a national and local level to understand the full implications of the recent judgement for citizens and on local authorities.

10. Risk Management

10.1 There is an increased risk of future legal challenge to Council Charging policies.

11. Background Papers:

11.1 Link to the full report: [Annual Review of Swansea Council's Charging Policy \(Social Services\) 2020-21](#)

Appendix A: List of Charges

Appendix A. Swansea Council List of Charges (to apply in 2021/22) v6

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

1. Residential Care and Support Services (Local Authority)

Council's in-house residential care service delivers a high quality service for individuals with complex needs, and also offer placements for residential reablement and respite care.

The charges shown below are for the council-run care homes only and are only indicative of the average weekly costs of care and support, as some individuals may have additional needs to be identified and charged accordingly.

All 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.

a) Long Term Residential Care (Local Authority)

Charges for Services by category of care	Weekly charges in 2020/21	Weekly charges in 2021/22	% Increase/ Comment
Residential Care			
/ Council run only			
Elderly Care	£614.15	£624.90	1.75%
Dementia Care	£614.15	£624.90	1.75%
Mental Health	£1,609.30	£1,637.46	1.75%
Learning Disabilities	£1,609.30	£1,637.46	1.75%
Younger Adults	£1,609.30	£1,637.46	1.75%
Nursing care*			
Adults	£640	£651.20	1.75%

As part of a planned response to the current crisis, Adult Services are currently offering nursing placements within In-House Services. These nursing placements are viewed as temporary.

The charge (fee) is set at a rate in line with external nursing placement

b) Short Term Residential Care (Local Authority)

Charges for Services by category of care	Weekly charges in 2020/21	Weekly charges in 2021/22	% Increase/ Comment
All adults short term residential, up to 8 weeks (known as Respite care, residential reablement (from week 6 and up to week 8) or temporary short-term emergency or planned placement)	£100	TBC by Welsh Government	To reflect Max. weekly charge set by Welsh Government

2. 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
- All charges are means tested up to the maximum standard charge as outlined below

Charges for Services per category of care	Weekly charges in 2020/21	Weekly charges in 2021/22	% Increase/ Comment
All adults Non-residential, community-based care and support Services			
Domiciliary Care or Home Care, including respite at home, supported living	£19.00 per hour	£19.32 per hour	1.75%
Older Persons Day Services	£44.10 per day	£44.86 per day	1.75%
Day Services Younger Adults /Special Needs Day Services	£55.13/day	£56.10/day	1.75%

3. Flat rate charges for other services provided by Swansea Council

These social care charges for Council run services are discretionary, and are **not** subject to a means test, or a maximum weekly charge.

Charges for Services per category of care	Weekly charges in 2020/21	Weekly charges in 2021/22	% Increase/ Comment
Adult social care charges for Council run services			
Community Alarms (Lifelines)	£150.80 exclusive VAT (four quarterly instalments of £37.70)	£150.80 exclusive VAT (four quarterly instalments of £37.70)	To remain same https://www.swansea.gov.uk/communityalarms
	£180.96 inclusive VAT (four quarterly instalments of £45.24) -	£180.96 inclusive VAT (four quarterly instalments of £45.24)	
Meals (within community-based, day services)	£3.86 /day	£3.93	1.75%
Court of Protection Deputyship	Court of Protection Deputyship charges as set in law by the Ministry of Justice	Court of Protection Deputyship charges as set in law by the Ministry of Justice	
Pre Deputy support charge	£5 per week	£5 per week	No change proposed