



Research Briefing  
**Paying for adult social care in  
Wales: Debate and Reform**

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**National Assembly for Wales**  
Research Service

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## Research Briefing

# **Paying for adult social care in Wales: Debate and Reform**

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This research briefing outlines some of the work that has been undertaken to examine options for reforming social care charging in England and Wales. It also sets out the work of the Welsh Government on charging issues, including the reforms it has introduced since devolution.

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# Contents

<b>1. Introduction .....</b>	<b>1</b>
<b>2. Charging in Wales .....</b>	<b>1</b>
Non-residential care.....	1
Residential care.....	1
<b>3. Proposals for reform in England and Wales .....</b>	<b>2</b>
England: Commission on Funding of Care and Support – the ‘Dilnot Commission’ .....	2
Proposals in Wales on paying for care .....	3
Response in Wales to the Dilnot report. ....	3
LE Wales research reports on the future of paying for care .....	4
Wales Stakeholder Advisory Group report 2015 .....	4
<b>4. Welsh Government reforms: the first four Assemblies .....</b>	<b>5</b>
Social Services and Well-being (Wales) Act 2014.....	5
<b>5. Welsh Government reforms: Fifth Assembly .....</b>	<b>6</b>

# 1. Introduction

Since the establishment of the welfare state in post-war Britain there has been a legal, administrative and financial separation of health and social care services. Most health services are provided through the NHS and are largely free at the point of use; local authorities provide or arrange social care services for people who do not pay for them privately, for which they may make charges.

Under current legislation local authorities may charge service users for *residential care*, subject to an assessment of income and capital, including property. They may also charge for *non-residential care services*, also subject to a means test. The charging regimes are similar in Wales and England, although Wales has a more generous means test, including a cap on charges for non-residential care.

The arrangements for paying for social care, in particular the balance between public and individual contributions, have long been a matter of debate, and there has been a growing recognition that reform is needed. The way in which charges are made for care, particularly residential care which in some circumstances can mean using the value of a person's home to pay for it, is widely viewed as unfair.

Public funding of social care is under pressure as local authority budgets are squeezed and care providers (the majority of whom are independent or private sector operators) face new financial challenges, including the **introduction of the National Living Wage** in April 2016. The Welsh Government has provided some additional funding to help address these issues, but maintaining an effective and stable social care sector which can meet increasing demand will require **significant additional resources** in the longer term.

## 2. Charging in Wales

### Non-residential care

Non-residential social care services may be provided by local authorities or, as is increasingly the case, commissioned by them from private or third sector providers. Such services might include domiciliary care, meals on wheels or day care.

Local authorities have discretion over whether to make charges for these services, although all of them do. The scope and levels of any charges they make are constrained by legislation, specifically the *Social Services and Wellbeing (Wales) Act 2014*.

There is a maximum weekly charge for non-residential care services of £70 (2017-18) and people receiving services are entitled to retain a minimum income. A capital limit of £24,000 also applies, below which individuals are not expected to contribute to the costs of their non-residential care from their capital.

### Residential care

Local authorities now have discretion over whether to make charges for residential care services under the *Social Services and Well-being (Wales) Act 2014*; they were previously *required* to charge for these services under section 22 of the *National Assistance Act 1948*.

People entering permanent residential care arranged by their local authority are expected to contribute towards the cost from their income, for example their pension, and from their assets.

A person who has capital of their own above £30,000 (including the value of any property) (2017-18) is expected to meet the full costs of their care until their capital falls below this threshold. In some instances it is therefore necessary to sell property to pay care home fees unless it remains occupied

by a close relative, although deferred payment arrangements are available which allow property to be retained until the person dies.

Regardless of the contribution an individual makes to the cost of their care, all care home residents are entitled to retain a minimum income amount, currently (2017-18) £27.50 per week.

The NHS is responsible for meeting the cost of any nursing care provided by a registered nurse to people in residential care. In some circumstances the NHS meets the cost of all care where the person's needs are assessed as primarily health related, this is known as Continuing NHS Healthcare.

### 3. Proposals for reform in England and Wales

A succession of enquiries, commissions and reports has examined funding and charging for social care, including the Royal Commission on Long-Term Care (1999), Securing Good Care for Older People by Sir Derek Wanless (2006), the Joseph Rowntree Foundation report Paying for long-term care: Moving forward (2006) and the Barker Commission report on the Future of Health and Social Care in England (2014).

#### England: Commission on Funding of Care and Support – the 'Dilnot Commission'

Following the 2010 general election the UK Coalition Government established a commission to examine the issue of paying for care, chaired by Andrew Dilnot. The commission was launched on 20 July 2010 and its report was published on 4 July 2011. Although primarily concerned with the funding of social care services in England, the Dilnot recommendations have been influential in Wales and have helped to inform debate in both England and Wales. Implementation of the recommendations in England would be likely to have financial consequences for Wales.

The report included the following recommendations:

- The lifetime contribution to adult social care costs that any individual needs to make should be capped at between £25,000 and £50,000, with a recommended level of £35,000. Those with care costs in excess of the agreed figure should be eligible for full support from the state.
- Rates paid by local authorities for residential care would be used as the basis for determining when an individual has reached the cap. In addition, Dilnot recommended that the cap should exclude 'general living costs' for people in residential care; these were estimated at between £7,000 and £10,000 per annum.
- The asset threshold for means tested support should be raised from the then level of £23,250 to £100,000.
- All those who enter adulthood with a care and support need should be eligible for free support immediately, rather than being subjected to a means test.
- Universal disability benefits for people of all ages should continue, although they should be better aligned with the reformed social care funding system.

The Commission estimated that implementing its recommended cap of £35,000 would cost around £1.7 billion in 2010-11, rising to £2.8 billion in 2010-21.

The UK Government incorporated some of the Dilnot proposals in sections 14-17 of the *Care Act 2014* and these were to be implemented in England from April 2016. However, in July 2015 the UK Government announced that the reforms would not be introduced until 2020.

Although it is not yet clear what form the changes will take when (or even if) they are introduced in 2020, the UK Government had previously set out plans to introduce a cap of £72,000 for

expenditure on residential and non-residential care (excluding daily living costs) and an increase in the capital threshold, above which the full costs of care would need to be met, to £118,000 for people with property and £27,000 for those without property.

## Proposals in Wales on paying for care

Successive Welsh Governments have undertaken a significant amount of work in recent years to address issues around paying for care. However, reform in Wales is dependent in part on the direction of policy in England, particularly in terms of its impact on non-devolved matters such as welfare benefits.

The Welsh Government has also viewed the cost of implementing major changes in Wales, such as those recommended by the Dilnot Commission, as **requiring additional resources** in the Welsh financial settlement.

In the Third Assembly the Welsh Government conducted a Green Paper consultation on the future funding of social care services, launched in November 2009. The Green Paper outlined five possible funding options, reflecting those set out in a **consultation** on paying for care in England undertaken by the then Labour Government. Each of the options assumed that individuals would meet their own accommodation costs, regardless of where they receive their care.

A Wales **Stakeholder Advisory Group on Paying for Care** was also set up to advise the Welsh Government on policy options for reforming the arrangements for paying for care.

## Response in Wales to the Dilnot report.

The Welsh Government **welcomed the publication of the Dilnot report** in 2011 but expressed concerns about the cost of implementing the recommendations in Wales which it estimated at £100 million. In a subsequent **Written Statement** the then Deputy Minister for Children and Social Services, Gwenda Thomas AM, stated her commitment to the principle of capped charges but expressed some doubts about the complexity of the proposed model and about the relatively limited number of people who would benefit from the cap.

In February 2013 the Welsh Government's **Stakeholder Advisory Group on Paying for Care** gave its **response to the Dilnot Commission's report**.

The group suggested that further work was needed to improve understanding of the funding, levels of wealth, current and future demand for care services in Wales and the likely costs of introducing Dilnot-style arrangements.

The Group's report stated that the existence of the (then) £50 weekly cap on charges for non-residential care in Wales would in effect create a double cap if the Dilnot proposals were implemented and that consideration should be given to creating a separate cap on charges for residential care in Wales.

The group expressed concerns about the costs to local authorities of undertaking assessments and recording the charges made to individuals who are not eligible for financial support, many of whom do not currently contact local authorities. The report also suggested that the capital limit should be higher than that proposed by Dilnot, to reflect median property values in Wales (approximately £164,000 at the time of the report), but questioned the reliance on property and savings as a measure of ability to pay for care and suggested that a set proportion of these assets be taken into account.

In November 2013 the then Deputy Minister for Social Services **confirmed her intention** to establish a reformed system of paying for care in Wales but did not commit herself to the same arrangements as England. She **stated** that more details on plans for England were required, including the budget setting process and their effects on Barnett consequentials which would have funding implications for Wales.

This remained the Welsh Government's position under Mark Drakeford AM as Minister for Health and Social Services. In November 2015 the then Minister **stated** that he was unable to set out a way forward for Wales in the absence of progress on implementing reforms in England. In particular, he cited the lack of clarity on any consequential funding for Wales that might result from developments in England, and on further reform of welfare benefits and pensions.

## **LE Wales research reports on the future of paying for care**

In 2013 the then Deputy Minister for Social Services commissioned research from LE Wales on paying for care in the Welsh context which would include data on current charging, present and future population composition, and trends in income and capital.

Two research reports were published, the **first in April 2014**. The report provided data on population trends in Wales and projections of current and future demand for care services. It also included data on expenditure on, and income from, care services, and on charging arrangements across Wales. The report also looked at alternative models for paying for care and considered the arrangements in other countries including France, Germany, Sweden, Japan and Australia.

The **second LE Wales report**, published in October 2014, provided projections of demand for, and the costs of, care under a number of scenarios over a 25 year period from 2013 to 2037. This second report also set out the possible impacts of a variety of policy options for both residential and non-residential care. Five policy options were considered:

- Option 1: all care costs are paid through government expenditure
- Option 2: Set government contribution
- Option 3: Weekly maximum on self-funders' contribution
- Option 4: Lifting housing assets threshold
- Option 5: Lifetime cap on care charges

The report also looked at some potential financial products and state funding options.

## **Wales Stakeholder Advisory Group report 2015**

In March 2015 the Stakeholder Advisory Group on Paying for Care published a **report** which set out the reforms it believed should be made in Wales in the context of both the reforms planned for England and the *Social Services and Well-being (Wales) Act 2014*. It also considered the two reports produced for the Welsh Government by LE Wales.

The report set out the Group's views which included the following:

- In the longer term, care and support should be paid for through national insurance, or taxation, to pool risk;
- There may be a role for tailored and reliable financial products, such as annuities to fund care;
- A higher capital limit should be considered – at least £100,000;
- Individuals in residential care should pay for the costs of their food, accommodation and living costs;
- The group supported the maximum weekly charge for non-residential care but suggested it should be proportionate to a person's income and asset levels and should be used to remove any incentive to place people in residential care;



- The ‘buffer’ and disability related expenditure allowances should be retained to help those on lower incomes. Increases should be considered as this would provide better protection for those on low incomes than the maximum weekly charge;
- A lifetime cap on care costs should be introduced for residential care. The cap should also be time-based to provide assurance over the length of time a person might have to pay charges;
- Any reforms should not create adverse incentives, e.g. regarding the type of care an individual receives, and should not result in added administrative or work burdens for care providers and local authorities; and
- Carers should not be subject to charges for support they receive in relation to caring. Nor should younger adults with long term care needs be charged in the same way as other adults.

The Group considered the alternative models of funding provided in the examples from other countries by the LE Wales report but concluded that no single model would be appropriate for Wales.

## 4. Welsh Government reforms: the first four Assemblies

The Welsh Government has sought to limit the impact of charges for non-residential care services and reduce variation in charging between local authorities, but prior to 2007 had only limited powers to legislate to prevent local authorities applying charges.

Initially the Welsh Government implemented the changes through statutory guidance for local authorities published in 2007. The effect of the guidance was to provide a floor below which service users’ net incomes would not fall as a result of charges, to disregard earnings, and to ensure that any capital limits were at least as generous as those applied to charges for residential care.

In June 2007, following the devolution of further powers to the Assembly, the coalition government in Wales committed itself to limiting the levels of, and variation in, charges levied by local authorities for non-residential social care services. Subsequently the Social Care Charges (Wales) Measure 2010 introduced a new framework for the implementation of charges for non-residential care services.

Regulations made under the *Social Care Charges (Wales) Measure 2010* set out certain requirements on local authorities when charging for non-residential care services, some of which had been included in the earlier guidance. They included allowing service users a 35% income disregard “buffer” and an additional 10% disregard on disability related expenditure, as well as setting a maximum weekly charge of £50.

The Welsh Government’s *Social Services and Well-being (Wales) Act 2014* has made further provisions around charging, and the *Social Care Charges (Wales) Measure 2010* has been repealed and its provisions subsumed within the Act.

### Social Services and Well-being (Wales) Act 2014

The *Social Services and Well-being (Wales) Act 2014* aims both to consolidate social services legislation as it applies in Wales, and to enable new policies to be put in place. These latter include a new emphasis on preventative services and wellbeing, provision for national eligibility criteria for accessing services, and assessments that are portable across local authorities.

Part 5 of the Act makes provision for charging for social care services and the financial assessment of service users and provides Welsh Ministers with powers to put in place arrangements for the contribution of individuals to the cost of their care.

While the new arrangements are based to a large extent on the existing framework, some significant changes have been made by the Act and its associated regulations.

- Charges for residential and non-residential care are now subject to a single framework, although the criteria for financial assessment differ.
- Local authorities may charge for preventative services under section 15 of the Act and for assistance under section 17 of the Act but only as a flat rate charge.
- As before, local authorities may charge users of Direct Payments. Under the Act, Direct Payments may now be used for residential care, as well as for non-residential care.
- Charges may not be imposed for children’s services, nor for a number of other services and categories of service users.

## 5. Welsh Government reforms: Fifth Assembly

In its 2016 election manifesto Welsh Labour stated its intention of increasing to £50,000 the capital limit in the means test applied by local authorities when charging for residential care. At that time the limit was £24,000. The Welsh Government also proposed introducing a full disregard of War Disablement Pension in the financial assessment.

The Minister for Social Services and Public Health, Rebecca Evans AM **announced** in October 2016 that the Welsh Government would raise the capital threshold to £30,000 and introduce the War Disablement Pension disregard from April 2017 as a first step in implementing the reforms to charging for residential care. A report by LE Wales, *Research on proposed changes to charging for social care*, commissioned by the Welsh Government, looked at the financial implications of these policies.

Under the *Social Services and Wellbeing (Wales) Act 2014* charges for non-residential care in Wales remain capped and the means test for assessing these charges includes a capital threshold of £24,000 for contributions from assets, although the value of property is not included. However, as part of its reforms to the means test for care charges, the Welsh Government has increased the non-residential care charge cap to £70 per week from April 2017, and plans to further increase it to £100 per week by 2021.