

National Assembly for Wales
Research paper

Paying for Social Care

May 2014

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Research paper

Paying for Social Care

May 2014

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This paper summarises the charging arrangements for social care services in Wales and highlights some key differences between Wales and other parts of the UK. It outlines work to reform social services charging in the UK, with particular reference to the work of the Dilnot Commission, and sets out the responses of the UK and Welsh Governments to the Commission's recommendations.

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Paying for Social Care

1. History

Since the establishment of the welfare state in post-war Britain there has been a historic divide between health services provided by the NHS, which are largely free at the point of use, and social care services provided or arranged by local authorities, for which charges may be made.

Under current legislation local authorities are required to charge service users for residential care, subject to an assessment of income and capital, including property. Local authorities have discretion about whether to charge for non-residential care services, although all do so, and this is subject to a means test and limited to a £55 per week maximum charge in Wales¹.

Since the 1980s there has been a trend away from NHS provision of long-term care towards local authority-arranged care which is provided mainly by the private sector. This, together with tighter local authority eligibility criteria and increasing levels of wealth (driven in part by rising property values), has resulted in many more people paying for their own care². More than a third of older people in residential care now pay all the costs of their care.³

Pressure for extra resources to meet increasing demand for social care, and the perceived unfairness of a system that requires some people to sell their homes to pay for it, has led to a recognition of the need to reform the way in which social care (and long-term residential care in particular) is paid for. In 1997 the then UK Labour Government established the Royal Commission on Long-Term Care with Sir Stewart Sutherland as its chairman. Its report⁴, published in March 1999, recommended the introduction of free personal care to those assessed as needing it, although a minority report dissented from this view on the grounds that the cost would be prohibitive.

In 2001 a Coalition on Charging Cymru was formed to campaign for free social care services⁵. The coalition comprises national and local organisations representing the interests of disabled people, older people and carers.

For the then newly established devolved administrations of the UK, attaining responsibility for social care services provided them with some latitude in

¹ The weekly maximum charge for non-residential care services was increased from £50 to £55 in April 2014 and will further increase to £60 in April 2015.

² Humphries, R *Paying for social care: Beyond Dilnot* Kings Fund, pp7-8 [accessed 21 February 2014]

³ Carr West, J. and Thraves, L., *Independent Ageing: council support for care selffunders* Local Government Information Unit, 2011, p5 [accessed 13 February 2014]

⁴ The Royal Commission on Long Term Care, *With Respect to Old Age: Long Term Care - Rights and Responsibilities* March 1999, Cm 4192-I [accessed 7 April 2014]

⁵ Coalition on Charging Cymru is co-ordinated by [Disability Wales](#).

responding to the Sutherland recommendations. Scotland went furthest towards abolishing care charges by introducing free personal care for older people, but Wales had more limited powers and charging arrangements remained broadly similar to those in England, with the notable exception of the weekly cap on charges for non-residential care. Responsibility for welfare benefits, a significant element of the care landscape, remains reserved to the UK Government.

Since the Sutherland Commission a number of other enquiries, commissions and reports have examined funding and charging for social care including, for example *Securing Good Care for Older People*⁶ by Sir Derek Wanless, and the Joseph Rowntree Foundation report *Paying for long-term care: Moving forward*⁷, both published in 2006.

⁶ Wanless, D. [*Securing Good Care for Older People, Taking a Long-Term View*](#) (2006) Kings Fund [accessed 2 April 2014]

⁷ Hirsch, D. [*Paying for long-term care: Moving forward*](#) Joseph Rowntree Foundation, (2006) [accessed 2 April 2014]

2. Current policy

2.1. Charging in Wales

2.1.1. 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. In either case, charges may be made. Such services might include domiciliary care, meals on wheels or day care.

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 charges⁸.

In 2002 the Welsh Government issued Fairer Charging guidance⁹ to local authorities. This was a combination of statutory guidance, under Section 7 of the *Local Authority Social Services Act 1970*, and good practice guidance that aimed to address the variation in charging that was evident across Wales. The *Fairer Charging* document:

...set[s] out a broad framework to help authorities ensure that their charging policies are fair and reasonable, and operate consistently with their overall provision of non-residential services.

In 2003 the Welsh Labour Party election manifesto¹⁰ included a commitment in the Second Assembly to eliminating all charges for home care services provided for disabled people. However, the lack of powers and evidence provided by Stirling University¹¹ of the potentially high costs of implementing the policy led to a change of policy and in February 2006 the then Minister for Health and Social Services, Brian Gibbons AM, made a statement¹² to the effect that the free home care policy would not be implemented. Instead, the Minister announced a package of reforms that included changes to the statutory guidance issued by Welsh Ministers to local authorities on charging for non-residential social care services. A revised version of *Fairer Charging*¹³ was subsequently issued in March 2007 and took effect in April that year.

⁸ Bell, David (2010) *The Impact of Devolution. Long-term care provision in the UK* York, Joseph Rowntree Foundation, p26 [accessed 6 September 2013]

⁹ Welsh Government *Fairer Charging Policies for Home Care and other non-residential Social Services Guidance for Local Authorities* July 2002 [accessed 6 February 2014]

¹⁰ Welsh Labour *Working Together for Wales Welsh Labour's manifesto 2003* p5 [accessed 13 February 2014]

¹¹ Welsh Assembly Government, *Estimating the cost of free home care for disabled people in Wales*, Bell, D, 2006 (no weblink, hard copy available in the Members' library)

¹² National Assembly for Wales, Dr Brian Gibbons (Minister for Health and Social Services), Oral Statement *Free Homecare for Disabled People*, *ROP* 15 February 2006, p35 [accessed 27 February 2013]

¹³ Welsh Government *NAFWC11/07 - Fairer charging policies for home care and other non-residential Social Services - Revised guidance for Local Authorities* March 2007 [accessed 28 February 2013]

The cumulative effect of this and earlier 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 committed itself¹⁴ to limiting the levels 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.

Regulations¹⁵ 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 £50¹⁶.

The Welsh Government's *Social Services and Well-being (Wales) Act 2014* makes further provisions around charging, and the provisions of the *Social Care Charges (Wales) Measure 2010* have been subsumed within it.

*2.1.2. Residential care*¹⁷

Local authorities are required to charge for residential care under section 22 of the *National Assistance Act 1948*. People entering permanent residential care arranged by their local authority are therefore expected to contribute towards the cost from their income, for example their State Pension or occupational or private pension. However, all care home residents are entitled to retain a Personal Expenses Allowance (PEA), currently (2014-15) £25.00 per week.

In addition to this, anyone who has capital of their own above £24,000 (including the value of any property) 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.

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

¹⁴ Welsh Government, [*One Wales*](#), 27 June 2007, p11

¹⁵ [*Social Care Charges \(Means Assessment and Determination of Charges\) \(Wales\) Regulations 2011*](#)

¹⁶ The weekly maximum charge for non-residential care services was increased from £50 to £55 in April 2014 and will further increase to £60 in April 2015.

¹⁷ Detailed guidance on the arrangements for paying for residential care is published in the Welsh Government's [*Charging for Residential Accommodation Guide*](#) (2012 version) [accessed 7 April 2014].

meets the cost of all care where the person's needs are assessed as primarily health related, this is known as Continuing NHS Healthcare.

2.2. *Free personal care in Scotland*

In 2002 Scotland introduced free personal care for older people¹⁸. Under the *Community Care and Health (Scotland) Act 2002* local authorities in Scotland are prevented from charging people over 65 who have been assessed as needing personal care, either at home or in residential settings. Nursing care is provided free, as in the rest of the UK.

Personal care does not include services such as help with domestic tasks or meals on wheels for people living at home, nor does it include housing and living costs for people in residential care. Individuals continue to pay for these services, subject to means testing based on broadly similar thresholds to those in Wales, although local authorities retain discretion in the charges they apply to people receiving non-personal care at home.

A flat rate payment of £169 per week is made by local authorities to cover the costs of personal care for people in residential care. The payment is subject to an annual inflationary uplift. People receiving Attendance Allowance lose this entitlement when they receive free personal care in residential settings, and as a result the Scottish Government increased the level of personal care payments for these people¹⁹.

Although the free personal care policy enjoys widespread political support in Scotland concerns have been raised around its costs²⁰. The Sutherland review of free personal care²¹ in 2008 identified a need for additional funding and the Scottish Government's Independent Budget Review Panel (2010)²² explored ways in which costs could be reduced.

¹⁸ See Scottish Government website [Free Personal and Nursing Care](#) for further information

¹⁹ Scottish Parliament Information Centre, SPICe Briefing [SB 09-51 Frequently Asked Questions: Care for Older People](#) (2009) pp10-11 [accessed 5 February 2014]

²⁰ Scottish Parliament Information Centre, SPICe Briefing [SB 11-43 Adult Community Care – Key Issues](#) (2011), pp13-14 [accessed 5 February 2014]

²¹ Sutherland, Lord Stewart. (2008) [Independent Review of Free personal care and Nursing care in Scotland](#) Scottish Government [accessed 5 February 2014]

²² Independent Budget Review Panel. (2010) [Independent Budget Review: The Report of Scotland's Independent Budget Review Panel](#) Scottish Government, pp103-109 [accessed 5 February 2014]

3. Reforming social care charging

3.1. *England*

Prior to the 2010 general election the then Labour Government developed proposals to reform the way social care is funded. This had culminated in a 2009 green paper consultation²³ on paying for care in England which was influenced by the earlier review of social care funding by Sir Derek Wanless²⁴, although this latter report had been commissioned separately by the Kings Fund. In both documents a model based on a partnership arrangement between the state and the individual was proposed.

3.1.1. *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 published its report²⁵ on 4 July 2011. Although the Commission was primarily concerned with the funding of social care services in England, some aspects of its remit affect Wales, for example welfare benefits.

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 current 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

²³ Department of Health [Shaping the Future of Care Together Green Paper](#) 14 July 2009 [accessed 6 December 2013]

²⁴ Wanless, D. [Securing Good Care for Older People. Taking a Long-term View](#) (2006) Kings Fund [accessed 6 December 2013]

²⁵ Commission on Funding of Care and Support [Fairer Care Funding. The Report of the Commission on Funding of Care and Support](#) July 2011 [accessed 7 April 2014]

- 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 2010-21²⁶.

The UK Government's initial response²⁷ in 2012 to the Dilnot report expressed support for the principles of the Dilnot Commission's model – financial protection through capped costs and an extended means test – as the basis for any new funding model. However it did not make a commitment to introducing a new system before the autumn 2013 spending review.

3.1.2. *The Care Bill*

In May 2013 the UK Government published its Care Bill²⁸. The Bill had its first reading in the House of Lords on 9 May 2013 and had its first reading in the House of Commons on 30 October 2013. At the time of writing (May 2014) the Bill has completed all its stages in the House of Commons and has now returned to the House of Lords for consideration of amendments.

Significant inclusions in the Bill, which did not appear in an earlier draft Bill²⁹, are provisions to implement recommendations from the Dilnot report. These had been set out in a policy statement earlier in 2013³⁰.

A cap on the costs of care would prevent local authorities from charging people for social care services once they had reached a ceiling of £72,000 (starting from April 2016). The cap would be applicable to both residential and non-residential care and would increase annually in line with average earnings. Regulations may specify different caps for different groups, e.g. younger disabled people.

In line with the Dilnot recommendations the costs that are taken into account in these calculations do not include “daily living costs”, for example food and accommodation. These are to be specified in regulations, but are likely to be set at around £12,000 pa³¹.

The UK Government is also planning to extend means-tested support for residential care to people with assets that include property, from the current level of £23,250 (in England) to £118,000. If the assessed assets do not include property the level will be ‘around’ £27,000. Those with assets of £118,000 (or

²⁶ Ibid p71

²⁷ Department of Health website, [Government publishes progress report on social care funding](#) 11 July 2012 [accessed 6 December 2013]

²⁸ [Care Bill \[HL\]](#) Bill 123 2013-14 [accessed 6 December 2013] See also [Care Bill factsheets](#)

²⁹ Department of Health [Draft Care and Support Bill](#) 11 July 2012 [accessed 6 December 2013]

³⁰ Department of Health [Government announces major reforms to funding of care and support](#) 11 February 2013 [accessed 6 December 2013]

³¹ See Department of Health consultation [Caring for our future: implementing funding reform](#) 18 July 2013, p14 [accessed 6 December 2013]

£27,000) or less will contribute a proportion of their assets towards the costs of care, tapering down to no contribution from assets at £17,000. However, contribution from income may still be required.

A Care Bill Factsheet³² summarises the state contribution:

The State will be responsible for:

- any further reasonable care costs once an individual reaches the £72,000 cap;
- financial help to people with their care and/or general living costs, if they have less than around £17,000, and if they do not have enough income to cover their care costs.

The UK Government estimates the costs of implementing its proposals as £0.53 billion in 2016-17 rising to £1.6 billion in 2020-21 and £2.3 billion in 2025-26³³

3.2. *Work in Wales on paying for care*

The Welsh Government has undertaken work in recent years to address the 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 also views the likely cost of implementing major changes, such as those recommended by the Dilnot Commission, as requiring additional resources in the Welsh financial settlement³⁴.

The Welsh Government conducted a Green Paper consultation on the future funding of social care services, launched in November 2009³⁵. The Green Paper outlined five possible funding options, reflecting those set out in a consultation³⁶ on paying for care in England undertaken by the then Labour Government. Two of the (options 1 and 2) had been ruled out by the UK 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 “consider policy options for establishing fairer and more sustainable arrangements for paying for care”³⁷.

³² Department of Health, *Care Bill Factsheet 6: care and support funding reforms* 10 May 2013 [accessed 6 December 2013]

³³ Department of Health consultation *Caring for our future: implementing funding reform 18 July 2013*, p75 [accessed 7 April 2014]

³⁴ Welsh Government, Gwenda Thomas (Deputy Minister for Children and Social Services) *UK Government Progress Report on Paying for Social Care* Cabinet Written Statement, 12 July 2012 [accessed 26 February 2014]

³⁵ Welsh Government, *Paying for Care in Wales: Green Paper consultation on options for reform* (2009) [accessed 26 February 2014]

³⁶ Department of Health *Shaping the Future of Care Together Green Paper* 14 July 2009 [accessed 26 February 2014]

³⁷ Welsh Government, *Paying for Care in Wales: Green Paper consultation on options for reform* (2009) [accessed 26 February 2014]

3.2.1. Response of the Welsh Government to the Dilnot report.

The Welsh Government welcomed the publication of the Dilnot report in 2011³⁸ but expressed concerns about the cost of implementing the recommendations in Wales which it estimated at £100 million. In a subsequent Written Statement³⁹ in response to the UK Government's 2012 progress report on social care funding reform the Deputy Minister for Children and Social Services, Gwenda Thomas AM provided further information and set out the Welsh Government's position. In the statement the Deputy Minister repeated her commitment to the principle of capped charges but expressed some doubts about the complexity of the proposed model which she believed could:

[make] life complicated for people with care and support needs and for the local authorities which will be tasked with keeping track of their (notional) contributions.

Furthermore:

I note that when the UK Government initially announced its proposed reforms in February it stated that up to 16% of older people paying for care might be expected to face costs of the then proposed cap of £75,000 and would therefore be helped by that cap. There has been quite a bit of debate about whether that is a sufficiently large proportion of people to benefit and I would want to ensure that any new system that we introduced here would bring maximum benefit to the people who really need it.

In February 2013 the Welsh Government's **Stakeholder Advisory Group on Paying for Care** gave its response⁴⁰ to the Dilnot Commission's report.

The group recommended that work be undertaken 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 £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, 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.

³⁸ Welsh Government press release [Wales welcomes Dilnot report](#) 4 July 2011 [accessed 21 February 2014]

³⁹ Welsh Government, Gwenda Thomas (Deputy Minister for Children and Social Services) [UK Government Progress Report on Paying for Social Care](#) Cabinet Written Statement, 12 July 2012 [accessed 26 February 2014]

⁴⁰ Welsh Government, [Paying for Care in Wales – report of the stakeholder advisory group on the Dilnot Commission's report](#) February 2013 [accessed 3 April 2014]

More recently, in November 2013 the Deputy Minister for Social Services wrote to the Assembly's Health and Social Care Committee with an update⁴¹ on the Welsh Government's plans regarding paying for care. In the letter the Deputy Minister confirmed her intention to establish a reformed system of paying for care in Wales to a timescale similar to that for England i.e. implementation from April 2016, but did not commit herself to the same arrangements as England.

The Deputy Minister has commissioned research on the Welsh context including data on current charging, present and future population composition, and trends in income and capital. The research is expected to be completed by September 2014 and confirmation of the Welsh plans for reform will be provided later in 2014.

In a further statement⁴² in March 2014 the Deputy Minister confirmed the timetable for reform in Wales but stated that more details on plans for England are required, including the budget setting process and their effects on Barnett consequential which will be determined in a spending review after the next UK general election.

3.2.2. Social Services and Well-being (Wales) Act 2014

The Welsh Government also introduced its *Social Services and Well-being (Wales) Bill*⁴³ in January 2013, following a consultation exercise⁴⁴ in March 2012.

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. The provisions of the *Social Care Charges (Wales) Measure 2010* are subsumed within the resulting Act and the Measure will be repealed.

The Act removes the current requirement on local authorities under section 22 of the *National Assistance Act 1948* to charge for residential care and allows local authority discretion.

The Act received Royal Assent on 1 May 2014.

⁴¹ Health and Social Care Committee [13 November 2013](#) Paper to note: HSC(4)-32-13 (ptn2) Letter from the Deputy Minister for Social Services: paying for care [accessed 6 December 2013]

⁴² Welsh Government, Gwenda Thomas (Deputy Minister for Children and Social Services) [Paying for Social care - Update](#) Cabinet Written Statement, 17 March 2014 [accessed 3 April 2014]

⁴³ [Social Services and Well-being \(Wales\) Bill](#) [accessed 26 February 2014]

⁴⁴ Welsh Government [Social Services \(Wales\) Bill consultation](#) [accessed 26 February 2014]

3.3. *Paying for care: implementation of Dilnot and next steps*

The UK Government's plans to implement the recommendations of the Dilnot Commission will create, for the first time, a limit on the amount individuals will have to pay for social care and protection against 'catastrophic' costs. Much of the post-Dilnot debate has focused on the level of the cap to be applied to individual spending on care and the number of people who might therefore benefit, but a report published by the Kings Fund⁴⁵ argues that it is not the level of the cap that is critical but the level at which criteria for accessing care is set. Under legislative proposals in both England and Wales many people with moderate needs may not be eligible for care and will fall outside the system.

The Local Government Association in England, whilst supportive of the proposals overall identified some additional costs that are likely to be experienced by local authorities when the proposals are enacted⁴⁶:

The level of the cap will make little difference to some of the other costs associated with the proposals, which councils may be exposed to, for example:

- Administration costs linked to tracking individuals' contributions to the cap.
- Increased assessment costs as more people enter the state system.
- The costs of universal services that may be identified as beneficial to the individual when s/he approaches the council for an assessment to trigger the process of contributing to the cap. This could include services such as reablement, preventative services, falls prevention and telecare.

The Kings Fund report, which focused on England, recommended further work to align health and social care services and stressed the importance of proper preparation and planning for implementing the Dilnot proposals, to reduce the risk of "confusion complexity and complaints"⁴⁷.

There remains the issue of the level of resources available to fund care services; the terms of reference for the Dilnot Commission excluded consideration of the total resources needed to fund the care system and where they should come from. The UK Government hopes that this will help to foster a social care insurance market to enable people to plan for their long-term care needs, although evidence for this is mixed,⁴⁸ and the Welsh Government's Stakeholder Advisory Group is sceptical about the contribution such services would make⁴⁹.

⁴⁵ Humphries, R *Paying for social care: Beyond Dilnot* Kings Fund, May 2013, p19 [accessed 4 April 2014]

⁴⁶ Local Government Association, *LGA On the day briefing Adult social care funding reform*, 11 February 2013, p3 [accessed 17 February 2014]

⁴⁷ Humphries, R *Paying for social care: Beyond Dilnot* Kings Fund, May 2013, p1 [accessed 4 April 2014]

⁴⁸ Ibid p16 [accessed 4 April 2014]

⁴⁹ Welsh Government, *Paying for Care in Wales - report of the stakeholder advisory group on the Dilnot Commission's report* February 2013 pp36-37 [accessed 3 April 2014]

Nevertheless, according to Kings Fund report:

The implementation of the Dilnot proposals will establish a framework in which the costs of individual care are shared in a transparent way, and it opens up the possibility of a different debate about the source of funding, both public and private.
(p21)