

REGULATORY IMPACT ASSESSMENT

(INITIAL DRAFT FOR CONSULTATION)

Introduction

The changes being introduced by the amending regulations are considered in this Regulatory Impact Assessment. Introducing these changes will ensure the Charging Regulations operate in accordance with the policy intention.

Options and Benefits

This Regulatory Impact Assessment considers two options in relation to making these changes:

- Option 1 – “do nothing” and not make the amending regulations;
- Option 2 – “make the amending regulations” to introduce changes to the Charging Regulations in relation to charging for care and support. This is the preferred option.

Charging for non-residential care and support: the weekly maximum charge

Local authorities have the legal responsibility to provide social care and support to their respective assessed eligible citizens, either within their own home, the community or in a residential care setting, and have the discretion to charge for those services.

Noting the increasing extreme financial pressures on local authorities, Ministers propose amending the regulations and Code of Practice governing local authority charging for social care and support services under the Social Services and Well-being (Wales) Act 2014. Specifically, they propose uplifting the non-residential maximum weekly charge, currently set at £100.

The existing regulations relating to charging and financial assessment would ensure only individuals who have the financial means to pay an increased maximum weekly charge would do so. This would be determined by the usual process, as part of the financial means test carried out by an individual’s local authority. Therefore, not everyone currently paying the maximum weekly amount of £100 would be required to pay an increased amount.

Option 1 – do nothing

- Costs

The WLGA, in December 2023, estimated a local government funding shortfall of £432m, which will impact ability to maintain social care and support services provision.

By maintaining the current cap of £100 for the maximum weekly charge, the proportion of chargeable income a local authority can receive against the actual costs of providing care is reduced, thereby increasing the financial burden. Given the variables of the charging scheme, and the metrics available, it is challenging to definitively state what pressures are specifically associated with maintaining the maximum weekly charge, and which pressures are broader demand pressures which have been exacerbated by effectively capping the maximum weekly charge at the existing rate of £100 per week, since 2020. Doing nothing would exacerbate the pressures local authorities are experiencing, and heighten the costs associated with delivering care and support services.

- **Benefits**

Adult recipients of applicable non-residential care and support services would be guaranteed to pay no more than £100 for their local authority arranged or provided non-residential care and support services. As this would see no raise to the current weekly maximum charge, adults accessing services would have certainty of the maximum they would pay each week, for the remainder of this financial year. However, it should be noted a person's charge may change even without an uplift to the maximum weekly charge if their care and support needs change and / or their financial situation changes. The £100 weekly maximum, if option 1 ('do nothing') is taken, would still apply.

Option 2 – make the amending regulations

This option would require amending regulations to increase the non-residential weekly maximum charge from its current level of £100 to a new set amount (determined after responses of consultation are analysed) per week.

- **Costs**

This option will result in some adults who access local authority arranged and/or provided non-residential care and support services seeing an increase to the weekly charge they pay for these services. This increased charge will not apply to everyone, nor will it mean that those currently paying the maximum of £100 per week would pay the new maximum amount. Only individuals who have the financial means to pay an increased maximum weekly charge would do so. This would be determined by the usual process, as part of the financial means test carried out by an individual's local authority and in accordance with local authority charging policies.

An additional cost to local authorities may be seen as there would be a need to conduct new means testing for adults in receipt of non-residential care and support services. However, such assessments are routine and would be required for a change in individual circumstances with or without this proposed change so any increased cost or demand would be a marginal increase to business-as-usual expectations.

- **Benefits**

This option results in local authorities being able to access an increased revenue stream, to help combat some of the financial challenges presented by the current economic pressures relating to inflationary increases. This would be due to the uplifted amount some adults in receipt of non-residential care and support services would begin to pay to their local authorities towards their care, following a financial means test.

In ensuring there is still a weekly non-residential maximum charge, it gives adults the reassurance that they will not pay more than a set amount, regardless of care needs or financial means, for their care and support.

Provisional estimates, based on a data from 2021-22¹ put the funding benefits to local authorities at less than £7.2m p.a. for a £15 increase; circa £9.6m based on a weekly increase by £20 and around £12m income based on a £25 per week increase. These are provisional estimates only, based on the potential impact of people either not assessed as being able to meet the increased charge, or their cost of care falling below the new maximum. From initial analysis, the funding benefits once all factors are considered are not yet clear.

Conclusion

In view of the financial benefit to be realised by local authorities, while enabling adults in receipt of non-residential care and support services to maintain financial protection in the form of a weekly maximum charge, “Option 2 - make the amending regulations” is recommended.

Competition Assessment

Competition Filter Test	
Question	Answer: yes/no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulations do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisations?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

¹ [Adults charged for care and support, by local authority and measure \(gov.wales\)](https://gov.wales/adults-charged-for-care-and-support-by-local-authority-and-measure)

Post Implementation Review

The Act contains provisions to allow Welsh Ministers to monitor functions carried out on their behalf by local authorities and other bodies. The Welsh Ministers may require these bodies to report on their duties in implementing these amending regulations.

The Welsh Government will continue to monitor the impact of the amending regulations on areas such as the Welsh language, the UN Convention on the Rights of the Child, Older People and Equality.