

Mae'r ddogfen hon ar gael yn Gymraeg hefyd.

# Charging Policy for Adult Care & Support Services

## Social Care Staff

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Contents		Page Number
1.0	Introduction & Background	3.
2.0	Purpose of this Policy	4.
3.0	Who does this Policy effect?	4.
4.0	Chargeable and Non Chargeable Services	4.
5.0	Flat Rate Charges	5.
6.0	Treatment of Capital	5.
7.0	Treatment of Income	6.
8.0	Minimum Income Amount	8.
9.0	Maximum Weekly Charge for Services	9.
10.0	Procedure for determining a charge	9.
11.0	The Financial Assessment	10.
12.0	Assessment of Service Users as Single People or Couples (Non-Residential Care)	11.
13.0	Expenses and Costs (Non-Residential Care)	11.
14.0	Deferred Payment Agreements (Residential/ Nursing Care)	12.
15.0	Top Up Payments- Additional Cost (Residential/ Nursing Care Only)	12.
16.0	Recovery of Debt and Deprivation of Assets	13.
17.0	Reviews and Complaints	13.
18.0	The Independent Living Fund	16.
	Appendix 1- The Welsh Government Code of Practice	17.
	Appendix 2 - Fees and Financial Details	18.

## 1.0 Introduction and Background

### Introduction

On 6 April 2016 the financial assessment and charging framework under the Social Services and Well-being (Wales) Act 2014 ("the Act") came into force. This framework applies from that date where Local Authorities use their discretion under the Act to charge for the Care and Support they provide or arrange, or for the direct payments they provide to enable a person to secure Care and Support. It will replace the existing framework that Authorities use.

### Background

The Act brings together Local Authorities' duties and functions in relation to improving the well-being of people who need Care and Support, and carers who need support, into a single piece of legislation. The Act comes into force on 6 April 2016 and provides the statutory framework to deliver the Welsh Government's commitment to focus on well-being, rights and responsibilities.

The existing statutory framework for financial assessment and charging stems from separate pieces of legislation. Mainly the National Assistance Act 1948 as regards charging for residential care, and the Social Care Charges (Wales) Measure 2010 in respect of charging for non-residential care. As such the framework is made up of a number of separate regulations and guidance, some of which are now fragmented and out of date. From 6 April 2016 this legislation will be replaced by the Act, and Regulations and a Code of Practice made under the Act. Consequently, the existing regulations and guidance in relation to financial assessment and charging will also be replaced.

### Regulations and Code of Practice

The regulations in relation to financial assessment and charging which will come into force on 6 April 2016 are:

- The Care and Support (Choice of Accommodation) (Wales) Regulations 2015
- The Care and Support (Charging) (Wales) Regulations 2015
- The Care and Support (Financial Assessment) (Wales) Regulations 2015
- The Care and Support (Deferred Payment) (Wales) Regulations 2015
- The Care and Support (Review of Charging Decisions and Determinations) Wales Regulations 2015

In addition, from that day a Code of Practice on financial assessment and charging will also come into force. The Regulations and this Code will replace those that authorities currently use so that the existing regulations, directions and statutory will cease to have effect.

## 2.0 Purpose of this Policy

Under the new 'Act' all Local Authorities in Wales are presented with the choice to exercise, or not, their discretion to charge for care services. Where Local Authorities decide to exercise their discretion the Act sets out in detail certain minimum requirements that must be adhered to in relation to all aspects of financial assessments and charging.

The purpose of this policy is as follows:

- To confirm that Conwy County Borough Council (CCBC) will exercise the discretion afforded to it under the Act to charge for Care and Support services.
- To confirm that, the requirements as laid out in the Regulations and Code of Practice will be adopted as Conwy County Borough Council. A Requirement is referred to in the Code of Practice as '**must**' or '**must not**'.
- To confirm Conwy County Borough Council, in relation to financial assessments or charging where the Regulations and Code of Practice allow or require discretion. In the Code of Practice, where Local Authorities have discretion is expressed as 'may' or 'should / should not'. To avoid duplication, where discretion is allowed, it is confirmed that the Conwy County Borough Council is to adopt all the minimum requirements as expressed in the Code of Practice as its own policy unless specified otherwise in this policy.

## 3.0 Who does this Policy effect?

This Policy will affect all Adults who receive Care and Support from Conwy County Borough Council. They include current and future Service Users, their carers, families and representatives. The Policy is also relevant to staff within the Department who are expected to conform to this Policy.

## 4.0 Chargeable and Non Chargeable Services

This section specifies the different Care and Support Services provided by Conwy County Borough Council. It shows which services will incur a charge for the service user and which services will be provided free of charge. Please note that any of the below can change.

### 4.1 Services that must be provided free of charge according to the regulations

- Transport to Day Services where the transport is provided as part of meeting a person's needs.
- Aftercare Services provided under Section 117 of the *1983 Mental Health Act*
- Services provided to sufferers of Creutzfeldt Jacob Disease
- Intermediate Care Services.
- Reablement Care Services.

### 4.2 Services that are provided free of charge due to Conwy County Borough Council Policy

- Second Carer (specifically in attendance to support the first carer with duties such as lifting or moving the Service User and to maintain the health and safety of the first carer)
- Carer Services provided under Section 2 of the *Carers and Disabled Children Act 2000*
- Passported Supporting People Services (Service Users in receipt of Supporting People Service pre April 2008)

- Therapeutic Services

#### 4.3 Services that are Chargeable

- Residential and Nursing Care provided in a Care Home. Includes Permanent, Temporary and Respite care.
- Home Care Services purchased by the Authority directly. Includes a range of personal care, which in some cases may include social and leisure activity all aimed at enabling a person to live at home or in a non-residential setting.
- Home Care Services provided during night time hours.
- Telecare Services\*
- Adult Placement Scheme
- Supported Accommodation
- Direct Payments, unless provided to purchase a service for which there is no charge.
- Meals and Refreshments provided at Day Care Centres\*

\*Refer to 5. 'Flat Rate Charges'

- 4.4 Appendix '2' contains a complete list of the current standard fees charged by Conwy County Borough Council all chargeable services within the county of Conwy. Specialist, non-standard and out of county care and support may incur different standard charges. In some circumstances obtaining adequate provision of care may not be possible at the standard rate. Service users will be informed of the total cost of their care at the time it is arranged.
- 4.5 Residential / Nursing care purchased in out of county care homes will normally be purchased at the standard rate set by Local Authority in which that care home is located.

#### **5.0 Flat Rate Charges**

- 5.1 A flat rate charge is permitted by the Act for low level, low cost Care and Support. It is also permitted as a means of charging for preventative services and assistance.
- 5.2 A flat rate charge is payable by all recipients of these services. Conwy do not offer a means assessment to the recipients of these services. If a means assessment is conducted with regards to the provision of other chargeable services, the flat rate charge will be payable in addition to any maximum weekly charge set. The Flat Rate Charge is also payable when the recipient is assessed to pay no contribution for other services that they may receive.
- 5.3 In the process of calculating a means assessment the amount paid as a flat rate charge will be included as an allowable expense in the calculation of the recipients 'minimum income amount'. This will have the effect of increasing the amount of money a service user can retain before being charged for other services.

#### **6.0 Treatment of Capital**

- 6.1 Annex A of the Welsh Government Code of Practice contains detailed guidance on the treatment of capital. A copy of the code of practice is attached to this policy as Appendix 1. Conwy adopt as its own policy the guidance contained in the Code of Practice.
- 6.2 All of a service users' savings and capital will be taken into account in charging assessments for residential / nursing and non-residential care, with the exception of all capital and property disregards as detailed in the Code of Practice.
- 6.3 The only difference between the treatment of capital for residential/ nursing and non-residential care is that the value of the property occupied by the service user as their main or

only home, is disregarded from a non-residential care means assessment. The value of any other property held will be classed as capital.

- 6.4 Ownership of Savings and Capital in excess of the Capital Limit (Appendix '2') as set by the Welsh Government will result in the Service User paying the full standard rate for their care in a residential/nursing care home. In the case of non-residential care it will result in the service user paying the full standard rate for all of the services that they receive up to the maximum weekly charge amount as set by the Welsh Government.
- 6.5 If a service user has capital below the capital limit, their contribution towards the cost of their care will be based on what they can afford to pay from their income. This will be determined by a means assessment.

## **7.0 Treatment of Income**

- 7.1 Annex A of the Welsh Government Code of Practice contains detailed guidance on the treatment of income. A copy of the Code of Practice is attached to this policy as Appendix 1. Conwy County Borough Council adopt as its own policy the guidance contained in the Code of Practice.
- 7.2 All of a service users' income will be taken into account in charging assessments for residential / nursing and non-residential care, with the exception of all income disregards required as detailed in the Code of Practice.

### **7.3 Income that must be disregarded**

- Earnings - from employment as defined in the regulations and code of practice.
- Direct Payments
- Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme
- The Mobility component of DLA & PIP (& Mobility Supplement)
- Working Tax Credit
- Annuity income when purchased with: a loan secured against the service users main/ only home, or with a gallantry award such as the Victoria Cross Annuity or George Cross Annuity. See code of practice for further details
- Mortgage Protection Insurance. See code of practice for further details
- Armed Forces Independence Payments and Mobility Supplements
- Child Support Maintenance Payments and Child Benefit
- Child Tax Credit
- Council Tax Reduction Schemes where this involves a payment to the person
- Christmas Bonus
- Dependency increases paid with certain benefits
- Discretionary Trust
- Gallantry Awards
- Guardian's Allowance
- Income frozen abroad
- Income in kind
- Pensioners' Christmas Payments
- Resettlement benefit
- Social Fund payments (including winter fuel payments)
- War widows and War Widowers special payments
- War Disablement Pension
- Any payments received as a holder of the Victoria Cross, George Cross or equivalent
- Any grants or loans paid for the purpose of education
- Payments made in relation to training for employment

- Any payment from the:
  - Macfarlane Trust
  - Macfarlane (Special Payments) Trust
  - Macfarlane (Special Payments) (No 2) Trust
  - Caxton Foundation
  - The Fund (payments to non-haemophiliacs infected with HIV)
  - Eileen Trust
  - MFET Limited
  - Independent Living Fund (2006)
  - Any amount paid under or by the Welsh Independent Living Scheme
  - Skipton Fund
  - London Bombings Relief Charitable Fund
- Charitable and voluntary payments. Refer to code of practice.
- Housing Benefit

#### 7.4 Partially Disregarded Income

- The first £10 per week of War Widows and War Widowers pension, survivors Guaranteed Income Payments from the Armed Forces Compensation Scheme, Civilian War Injury pension and payments to victims of National Socialist persecution (paid under German or Austrian law).
- Savings Credit Disregard as set by the Welsh Government.

#### 7.5 Income that will be taken fully into account

- Attendance Allowance, including Constant Attendance Allowance and Exceptionally Severe Disablement Allowance.
- Bereavement Allowance
- Carers Allowance
- Disability Living Allowance Employment and Support Allowance or the benefits this replaces such as Severe Disablement Allowance and Incapacity Benefit
- Income Support
- Industrial Injuries Disablement Benefit or equivalent benefit
- Jobseeker's Allowance
- Maternity Allowance
- Pension Credit
- Personal Independence Payment (Daily Living Component)
- State Pension
- Universal Credit
- Private/ Occupational Pension/ Annuity

Any Income that is not listed in 7.3, 7.4 & 7.5 above should be taken fully into account.

#### 7.6 Notional Income

Service Users may be treated as being in receipt of notional income under certain circumstances. This may be as a result of being entitled to claim an income that has not yet been applied for, or intentionally depriving themselves of an income in order to avoid charges for care. Conwy will take account of notional income in accordance with the guidelines detailed in the code of practice.

## 8.0 Minimum Income Amount

When undertaking a financial assessment a local authority must leave a service user with a minimum amount of income (MIA). Different MIA's are set for Residential/ Nursing and Non-Residential care services.

### 8.1 Residential / Nursing Care

The minimum, MIA for residential and nursing care is set by the Welsh Government. It is a set monetary amount, details of which are noted in Appendix '2'.

It is Conwy's policy to use the MIA set by the Welsh Government as its standard MIA. This does not preclude service users from requesting a higher MIA under certain circumstances. All requests to increase the standard MIA will be treated in accordance with the guidance provided in the Welsh Government Code of Practice.

### 8.2 Non-Residential Care

The MIA for recipients of non-residential care is calculated in accordance with a formula set out by the Welsh government in its regulations. Rather than being a set monetary amount, the MIA for non-residential care is based on each individual's 'Basic entitlement to relevant welfare benefit'. Full details of how to calculate the MIA for non-residential care are set out in the regulations and code of practice. A simplified illustration would be as follows:

#### **Basic Entitlement to Benefit + 35% + 10% = Minimum Income Amount**

It is Conwy's policy that Service Users of pension age shall have as a minimum an allowance equal to the income allowance calculated by reference to the Pension Credit Minimum Guarantee +45% and Service Users below pension age shall have as a minimum allowance Income Support +45%.

### 8.3 Basic Entitlement

The basic entitlement to benefit is calculated as follows:

- Income Support / JSA: the personal allowance and any premiums to which a Service User is entitled, but does not include the Severe Disability Premium ("SDP") where it is paid, and where a Service User is a carer, includes any carer premium that person receives.
- Employment & Support Allowance: the personal allowance and any premiums and components to which a Service User is entitled, but does not include the SDP where it is paid, and where a Service User is a carer it includes any carer premium that person receives.
- Pension Credit Minimum Guarantee (referred to as "Guarantee Credit" in the Regulations): the personal allowance and any additional amount to which a Service User is entitled, but does not include the additional amount added for severe disability where it is paid, and where a Service User is a carer it includes any additional amount applicable for carers that person receives

In general, but not in all instances, the MIA for Service Users below pension age, compared to those of pension age will be lower. This is due to the fact that their basic entitlement to benefit is lower.



#### 8.4 Buffer

The minimum buffer is currently set by the Welsh Government at 35% of a service users' basic entitlement to benefits. The Conwy's policy is to always apply the minimum buffer as required by the regulations.

#### 8.5 Disability Related Expenditure (DRE)

The Minimum amount that must be allowed for disability related expenditure is currently set by the Welsh Government at 10% of the basic entitlement to benefits. It is Conwy's policy to always apply the minimum requirement for DRE as required by the regulations.

This does not preclude a service user from requesting a review of their charges if they are of the opinion that their disability related expenditure is in excess of the 10% standard amount allowed.

### 9.0 **Maximum Weekly Charge for Services**

#### 9.1 Residential / Nursing Care in a Care Home

There is no maximum weekly charge for residential/ nursing care. The service user is liable to pay the full cost for their care. If a service user requires financial assistance from Conwy County Borough Council to meet the cost of their care they are required to apply for a means assessment. A means assessment will confirm the level of the service user contribution required. This could be the full cost of the care, or a lesser amount.

As required by the regulations and code of practice. The required contribution towards the cost of the first eight weeks of a temporary or respite stay in a care home will be assessed in accordance with the rules for non-residential care. As a result the maximum weekly charge in accordance with the regulations and policy for non-residential care will apply.

#### 9.2 Non-Residential Care

The Welsh Government has set a maximum weekly charge for non-residential care services. Please refer to section 7 of the code of practice (Appendix 1 of this policy). The current maximum weekly charge is noted in Appendix 2 of this policy.

It is Conwy's policy to apply the maximum weekly charge as set by the Welsh Government. This maximum charge will apply to all recipients of non-residential care services, unless, as a result of their individual means assessment a lower maximum weekly charge is set on the basis of what they are deemed to be able to afford.

### 10.0 **Procedure for determining a charge**

#### 10.1 Residential / Nursing Care

For residential / nursing care, the service user contribution will be confirmed either before the care starts, or at the earliest possible opportunity following the start of the placement. All contributions for Residential and Nursing care are payable from the first day that the service is provided.

Any subsequent changes to the service user contribution will be communicated in writing, or in an alternative agreed format.

## 10.2 Non-residential Care

To calculate the amount that a Service User needs to pay for a Service or combination of Services in any one week (a week will always be from Sunday to the following Saturday) Conwy will proceed as follows:

- a) Identify all the actual chargeable Services that the Service User receives on a weekly basis. If this is not possible by the time an invoice is generated (calendar month in arrears), the charge will be based on the specific care plan of the individual.
- b) Apply the relevant Standard Charge to each Service. (E.g. £15.00 per hour for Home Care).
- c) Add all Standard Charges for Services provided to give a total charge for the week.
- d) Apply the Maximum Weekly Charge, (This may not be relevant if the total weekly charge is less than the maximum), or if it is lower:
- e) Apply the individual Service User's Maximum Weekly Charge as determined by the Service Users individual Means Assessment (if one was requested).

All contributions for non-residential care are payable from the first day that the service is provided. The service user contribution will be confirmed either before the care starts, or at the earliest possible opportunity following the start of the care. Any subsequent changes to the initial service user contribution will be communicated in writing, or in an alternative agreed format. A change to a charge will apply from the date quoted on the notification.

## 11.0 The Financial Assessment

- 11.1 All Service Users who receive chargeable service with the exception of those services for which a flat rate charge is made will be informed that they have the right to request financial assistance from Conwy to pay for their care. This request can be made by completing a request form for a financial assessment.

Service Users will be given 15 working days to complete and return the financial assessment form. If the form is not returned within this time Conwy will assume that the service user does not wish to apply for financial assistance from the Council and an invoice for the full weekly charge will be sent to the service user.

Service Users are liable to pay for their care from the first day that it is received. Before any charge is made Conwy will issue the service user with a statement detailing what amount they are to pay and how this amount has been calculated.

Periodically the amount that is to be paid will change, this may be because of:

- A change to the type of care received
- A change in the service users means (financial assessment)
- A change in the cost to the Council of providing the care.

Any change to the amount to be paid will be communicated to the service user by statement. Any changes will apply from the date detailed on the statement.

Service Users in receipt of a Direct Payment service contribution will be deducted at source.

- 11.2 Service Users have the right to request a Means Assessment at any time, even if they have decided not to request one in the past.

Social Services are under no obligation to back date any assessment conducted at a later date if no request has been made by the Service User for a mean assessment previously. The Service User will remain liable for any amount due between the date of the original financial assessment and the date of the new financial assessment if one is requested.

## **12.0 Assessment of Service Users as Single People or Couples (Non-Residential Care)**

12.1 Unless otherwise requested by the Service Users, Conwy will assess the Service User's ability to pay based on their individual means and ignore any income, Savings or Capital held or received in the sole name of the partner.

If the Service User requests, and the partner submits all their personal financial details in addition to the Service Users details then a Means Assessment can be completed for the couple.

### **12.2 Individual Assessment**

In circumstances where a Service User requests an individual assessment, the assessment will take into consideration the following:

- 100% of all income received in Service Users name alone
- 50% of capital / savings held jointly
- 100% of capital held in the Service Users name alone.

### **12.3 Couple Assessment**

In calculating a couple assessments the income disregard will be calculated using the relevant Benefit basic entitlement for couples plus 45%.

It is not possible to provide a Service User with advice prior to performing a Means Assessment. For example, if they are likely to be better off being assessed as a single person or as a couple. However, when the result of the assessment is known, the assessment that is most favourable for the Service User will be used.

### **12.4 What if a Couple are both Service Users?**

When both partners in a couple are Service Users they will also have a choice of being assessed as individuals or as a couple.

When assessing a couple the capital limit will be doubled. If the joint savings or capital of the couple exceed this level they will be charged at the full standard rate for the Service that they receive up to the Maximum Reasonable Weekly charge as set by the Welsh Government.

## **13.0 Expenses and Costs (Non-Residential Care)**

13.1 In some circumstances certain expenses and costs must be taken into account when conducting a means assessment. When a service user incurs these costs, the 'minimum income amount' will be increased by a corresponding weekly amount. This will allow the service user to retain sufficient monies to pay these expenses before they have to start paying for care.

The following expenses will be taken account of in a non-residential means assessment:

- Mortgage Payments
- Rent Payments (Net of housing benefits)

- Council Tax (Net of Council Tax reduction)
- Service Charges (Net of housing benefits)

A Service User must present proof that any expenses are paid, and are due to be paid into the future before they can be accounted for in the means assessment. Financial assessments will not be changed retrospectively if the necessary information was not supplied when required for the initial financial assessment.

13.2 Any expenses or costs incurred by a Service User living alone will be taken into consideration in full. If the Service User lives with a partner or other adults over the age of 18 that are not in full time education, any expenses or costs will be halved or divided in equal portion to reflect each adult resident's contribution to the costs of the household.

#### **14.0 Deferred Payment Agreements (Residential / Nursing Care)**

14.1 After the first 12 weeks of permanent residential / nursing care the value of a Service User's main or only home will be included as capital in their financial means assessment. This will normally mean that their capital will exceed the capital limit, and as a consequence they will be assessed to pay the full cost for their care. At this point, if they have no other assets or means of paying the full cost they will then be eligible to ask Conwy to defer payment of a portion of their care fees using their property as security. This arrangement is known as a deferred payment agreement. Deferring payment can help the service user to delay the need to sell their home at a time that can be challenging for them and their family as they make the transition into residential care.

14.2 Conwy County Borough Council will adopt as its policy the requirements and guidance relating to deferred payments as set out in Annex D of the Welsh Government's Code of Practice. (Appendix 1 of this policy)

14.3 Conwy will charge interest on all deferred charges agreements at the maximum rate allowable by the regulations. This is 0.15% above the 'relevant rate'. The relevant rate being the market gilts rate specified in the most recently published report by the Office for Budget Responsibility. The relevant rate will change every six months on the 1<sup>st</sup> of January and on the 1<sup>st</sup> of July.

14.3 Interest is chargeable from 90 days death of the service user on all amounts due. However, if all amounts due are paid within six months of the date of death, no interest will be charged.

#### **15.0 Top-Up Payments - Additional Cost (Residential / Nursing Care Only)**

15.1 Conwy will not normally contract with care homes that do not accept the Conwy standard fee for the type of care being commissioned. However, in circumstances where a service user expresses a desire to reside in a care home that charges more than the Conwy's standard fee, an arrangement may be possible if there is a third party willing to pay the additional cost.

The Additional Cost is the difference between the amount that Conwy will pay and the cost of the chosen care home.

15.2 Annex 'C' of the Welsh Government's Guidelines (Appendix 1 of this policy) outlines the requirements placed on the Authority when dealing with additional costs.

15.3 Conwy will require any third party to enter into a formal contract with the Council before any placement requiring an additional cost is agreed to. The third party will have to provide proof that they will be able to sustain payment of the additional cost for the duration of the placement.

- 15.4 Conwy will require the care home to collect any additional payments directly from the third party.
- 15.5 Conwy will allow the service user to pay their own additional cost:
- When they agree to enter into a deferred charges contract.
- 15.6 Deferring payment of the additional costs will not be allowed in circumstances where the available equity in the property that is to be used as security is limited. An additional cost will have to be paid for the duration of placement. Therefore, Conwy will assess the sustainability of each request to defer an additional cost. If it is deemed that there is insufficient equity in the property to enable the service user to pay the full cost for their care for the duration of their placement, a request to defer an additional cost will be refused.
- 15.7 If a third party should cease to pay the additional cost that they have agreed to pay, they will remain liable for this cost. Conwy may take legal action to recover the cost. In addition it may have to make alternative arrangements to meet the needs of the service user in an alternative care home that does not charge additional costs.

## **16.0 Recovery of Debt and Deprivation of Assets**

Annex F of the Welsh Government's code of practice (Appendix 1 of this policy) sets out the requirements placed on Local Authorities when dealing with debt and deprivation of assets. Conwy will consider non-payment of an assessed contribution or deprivation of assets in order to avoid a charge as a serious matter. Where all other options as described in the Code of Practice have failed to secure the required payment, Conwy will pursue debt through the Civil Courts.

## **17.0 Reviews and Complaints**

Any Service User or Direct Payment recipient can request a review of their charge. A review of a charge can involve a wide range of scenarios ranging from a Service User requesting a simple review of a mathematical calculation in their assessed charge or monthly invoice to a Service User asking for additional disability related expenses to be considered in the calculation of their assessed charge.

The Welsh Government sets out in detail the process that should be followed by Local Authorities in dealing with reviews of charges in Annex E of their Code of Practice (Appendix 1 of this policy). It is Conwy's policy to follow all the requirements as detailed in the Code of Practice.

All requests for a review of charges should be forwarded to the Strategic Director of Social Care and Education who will manage and coordinate responses to all charging reviews on behalf of Adult Services. In all cases a Service User shall be provided with the name and contact number of the officer dealing with their review.

Some reviews can be resolved quickly e.g. mathematical errors in calculations. Some reviews may take more time and result in the need of confirmation from providers of Service and/or Care Co-ordinators regarding the levels of Service provided and commissioned in order that a review can be answered.

All requests for a review that cannot be resolved to the satisfaction of the Service User whilst complying with charging Policy will be referred for a decision to the Review of Charges Appeal Panel.

Any request by a Service User for review must state clearly the grounds upon which a review is being sought. A request can be made orally or in writing and can be made at any time after a statement of charge has been issued.

Adult Services may refuse a request for a review if it is believed that there has been no relevant change in any of the Service User's circumstances following a previous request for a review. In this case a statement will be sent to the Service User stating that the request for a review will not be considered by Adult Services because there has been no relevant change in any circumstances and/or the Service User has not stated any other additional circumstances.

A review may be requested by the Service User or a Representative acting on behalf of a Service User.

When Social Services are in a position to make a decision on a review within five working days of receiving a request that decision should be provided to the Service User within that time frame. Where this is not possible out a statement within five working days stating:

- a) The date on which the request was received;
- b) The nature of the request;
- c) The right of the Service User to appoint a Representative;
- d) How Social Services will carry out the review;
- e) That the Service User does not need to pay the charge that is subject to the review during the period of the review. But do need to inform the Financial Assessment Unit/Direct Payments Officer of their decision to pay or not;
- f) That Adult Services will peruse payment of any charge accrued during the review period if it becomes payable as a result of the review;
- g) If the Service User requesting the review is in receipt of a Direct Payment. Social Services will make gross payments during the review period. However this may be recovered at a later date after the review;
- h) What additional information Social Services require in order to make a decision, and within what time frame (15 working days) this information needs to be provided;
- i) That if requested an appointment can be requested by the Service User to assist in the provision of the additional information;
- j) The need to contact the Financial Assessment Unit to arrange an appointment;
- k) The name and contact details of the officer in the Financial Assessment Unit dealing with the review;
- l) The contact details of any organisation that may be able to assist the Service User during the review period. This information will be in the A guide to charging for Adult Social Care for people living at home leaflet.

Any request by a Service User for an extension of time within which to supply any additional information will be granted if reasonable. Social Services will confirm in writing any extension to the original deadline.

If a request for an extension of time is refused by Social Services this will be confirmed in writing and a reason for the decision will be provided.

If no response or request for an extension of time is received by Social Services to a request for further information by the deadline set, Conwy County Borough Council will consider the request for review as having been withdrawn. A letter will be sent to the Service User confirming this and that the charge set is now payable with details of the amount accrued if any during the review period and by what date this needs to be paid.

A request for a review may be withdrawn orally or in writing by a Service User at any time during the review period.

Once Social Services have received sufficient information and documentation to carry out the review, they will have 10 working days to:

- a) Make a decision on the review and take any action that is necessary to implement it;
- b) Send a statement to the Service User and any Representative stating the decision, the reasons for that decision and that they have the right to make a complaint under the Social Services Complaints Procedure (Wales) Regulations 2014 – taking in to account “*A guide to handling complaints and representations by Local Authority Social Services (August 2014)*” if they are dissatisfied with the decision;
- c) If the Service Users charge has been amended as a result of the review, a statement should be sent to the Service User explaining the decision and the consequence of this decision
- d) A Statement of Charges.

If Social Services are unable to meet the deadline for responding to the request for a review (10 working days), they must send out a statement to the Service User stating that they will not be able to provide a decision within the 10 working days deadline, the reason why and the date by which it will be provided.

If a decision cannot be provided by the deadline, Social Services will not be able to charge the Service User for Service received during the period of time between the deadline and the date that a decision is provided.

#### 17.1 Payment of the Charge, Reimbursement or Contribution during and after the Review Period

If a Service User requests a review, they may elect not to pay their charge, reimbursement or contribution or the part which is the subject of the review, during the whole of the review period but any unpaid amount will accrue.

If the Service User decides not to pay during their review period they must notify the Financial Assessment Unit / Direct Payments Officer either orally or in writing within five working days.

With regards to Direct Payments users if the Service User decides not to pay their contribution during the whole or remainder of the review period the Adult Services must make gross payments to the Service User during this period.

The Adult Services may recover any unpaid amount that has accrued during the review period after the review period. The accrued amount that may be recovered is the amount of the charge, reimbursement or contribution that the Adult Services have decided is correct following the review.

If Adult Services decide that the charge or contribution payable by the Service User, is **less** than that previously imposed prior to the review, then the Social Services must within 10 working days of sending its decision to the Service User, pay the Service User the difference between the amount that should be payable and the amount, if any, that has already been paid by the Service User.

If Adult Services decide that the charge or contribution that should be payable by the Service User is **more** than that previously imposed prior to the review, then the Adult Services may

recover the difference between the amount of the charge or contribution that should be payable and the amount, if any, that has already been paid by the Service User.

If recovering any amount from the Service User, the Adult Services must have regard to the Service Users personal financial circumstances; and be satisfied that the recovery of the amount will not cause the Service User to suffer financial hardship. If the Adult Services believe that the recovery of the amount would cause the Service User to suffer financial hardship, then they should offer the Service User the option of repaying the amount in periodic instalments.

## **18.0 The Independent Living Fund**

All Service Users in receipt of funding from the ILF will have their Maximum Reasonable Weekly Charge set at £9 per week. This is a Conwy's policy and is more generous than the minimum requirement set by the Welsh Government regulations. The reason for this is historical and reflects the fact that the ILF fund is now frozen and no changes can be made to increase previous client contributions under Local Authority charging policies.

The means assessment process for Service Users in receipt of funding from the ILF should resemble the same process for all other Service Users in every other respect.



**Appendix 1- The Welsh Government Code of Practice**

**Please click the link below to access the Part 4 and 5 Code of Practice – (Charging & Financial Assessment):**

**<https://gov.wales/code-practice-charging-social-care-services>**

**Appendix 2 - Fees and Financial Details**

Please see links below for access to further information in relation to fees and financial details:

- [A guide to charging for Adult Social Care for people living at home 2020-2021](#)
- [Paying for Residential and Nursing Services](#)
- [Paying for Residential Care – The Deferred Payment Scheme](#)

Please click the link below to download a copy of the 'Financial Assessment Application Form':

<https://www.conwy.gov.uk/en/Resident/Benefits-and-grants/Paying-for-Care/assets/documents/Financial-Assessment-Application-Form.pdf>