

# THE HEALTH AND SOCIAL CARE SYSTEM IN WALES

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Two recent pieces of legislation have impacted upon health and social care integration in Wales.

The first is the Social Services and Well-being (Wales) act 2014, and the second is the Well-being of Future Generations (Wales) Act 2015.

This sheet summarises key details of the current health and social care system in Wales, including the impact of these two pieces of legislation.

## RECENT LEGISLATION

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

This act made it a legal duty for local authorities to promote the integration of health and social care when carrying out their social services functions. It also required the establishment of partnership boards between Local Health Boards (LHBs) and local authorities. Boards are required to share information and to establish pooled budgets for their care home and family support functions, and any other appropriate functions they want the pooled funds to cover. Regulations under the act give local authorities the ability to delegate a number of their social care functions to LHBs, and vice versa.

### Well-being of Future Generations (Wales) Act 2015

This act required all local authority areas to create a Public Service Board (PSB), which must include representatives from local authorities and LHBs. Under the act, PSBs are required to produce a local well-being plan. The Welsh NHS Confederation has highlighted the potential for PSBs to allow for greater collaborative commissioning and planning between public services, including health and social care.

## LOCAL AUTHORITY NEED ASSESSMENT

Once a local authority becomes aware of the fact that someone living in their area may need community care services, they have a legal duty (Under the Social Services and Well-being (Wales) Act 2014) to carry out an assessment of that person's needs. This assessment must consider all aspects of the person's needs. The right to have these needs assessed is not affected by the individual's financial resources or other circumstances.

The needs assessment will usually be carried out by a social worker – often called a care manager – and should result in an agreed care and support plan for the person in question. The person in need of care should be given a written copy of the support plan. If the assessment shows that their needs fall within certain eligibility criteria, then the local authority has a legal duty to meet those needs.

## LOCAL AUTHORITY FINANCIAL ASSESSMENT

Once it has been established that there is a care need, the local authority will carry out a financial assessment, called a means test, which looks at the individual's income and savings. This will establish whether they are deemed able to pay for some or all of their own care and whether they are eligible for financial help from the council. The outcome will mean the local authority will do one of the following:

- Agree to meet the full cost of the individual's care needs.
- Agree to meet some of the cost (and the person will need to top up the rest).
- Decide that the person being assessed must meet the full cost of their own care.

Means test calculations can be complex and advice in this respect is recommended.

### Income

If the individual's income (including some benefit entitlements) is more than the cost of their care fees, they will have to pay for their own care. Some types of income (such as certain disability benefits and certain types of pensions) are not counted in the means test. If their income is less than the cost of their care fees, they may be asked to contribute towards the cost of care, depending on their other circumstances.

### Savings and capital

If the person in need of care has savings or capital assets over a certain amount (currently £24,000 (2018/19) excluding the value of their home if they receive domiciliary care or £40,000 (2018/19) if they receive residential care, and this amount includes the value of any property) - they will have to pay their own care fees. This doesn't mean that they must organise their own care – they can still ask the local authority to arrange care for them, but they will be paying all the costs themselves.

If their capital assets and/or savings are worth less than the above capital limits these will be disregarded in full (so the local authority will look only at income for the means test).

However, in 2011 a limit was introduced on the amount local authorities can charge someone for the care they receive at home or within the community. This limit is currently £80 per week (2018/19).

## THE 12- WEEK PROPERTY DISREGARD

The local authority must disregard the value of a care home resident's former home for the first 12 weeks of a permanent stay in a care home if the value of any of their other capital assets is below the capital limit. Any fees accumulated during this 12-week disregard period do *not* have to be repaid later, even if the value of the resident's former home then causes them to be regarded as a "self-funder".

## DISREGARDED CAPITAL

Some capital is ignored for the purposes of the financial means test. Capital that is disregarded indefinitely includes: the value of their home in certain circumstances (for example, if it will continue to be occupied by a partner); the value of personal possessions; and the surrender value of life insurance policies or annuities.

**Note:** The above is not a comprehensive list and there are some other disregards listed in the Government's guidance.

## DELIBERATE DEPRIVATION OF ASSETS

If it is clear that someone has given away their assets or otherwise disposed of them specifically to make themselves more likely to get local authority assistance with care home fees, the local authority may decide that this is "deliberate deprivation of assets" and could decide to make their financial assessment as though the person still had those assets.

## **MINIMUM INCOME AMOUNT**

The local authority must leave someone in a care home with a specific amount of their own income so that they have money to spend on personal items such as clothes, stationary, toiletries and other items that are not part of their care and support. This is known as the Minimum Income Amount (MIA) and has been £28.50 per week since April 2018.

## **MINIMUM INCOME AMOUNT (OUTSIDE OF RESIDENTIAL CARE)**

For those receiving care outside of a residential setting, a Minimum Income Amount still applies in Wales, but The Code of Practice guidance advises that “because a person who receives care and support outside a care home will need to pay their daily living costs such as rent, food and utilities, the charging framework seeks to ensure they have enough money to meet these costs”. This is done by reference to a basic income entitlement plus a ‘buffer’ and ‘further allowances’ that typically amount to an additional 45% of the basic entitlement.

## **NHS FUNDED NURSING CONTRIBUTION**

If someone moves into a nursing home (as opposed to a residential care home), the NHS is responsible for meeting the cost of any on-site care which requires the services of a registered nurse. This is made via a weekly payment which is due to be set at £148.01 with effect from 1 April 2018.

## **NHS CONTINUING HEALTHCARE**

In certain circumstances, the NHS is responsible for meeting the full cost of someone’s care in a variety of settings outside of hospital, such as in their own home or in a registered care home. This is called NHS continuing healthcare (CHC) or ‘fully funded care’. To be eligible for this an individual must have complex, intense or unpredictable health needs in a number of areas (known as ‘domains’ in the assessment process for CHC) which may – in combination or alone – demonstrate what is termed a ‘primary health need’ because of the quality and/or quantity of care required to meet the individual’s needs.

## **DIRECT PAYMENTS**

Prior to 6 April 2016, direct payments could not be used to arrange long-term residential care. However, since the full implementation of the Social Services and Well-being (Wales) Act, they can now be used for this type of care as well. This is confirmed in the Welsh Government’s guidance accompanying the act:

“Direct payments can be provided for any identified need for care and support a local authority is to meet. This includes community care and support and short and long term residential care”.

The Social Services and Well-being (Wales) Act continues this principle and authorities must ensure that where a person’s needs are going to be best met in a care home, “that the person has a genuine choice” of which home.

## **INFORMATION & ADVOCACY SERVICES (E.G. MY CARE CONSULTANT)**

The Welsh Government’s guidance from the 2014 Care Act advises that a key role of each local authority’s information, advice and assistance service “will be to provide individuals with information about the range of advocacy services in their area and to assist them to access it where required as part of achieving their wellbeing outcomes”.

## REGULATION IN WALES

Care Inspectorate Wales (CIW) is the independent body responsible for registering, inspecting and acting to improve the quality and safety of services for the well-being of the people of Wales

The following CIW standards must be adhered to by all care providers:

- National Minimum Standards for Care Homes for Older People (2004)
- National Minimum Standards for Domiciliary Care Agencies (2004)

As the regulatory body, the CIW will base its assessment of the service provider's fitness to carry on providing the service using these standards.

Copies of the Minimum standards can be found on the CIW website at:

<https://careinspectorate.wales/regulations-statutory-guidance-and-national-minimum-standards-adult-services>

Further information can be found at: <http://careinspectorate.wales>

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