



## Charging for Social Care Services

### A brief summary for carers

Charging is a complex and confusing issue for many people. Each local authority has its own local charging policy and this means there is a great deal of variation in relation to what people are charged for and how much they are charged.

As a carer you may be affected by the charges placed on the person you care for when they use social care services, as charging has an impact your family income as a whole. However, you should not be charged for any services which you use to assist you in your caring role.

New legislation in relation to waiving charges for carers has recently come into force. In addition, the national guidance for charging for non-residential services has been updated for 2014/15 and this includes some revisions in relation to taking a partners income into account during the financial assessment.

This paper aims to provide an overview of the national legislation and guidance in relation to charging carers, which local authorities should take account of.

### Waiving Charges for Carers

The Social Care (Self Directed Support) Scotland Act 2013 introduced the right for carers not to be charged for any support they receive as a carer. This does not apply to services that are provided to the person who is being cared for. In this case, the normal charging for non-residential care services will still apply. This came into force on 1 April 2014.

Under the Act, local authorities will have a **power** to provide support to carers. This means that they have the discretion to provide support but they do not have to. If they choose to provide this support to carers, no charge can be made. Carers will have a right to choose from four options about how their support is provided:

- Option 1: direct payment to the carer
- Option 2: the carer directs the available support
- Option 3: the local authority arranges support for the carer or
- Option 4: "mix and match" meaning a combination of two or more of the options.

Support is defined in section 3 of the Act as “**any form of services or assistance which will help the adult to provide, or continue to provide, care for the person cared for.**” In addition, local authorities should consider opportunities for carers to have a life alongside caring. Having a life alongside caring enables carers and young carers to continue caring in better health and promotes their own health and wellbeing.

This right of carers not to be charged for support applies to services provided to both adult carers and to young carers for services provided under the above Act and under S22 of the Children (Scotland) Act 1995.

## **Carers must have a Carers Assessment to identify the support they need.**

Charges **cannot** be made for support provided to carers either directly by local authorities or commissioned by the local authority through other organisations e.g. charities or private organisations.

Examples of support to carers and young carers where charges will be waived cover both information and advice services and practical support. They include, but are not limited, to:

- the provision of information and advice
- advocacy for carers and young carers
- emotional support and counselling
- training for carers and young carers
- support with housework or gardening or other similar activity
- cost of taxi fares and driving lessons in special circumstances; and
- short breaks
- translation and interpretation services

There is some further guidance and limitations about the waiving of charges that carers should be aware of. These are specifically related to short breaks, household tasks and driving lessons/taxi fares.

## **Short Breaks**

Charges for carers for short breaks should be waived for **all of the elements** of the break that the local authority has decided to provide. This includes, for example, local authorities considering relevant parts of the breaks and taking into account costs such as accommodation, meals, travelling expenses, equipment for classes and so on.

- If a carer wishes to have a holiday or break **with** the person they care for, the cost of their holiday will be waived **but** the cost of the break for the cared-for person and the cost of the additional support will not be waived.
- If the person who is being cared for is having a short break, the local authority should **waive charges** for the cost of activities (identified within their Carer’s Assessment) the carer takes part during this period.
- Local authorities **can** decide to arrange replacement care for a cared-for person as part of the support which they provide to a carer in order to give a break from caring. If replacement care is identified within the Carer’s Assessment and is provided as support to meet the carer’s needs, the local authority **must waive charges** for the cost of the replacement care.

## **Household Tasks**

The person who is being cared for may be assessed as needing help with household tasks and may be charged for this. However, many carers have multiple responsibilities as well as their caring role and may need some help with practical aspects of their lives to support their health and wellbeing. This could include, for example, help with housework and gardening to help reduce the physical and emotional stress on the carer.

- When this support is provided, as identified within their Carers Assessment, **it must be free of charge.**

## Taxi Fares and Driving Lessons

The guidance refers to the provision of taxi fares and driving lessons “under special circumstances” and it may be helpful to clarify what this could mean for carers.

- The guidance says that local authorities can provide a carer with help to pay taxi fares where, for example, the carer cannot rely on the public bus service to take him/her to an art class or other social or leisure opportunity; or where the carer cannot drive a car and there is limited public transport.
- It may also be decided that it would be helpful for the carer to be able to drive a car and that the local authority will provide support in the form of driving lessons up to an agreed financial limit. This may have multiple benefits in supporting the carer in their caring role, for example, shopping, reducing isolation and enhancing employment prospects for a young carer.

## Additional Information

The waiving of charges is primarily linked to a carer receiving a Carer’s Assessment. If the carer is not eligible for a carer’s assessment, because he or she does not carry out a substantial amount of care on a regular basis, then local authorities have the discretion to provide support to the carer without an assessment having been carried out. Again, if support is provided any charge should be waived.

Finally, whilst local authorities must waive charges for any support they decide to provide which is identified and agreed within the Carer’s Assessment, if a carer wishes to supplement and pay for support above the agreed level they will receive through self-directed support, then this is a matter entirely for the individual carer.

## Find out more

Further information about waiving of charges for support for carers including guidance that has been issued to local authorities can be found at: <http://www.scotland.gov.uk/Publications/2014/04/1342>. The regulations for waiving charges for carers can be found at: <http://tinyurl.com/WaivingCharge>.

Guides about self-directed support for carers and people who use services are currently being produced and will be available online at [www.selfdirectedsupportscotland.org](http://www.selfdirectedsupportscotland.org). In addition, your local carers centre or group can help provide more information and guide you through the process.

## Taking a Partners Income into account

*Partners’ income refers to the income of a spouse or partner. We have used the term partner for ease of use*

At present, local authorities may take account of the income and capital (e.g. savings) of the partner of a person who receives community care services when undertaking their financial assessment. (This does not apply to residential care where other rules apply).

We have argued that this is unfair, is not applied equally across local authorities and penalises carers who care for a partner.

The new guidance has tried to clarify what this means and to make it a little fairer and equitable. CoSLA has sought a legal opinion to assist with this.

This opinion says that it is right that the “means” of the disabled person are taken into account, “it is not right to *routinely include all* of a partner’s financial resources/income as part of those means; although it may be appropriate to include *a proportion* of that resource”

Local Authorities can currently decide what “reasonable” level of partner’s income is (which can be taken into account in the financial assessment) either on a case by case basis or by setting a flat rate for all.

However, in light of the legal opinion, new CoSLA guidance to local authorities for 2014/15 says that it may be *unlawful* to simply take *all* of a partner’s income or capital into account in the financial assessment. CoSLA has therefore outlined how a partner’s income and/or capital should be treated in the financial assessment.

- The disabled person’s sole income *may be* taken into account subject to normal disregards (as is currently the case).
- The partners’ sole income *should not routinely be* taken into account as part of the financial assessment
- Where income or capital is jointly owned, the individual is considered to be in possession of an equal share of any joint financial resources.
- Where benefits are paid to one member of a couple at the couples rates, for example, pension credit, income support etc. a *reasonable* proportion of this income can be taken into account in the financial assessment. However, it is up to the local authority to decide what a reasonable proportion is.

### **What does this mean**

This means that local authorities should not be taking a partners sole income into account unless they have a valid reason for doing so.

It also means that any joint income should be treated equally, with local authorities not taking more than 50% into consideration during a financial assessment.

In relation to benefits paid to one member of a couple the local authority should only take a reasonable proportion into account. By our interpretation they should therefore discount at least 50% during the financial assessment

We would like to hear from carers about their experience of how their income is treated in financial assessments as the new guidance rolls out from April 2014. Carers can contact Fiona Collie ([fiona.collie@carerscotland.org](mailto:fiona.collie@carerscotland.org)) or Claire Cairns ([coalition@carersnet.org](mailto:coalition@carersnet.org)) or feed in their experience through their local carers centre or other support organisation.