

**Explanatory Memorandum to the revised code of practice on the exercise of social services functions in relation to charging and financial assessment under part 4 (direct payments and choice of accommodation) and part 5 (charging and financial assessment) of the Social Services and Well-being (Wales) Act 2014.**

This Explanatory Memorandum has been prepared by the Health and Social Services Group and is laid before the National Assembly for Wales in conjunction with the above code of practice and in accordance with Standing Order 27.14.

**Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the revised code of practice on the exercise of social services functions in relation to charging and financial assessment under part 4 and part 5 of the Social Services and Well-being (Wales) Act 2014.

**Rebecca Evans AM**  
**Minister for Social Services and Public Health**

**28 February 2017**

## **Part 1 – OVERVIEW**

### **1. Description**

The Social Services and Well-being (Wales) Act 2014 (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. The Act provides the foundation, along with regulations and codes of practice made under it, to a statutory framework for the delivery of social care in Wales to support people of all ages as part of their families and communities.

Under the Act local authorities have discretion to charge for the care and support they provide or arrange for a person, or the support they provide or arrange for a carer. They also have discretion to set a contribution or reimbursement for direct payments they provide to a person to enable them to arrange their care and support themselves. This applies to care and support in a person’s own home, within the community, or in residential care. Where an authority wishes to apply this discretion to set a charge, contribution or reimbursement, regulations made under the Act govern the arrangements applicable to this.

Under the Act those being placed in residential care by a local authority are able, subject to certain conditions, to have choice over the accommodation they are to be placed in. These conditions relate to the suitability of the chosen accommodation to meet the person’s assessed care needs, the availability of a place at the accommodation and that the cost of the chosen accommodation is no more than the standard rate a local authority would normally pay for accommodation of that type.

Regulations governing local authorities discharging their discretion to set a charge, contribution or reimbursement were made under Part 4 (meeting needs) and Part 5 (charging and financial assessment) of the Act. Regulations governing choice of accommodation were made under Part 4 (meeting needs) of the Act. These came into force on 6 April 2016. In addition, a code of practice on financial assessment and charging to accompany these regulations was also made under the Act, which also can in effect on 6 April 2016.

Since that time a number of policy changes have been agreed which require amendments to three sets of regulations made under Parts 4 and 5. The revised code of practice subject to this Explanatory Memorandum includes amendments to the content to reflect the changes proposed by the regulations. In addition, the code also contains a small number of technical changes to introduce clarity in certain areas which have been subject to ambiguity since the code became effective.

### **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

Section 146 of the Act lays down the procedure to be followed before issuing and approving this revised code of practice. While a revised version of the code was not formally published alongside the consultation, the existing version was available to view and the consultation documents contained details of key changes as a result of the amending regulations. This final version of the revised code will be laid before the National Assembly for 40 days after which time, if no resolutions are made, Welsh Ministers must issue the revised code of practice.

This Explanatory Memorandum should be read in conjunction with the explanatory memorandum to the Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017.

There are no other matters the Minister wishes to bring to the Committee's attention.

### **3. Legislative background**

The powers enabling the making of this code are contained in Sections 145 and 146 of the Act. Section 145 of the Act permits Welsh Ministers to issue, and from time to time revise, one or more codes on the exercise of social services functions. Section 146 of the Act lays down the procedure to be followed when issuing or revising a code under section 145. These related amending regulations are subject to the negative procedure. They will come into force on 10 April 2017.

### **4. Purpose & intended effect of the legislation**

The overall purpose of the overarching amending regulations is to effect a number of changes to the existing regulations as a result of certain policy decisions and therefore, by extension, the existing code of practice governing choice of accommodation, charging and financial assessment. The amending regulations also introduce a small number of technical changes to the existing code of practice to introduce clarity in certain areas which have been subject to ambiguity since the code became effective. This revised code of practice includes the changes brought about by the regulations as well as a number of clarifications and amendments to grammatical errors. A list of the changes is attached at annex A.

### **5. Consultation**

A five week consultation on the amending regulations and the reciprocal changes within the code of practice ran between 21 December 2016 and 25 January 2017. In total 24 responses were received from a range of stakeholders covering individuals, representative groups, local authorities and professional organisations. Overall respondents were supportive of the proposed amendments, seeing them as rebalancing the impact of charging upon those who are required to pay for their care and support. They did, however, raise a number of questions, such as the short period of the consultation held, the level of the increase planned for the maximum weekly charge and how the changes would be communicated to care recipients. These are being addressed in the implementation of the amendments.

A summary report of the consultation responses is available on the Welsh Government website at <https://consultations.gov.wales/consultations/charging-social-care>.

## **Part 2 - REGULATORY IMPACT ASSESSMENT**

The amendments to this code of practice are predominantly related to those brought about under the proposed Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017. The Regulatory Impact Assessment for those regulations can be found here:

<http://www.assembly.wales/en/bus-home/Pages/Plenary.aspx?category=Laid%20Document>

The remaining changes to the code of practice reflect technical changes which have been made to improve the clarity of the code. These changes are not expected to impose any additional costs on the public, private or voluntary sectors, nor on the recipients of care. As a result a separate Regulatory Impact Assessment for this Explanatory Memorandum has not been completed.

The code, together with the regulations, have been subjected to a broad spectrum of impact assessments including equality, Welsh language and children's rights. These impact assessments have not raised any significant negative issues on any areas under consideration.

## Annex A

Chapter / Annex	Page Number	Paragraph number	Original paragraph as published	Paragraph as to be amended (amended words/sentences in red font)
1, 3, 5, Annex D, Annex E, Annex F	4, 7, 10, 11, 12, 55, 66, 73, 76	1.3, 1.5, 3.3, 5.1, 5.4, 5.6, 5.12, 5.13, 3.1, 2.1, 1.1, 8.1		Correction of use of initial capital letters in numerous places throughout the code
2	6	2.1	the deferment of payments for those in a care home under section 68 of the Act (Deferred payment agreements);	the deferment of payments <b>by</b> those in a care home under section 68 of the Act (Deferred payment agreements);
2, 5	6, 12	2.1, 5.12		Deletion of incorrect punctuation
2	6	2.1	reviews relating to charging determinations or charges under section 73 of the Act (Reviews relating to charges).	reviews <b>under section 73 (Reviews relating to charges)</b> relating to charging determinations or charges <b>made under</b> the Act.
3	7	3.3 and 3.4		Removal of additional space between paragraphs
5	10	5.1		<b>* These regulations have subsequently been amended by the Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017.</b>
5	12	5.11		<b>It should be noted that a different capital limit may apply in relation to residential care and support and non-residential care and support.</b>
5	13	5.14	<ul style="list-style-type: none"> <li>details of any information or documentation it requires in order to complete the assessment and the time scale to provide this with details of any home visiting facility the authority provides in order to provide this;</li> </ul>	<ul style="list-style-type: none"> <li>details of any information or documentation it requires in order to complete the assessment and the time scale to <b>obtain</b> this with details of any home visiting facility the authority provides in order to provide this;</li> </ul>
5	14	5.22	Once a statement has been issued a local authority may then require the person to pay a charge, contribution of reimbursement for the care and support which is the subject of this from the date that care and support was first provided. A local authority <b>must</b> provide a statement as soon as a determination is made. Authorities <b>must not</b> delay either undertaking a determination, or issuing a statement, where they are in a position to do so.	Once a statement has been issued a local authority may then require the person to pay a charge, contribution <b>or</b> reimbursement for the care and support which is the subject of this from the date that care and support was first provided. A local authority <b>must</b> provide a statement as soon as a determination is made. Authorities <b>must not</b> delay either undertaking a determination, or issuing a statement, where they are in a position to do so.

6	15	6.3	<p>However, it is <b>not</b> acceptable for local authorities to set flat rate charges for all care and support as a way of potentially avoiding the duties placed upon them by the Act and the Regulations. This is on the basis that a flat rate charge for such other forms of care and support would not adequately take account of the cost of this being provided, the financial means of a care and support recipient to meet such a charge and the principle that a person should not ordinarily pay more than the maximum weekly charge prescribed by the Charging Regulations for all of the care and support they receive (see later in this chapter).</p>	<p>However, it is <b>not</b> acceptable for local authorities to set flat rate charges for all care and support as a way of potentially avoiding the duties placed upon them by the Act and the Regulations. This is on the basis that a flat rate charge for such other forms of care and support would not adequately take account of the cost of this being provided, the financial means of a care and support recipient to meet such a charge and the principle that a person should not ordinarily pay more than the maximum weekly charge prescribed by the Charging Regulations for all of the <b>non-residential</b> care and support they receive (see later in this chapter).</p>
7	17	7.2	<p>This requirement was introduced in 2011 by Ministers to bring about more consistency across Wales in respect of such charges. Hence the Charging Regulations maintain this requirement and set the level of the maximum charge to which authorities <b>must</b> adhere. Local authorities <b>are not</b> at liberty to charge a non-residential care and support recipient more than this maximum charge in a week irrespective of the size and cost of the non-residential care package they have. This applies equally where a person receives dual services; ie care and support provided or arranged by their local authority <u>and</u> care and support provided through direct payments. The total of any charge made, or amount required, for the both of these must not exceed the weekly maximum charge or weekly maximum amount in connection with direct payments. However, the maximum weekly charge and maximum weekly amount do not include the level of any flat rate charges which a person is liable to as outlined at paragraphs 6.1 to 6.6 above.</p>	<p>This requirement was introduced in 2011 by Ministers to bring about more consistency across Wales in respect of such charges. Hence the Charging Regulations maintain this requirement and set the level of the maximum charge to which authorities <b>must</b> adhere. Local authorities <b>are not</b> at liberty to charge a non-residential care and support recipient more than this maximum charge in a week irrespective of the size and cost of the non-residential care package they have. This applies equally where a person receives dual services; ie care and support provided or arranged by their local authority <u>and</u> care and support provided through direct payments. The total of any charge made, or amount required, for <b>the</b> both of these must not exceed the weekly maximum charge or weekly maximum amount in connection with direct payments. However, the maximum weekly charge and maximum weekly amount do not include the level of any flat rate charges which a person is liable to as outlined at paragraphs 6.1 to 6.6 <b>above</b>.</p>
10	20	10.1	<p>Where a person's needs are to be met by provision of accommodation in a care home, the local authority <b>must</b> provide for the person's preferred choice of accommodation, subject to certain conditions. Determining the appropriate type of accommodation should be made with the person as part of the care and support planning process, therefore this choice only applies between providers of the same type.</p>	<p><b>Other than where a person is a short-term resident (ie less than 8 weeks)</b>, where a person's needs are to be met by provision of accommodation in a care home, the local authority <b>must</b> provide for the person's preferred choice of accommodation, subject to certain conditions. Determining the appropriate type of accommodation should be made with the person as part of the care and support planning process, therefore this choice only applies between providers of the same type.</p>

10	20	10.2	<p>The local authority <b>must</b> ensure that the person has a genuine choice and <b>must</b> ensure that more than one option is available within its usual commissioning rate for a care home of the type a person has been assessed as requiring. However, a person must also be able to choose alternative options, including a more expensive home. Where a home costs a local authority more than it would usually pay, a person <b>must</b> be able to be placed there if certain conditions are met and where a third party (or in certain circumstances the resident) is willing and able to pay the additional cost. However, an additional cost payment <b>must</b> always be optional and never as a result of a shortfall in the funding a local authority is providing to a care home to meet a person's assessed care needs. Local authorities <b>must</b> follow the Care and Support (Choice of Accommodation) (Wales) Regulations 2015 in connection with this type of arrangement and Annex C on choice of accommodation and additional cost payments.</p>	<p><b>In this situation</b> the local authority <b>must</b> ensure that the person has a genuine choice and <b>must</b> ensure that more than one option is available within its usual commissioning rate for a care home of the type a person has been assessed as requiring. However, a person must also be able to choose alternative options, including a more expensive home. Where a home costs a local authority more than it would usually pay, a person <b>must</b> be able to be placed there if certain conditions are met and where a third party (or in certain circumstances the resident) is willing and able to pay the additional cost. However, an additional cost payment <b>must</b> always be optional and never as a result of a shortfall in the funding a local authority is providing to a care home to meet a person's assessed care needs. Local authorities <b>must</b> follow the Care and Support (Choice of Accommodation) (Wales) Regulations 2015* in connection with this type of arrangement and Annex C on choice of accommodation and additional cost payments.</p> <p>* These regulations have subsequently been amended by the Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017.</p>
11	21	11.5		<p>The level of the capital limit applicable in charging for non-residential care and support may be different, however, to that used in charging for residential care and support.</p>
Annex A	27	2.22	<p>2.22 Where capital is taken into account in a financial assessment, a local authority <b>must</b> apply the capital limit. The capital limit is set in regulations 11 and 26 (capital limit and Capital limit - direct payments) of the Care and Support (Charging) (Wales) Regulations 2015.</p>	<p>2.22 Where capital is taken into account in a financial assessment, a local authority <b>must</b> apply the capital limit. The capital limit is set in regulations 11 (Relevant capital limit) and 26 (Relevant capital limit – direct payments) of the Care and Support (Charging) (Wales) Regulations 2015*.</p> <p>* These regulations have subsequently been amended by the Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017.</p>

Annex A	23	1.2	<p>1.2 This annex covers the treatment of capital and should be read in conjunction with Annex B on the treatment of income. The detail of the forms of capital which local authorities <b>must</b> take account of in the financial assessment, and how these should be treated in the assessment, are set out in the Care and Support (Financial Assessment) (Wales) Regulations 2015 (the “Regulations”). Local authorities must follow the requirements of the Regulations and this annex with regard to capital when undertaking a financial assessment. They apply equally to where an assessment is being made to consider a charge for care and support provided by, or arranged by, a local authority and where a contribution or reimbursement is being considered in relation to the making of direct payments to enable a person to secure the provision of such care and support.</p>	<p>1.2 This annex covers the treatment of capital and should be read in conjunction with Annex B on the treatment of income. The detail of the forms of capital which local authorities <b>must</b> take account of in the financial assessment, and how these should be treated in the assessment, are set out in the Care and Support (Financial Assessment) (Wales) Regulations 2015*. (the “Regulations”). Local authorities must follow the requirements of the Regulations and this annex with regard to capital when undertaking a financial assessment. They apply equally to where an assessment is being made to consider a charge for care and support provided by, or arranged by, a local authority and where a contribution or reimbursement is being considered in relation to the making of direct payments to enable a person to secure the provision of such care and support.</p> <p>* These regulations have subsequently been amended by the Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017.</p>
Annex A	28	2.28	<p>(ix) Any amount paid under of by the Welsh Independent Living Scheme;</p>	<p>(ix) Any amount paid under <b>or</b> by the Welsh Independent Living Grant;</p>



Annex B	35	1.2	<p>This annex covers the treatment of income and should be read in conjunction with the Annex A on the treatment of capital. The detail of the forms of income which local authorities <b>must</b> take account of in a financial assessment, and how these should be treated in the assessment, are set out in the Care and Support (Financial Assessment) (Wales) Regulations 2015 (the “Regulations”). Local authorities <b>must</b> follow the requirements of the Regulations and this annex in respect of a person’s income when undertaking a financial assessment. They apply equally to where an assessment is being undertaken to consider a charge for care and support provided by, or arranged by, a local authority and where a contribution or reimbursement is being considered for the provision of direct payments to enable the recipient to secure their own care and support.</p>	<p>This annex covers the treatment of income and should be read in conjunction with the Annex A on the treatment of capital. The detail of the forms of income which local authorities <b>must</b> take account of in a financial assessment, and how these should be treated in the assessment, are set out in the Care and Support (Financial Assessment) (Wales) Regulations 2015* (the “Regulations”). Local authorities <b>must</b> follow the requirements of the Regulations and this annex in respect of a person’s income when undertaking a financial assessment. They apply equally to where an assessment is being undertaken to consider a charge for care and support provided by, or arranged by, a local authority and where a contribution or reimbursement is being considered for the provision of direct payments to enable the recipient to secure their own care and support.</p> <p>* These regulations have subsequently been amended by the Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017.</p>
Annex B	35	2.2	<p>Only the income of the person being assessed can be taken into account in the financial assessment of what they can afford to pay. Where this person receives income as one of a couple, the starting presumption is that each person has an equal share of that income. However, a local authority can assess the income of a couple but only where this is financially more advantageous to the person being assessed. A local authority <b>must</b> only assess the income of couples in these circumstances.</p>	<p>Only the income of the person being assessed can be taken into account in the financial assessment of what they can afford to pay. Where this person receives income as one of a couple, the starting presumption is that each person has an equal share of that income. <b>The exception to this is where a person is in receipt of a welfare benefit awarded on the basis of the resources of both members of the couple. In that situation it may be difficult to determine each partner’s share of this payment. Where this is the case, local authorities <b>should</b> undertake a financial assessment on the basis of the couple’s joint income and apply the appropriate couple’s rate of the basic weekly entitlement in the calculation of the minimum income amount. Where the income of a couple does not consist of welfare benefits awarded on the basis of the resources of both members of the couple, a local authority may charge on the basis of an assessment of the joint income of the couple. This is only where the couple agree to declare their joint resources and the result of the assessment is financially more advantageous to the person being assessed. A local authority <b>must</b> only assess the income of couples in these circumstances.</b></p>

Annex B	37	2.12	2.12 Any income from the following welfare benefits and sources <b>must</b> be fully disregarded: (a) Direct Payments; (b) Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme; (c) The mobility component of Disability Living Allowance; (d) The mobility component of Personal Independence Payments; (e) Working Tax Credit.	2.12 Any income from the following welfare benefits and sources <b>must</b> be fully disregarded: (a) Direct Payments; (b) <b>Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme;</b> (b) The mobility component of Disability Living Allowance; (c) The mobility component of Personal Independence Payments; (d) Working Tax Credit.
Annex B	41	2.28	(ix) Any amount paid under or by the Welsh Independent Living Scheme; (x) Skipton Fund; (xi) London Bombings Relief Charitable Fund.	(ix) Any amount paid under or by the Welsh Independent Living <b>Grant;</b> (x) Skipton Fund; (xi) London Bombings Relief Charitable Fund; (xii) <b>War Disablement Pension.</b>
Annex B	41	2.31	(a) 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); and the first £25 per week of War Disablement Pension:	(a) 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); <b>and the first £25 per week of War Disablement Pension:</b>
Annex C	46	1.1	1.1 A person's ability to make an informed choice as to how their needs will be met is a key element of the care and support system. This must extend to where the care and support assessment process has determined that a person's needs are best met by them living in a specific type of accommodation.	1.1 A person's ability to make an informed choice as to how their needs will be met is a key element of the care and support system. This must extend to where the care and support assessment process has determined that a person's needs are best met by them living in a specific type of accommodation <b>for more than a short-term period (ie more than 8 weeks).</b>

Annex C	46	1.2	<p>The care and support assessment process will have determined what type of accommodation will best meet the person's needs. Where this is a care home, subject to certain conditions the person will have a right to choose their preferred accommodation (such as the particular accommodation they wish to live in or the location of the accommodation they would like). The Care and Support (Choice of Accommodation) (Wales) Regulations 2015 (the "Regulations") made under section 57 (Cases where a person expresses preference for particular accommodation) of the Social Services and Well-being (Wales) Act 2014 (the "Act") and this Annex <b>must</b> be applied in meeting that preference. In doing so, local authorities <b>must</b> have regard to the following principles:</p>	<p>The care and support assessment process will have determined what type of accommodation will best meet the person's needs. Where this is a care home, subject to certain conditions the person will have a right to choose their preferred accommodation (such as the particular accommodation they wish to live in or the location of the accommodation they would like). The Care and Support (Choice of Accommodation) (Wales) Regulations 2015* (the "Regulations") made under section 57 (Cases where a person expresses preference for particular accommodation) of the Social Services and Well-being (Wales) Act 2014 (the "Act") and this Annex <b>must</b> be applied in meeting that preference. In doing so, local authorities <b>must</b> have regard to the following principles:.....</p> <p><i>* These regulations have subsequently been amended by the Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017.</i></p>
Annex C	46	1.2	<p>good communication of clear information and advice to those requiring accommodation in a care home so as to enable them to make well informed decisions over the choice of their home should they wish to do so;</p>	<p>good communication of clear information and advice to those requiring accommodation in a care home <b>on a temporary or permanent basis</b> so as to enable them to make well informed decisions over the choice of their home should they wish to do so;</p>
Annex C	47	2.1	<p>Where a local authority is to meet a person's care and support needs under sections 35 to 38 (Meeting care and support needs of adults and children) of the Act, and that person's needs have been assessed as requiring accommodation in a care home, the person <b>must</b> have the right to express a preference for a care home of their choosing provided that: .....</p>	<p>Where a local authority is to meet a person's care and support needs under sections 35 to 38 (Meeting care and support needs of adults and children) of the Act, and that person's needs have been assessed as requiring accommodation in a care home <b>on a temporary or permanent basis</b>, the person <b>must</b> have the right to express a preference for a care home of their choosing provided that: .....</p>
Annex C	50	8.1	<p>In such cases, the local authority <b>must</b> arrange for the person to be placed in their chosen accommodation, <b>provided</b> a third party, or in certain circumstances the person in need of accommodation, is willing and able to meet the additional cost</p>	<p>In such cases, the local authority <b>must</b> arrange for the person to be placed in their chosen accommodation, <b>provided</b> a third party, or in certain <b>circumstances</b> the person in need of accommodation, is willing and able to meet the additional cost</p>

Annex C	53	8.20	The person whose needs are to be met by the accommodation in a care home may themselves choose to pay an additional cost but only in the following circumstances:	The person whose needs are to be met by <b>the</b> accommodation in a care home may themselves choose to pay an additional cost but only in the following circumstances:
Annex C	53	9.1	Section 35 (Duty to meet care and support needs of an adult) of the Act enables a person who can afford to pay, in full, for their own care and support in a care home to ask the local authority to arrange this on their behalf. Where this occurs the same principles on them being able to express a preference for their accommodation <b>must</b> apply. More information on this is contained in the code of practice on Part 4 of the Act (Meeting Needs).	Section 35 (Duty to meet care and support needs of an adult) of the Act enables a person who can afford to pay, in full, for their own care and support <b>in a care home</b> to ask the local authority to arrange this on their behalf. Where this occurs the same principles on them being able to express a preference for their accommodation <b>in a care home must</b> apply. More information on this is contained in the code of practice on Part 4 of the Act (Meeting Needs).
Annex D	55	3.2	the value of this interest has not been disregarded for the purposes of calculating the amount of the person's capital in accordance with Part 4 (Treatment and calculation of capital) of the Care and Support (Financial Assessment) (Wales) Regulations 2015 ( the Financial Assessment Regulations) and that the person's capital, not including the value of this interest, does not exceed the capital limit as set out in regulation 11 (capital limit) of the Care and Support (Charging) (Wales) Regulations 2015 (the Charging Regulations);	the value of this interest has not been disregarded for the purposes of calculating the amount of the person's capital in accordance with Part 4 (Treatment and calculation of capital) of the Care and Support (Financial Assessment) (Wales) Regulations 2015* ( the Financial Assessment Regulations) and that the person's capital, not including the value of this interest, does not exceed the capital limit as set out in regulation 11 (capital limit) of the Care and Support (Charging) (Wales) Regulations 2015* (the Charging Regulations);  * These regulations have subsequently been amended by the Care and Support (Choice of Accommodation, Charging and Financial Assessment) (Miscellaneous Amendments) (Wales) Regulations 2017.

Annex D	60	10.3	<p>The national maximum interest rate an authority can charge is 0.15% above the “relevant rate”. The relevant rate will change every six months on 1st January and 1st June to track the market gilts rate specified in the most recently published report by the Office of Budget Responsibility. This is currently published in the Economic and Fiscal Outlook, which is usually published twice-yearly alongside the Budget and Autumn Statement. Local authorities <b>must</b> ensure that any changes to the national maximum rate are applied to any agreements they have entered into (unless they are already charging less than the national maximum). Individual agreements must also contain adequate terms and conditions to ensure that the interest rate within any given agreement does not exceed the nationally-set maximum.</p>	<p>The national maximum interest rate an authority can charge is 0.15% above the “relevant rate”. The relevant rate will change every six months on 1st January and 1st <b>July</b> to track the market gilts rate specified in the most recently published report by the Office of Budget Responsibility. <b>The market gilts rate</b> is currently published in the <b>"Economic and fiscal outlook"</b>, which is usually published twice-yearly <b>on the Office of Budget Responsibility 's website - <a href="http://budgetresponsibility.org.uk/">http://budgetresponsibility.org.uk/</a></b> . <b>The market gilts rate is shown near the bottom of the table entitled "Determinants of the fiscal forecast" included in each published outlook..</b> Local authorities <b>must</b> ensure that any changes to the national maximum rate are applied to any agreements they have entered into (unless they are already charging less than the national maximum). Individual agreements must also contain adequate terms and conditions to ensure that the interest rate within any given agreement does not exceed the nationally-set maximum.</p>
Annex D	62	11.6	<p>The update should set out the required amount deferred during the previous period, alongside the total amount deferred to date, and should also include a projection of how quickly the required amount deferred would leave only the level of the capital limit entity in their property (at which point no further deferment against the value of the property could occur).</p>	<p>The update should set out the required amount deferred during the previous period, alongside the total amount deferred to date, and should also include a projection of how quickly the required amount deferred would leave only the level of the capital limit <b>equity</b> in their property (at which point no further deferment against the value of the property could occur).</p>
Annex D	63	12.3	<p>If a person decides sell their property, they should notify the local authority during the sale process. They will be required to pay the amount due to the local authority in full from the proceeds of the sale, and the local authority will be required to relinquish the charge on their property.</p>	<p>If a person decides <b>to</b> sell their property, they should notify the local authority during the sale process. They will be required to pay the amount due to the local authority in full from the proceeds of the sale, and the local authority will be required to relinquish the charge on their property.</p>
Annex E	65	Heading	Annex E – Review of Charing Decisions and Determinations	Annex E – Review of Charging Decisions and Determinations

Annex E	68	2.8	Where this occurs an authority <b>must</b> send a statement to the person and any representative that the subsequent request will not be considered and provide its reason(s) for this of believing there has been no material change in any of the circumstances listed in regulation 4 that gave rise to the previous request and that no additional information or circumstances has been provided to justify a second review of the same circumstances	Where this occurs an authority <b>must</b> send a statement to the person and any representative that the subsequent request will not be considered and provide its reason(s) for <b>this of</b> believing there has been no material change in any of the circumstances listed in regulation 4 that gave rise to the previous request and that no additional information or circumstances has been provided to justify a second review of the same circumstances
Annex F	76	6.1	Where a person who has accrued a debt has an interest in a property and declines the option of a DPA, or does not meet the eligibility criteria for a DPA, a local authority can, if it considers it appropriate, create a charge over that property under section 71 (Creation of a charge over an interest in land) of the Act to secure payment of the debt. Section 71 sets out the requirements where an authority wishes to pursue the recovery of a debt through this method and <b>must</b> be followed in all such circumstances.	Where a person who has accrued a debt <b>under Part 5 of the Act</b> has an interest in a property, and declines the option of a DPA, or does not meet the eligibility criteria for a DPA, a local authority can, if it considers it appropriate, create a charge over that property under section 71 (Creation of a charge over an interest in land) of the Act to secure payment of the debt. Section 71 sets out the requirements where an authority wishes to pursue the recovery of a debt through this method and <b>must</b> be followed in all such circumstances.
Annex F	80	16.1	This is with the intention of putting those assets out of reach or, or prejudicing the interests of, someone who may wish to bring a claim against that person. In considering such options, a local authority <b>should</b> obtain its own legal advice.	This is with the intention of putting those assets out of reach <b>of</b> , or prejudicing the interests of, someone who may wish to bring a claim against that person. In considering such options, a local authority <b>should</b> obtain its own legal advice.