

## Equality Impact Assessment (EIA) Template – Part 1

<b>Policy title and purpose:</b>	<b>Changes to Charging - Charging and Financial Assessment under Parts 4 and 5 of the Social Services and Well-being (Wales) Act 2014</b>
<b>Name of official:</b>	<b>Gareth Griffiths</b>
<b>Department:</b>	<b>Social Services and Integration Directorate, Health and Social Services Group, Welsh Government</b>
<b>Date:</b>	<b>December 2016</b>

## **1. Please provide a brief description of the policy/decision.**

This equality impact assessment relates to charging and financial assessment under Part 5 of the Social Services and Well-being (Wales) Act 2014 (the Act) for care and support provided or arranged by local authorities under Part 4 of the Act. This includes support provided to carers and direct payments provided under Part 4 of the Act to enable a person to secure for themselves the care and support they require. The Act and its subordinate legislation came into effect on 6 April 2016.

Regulations made under Parts 4 and 5, supported by a code of practice made under Part 8, of the Act introduced a financial assessment and charging framework. Local authorities must follow this where they chose to use their discretion under the Act to charge people for care and support, or direct payments, or support for a carer.

Where a local authority uses its discretion to charge, the framework ensures only people who have a reasonable level of financial means are required to pay for their care and support. The framework does this by both setting the key financial protections for recipients that authorities must follow and, by setting key requirements that authorities must adhere to when determining a charge.

As a result people with low financial means receive the care and support they require at no charge, while those with modest financial means will be protected from high charges. The regulations that came into effect on 6 April 2016 were:

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 (Choice of Accommodation) (Wales) Regulations 2015;  
The Care and Support (Review of Charging Decisions and Determinations) (Wales) Regulations 2015.

Welsh Ministers now wish to make a number of key changes to enable people to:

- retain more of their capital from being used to pay for their residential care (increase in the capital limit);
- retain more of their income for personal expenses where they are in residential care and being supported by their local authority (minimum income amount – MIA);
- retain the full value of any war disablement pension they receive and not have to use it to pay towards their care;
- and, allows local authorities to charge, if they wish, up to £70 per week for all of the non- residential care a person receives.

These policy changes require amendments to the Charging, Financial Assessment and Choice of Accommodation Regulations. Corresponding changes are also required to the code of practice made. The other two regulations remain as originally made. These changes are due to come into force on 10 April 2017.

**2. We have a legal duty to engage with people with protected characteristics under the Equality Act 2010 (please refer to Annex A of the EIA guidance) identified as being relevant to the policy. What steps have you taken to engage with stakeholders, both internally and externally?**

The principles upon which the financial assessment and charging framework are based have been developed over a number of years with representatives of care and support recipients and those organisations which represent them. This includes key stakeholders such as Disability Wales and Age Cymru. They have also been developed with representatives of local authorities in Wales and the organisations which represent them, for example the Association of Directors of Social Services Cymru.

The regulations and code of practice made originally, as part of implementation of the Act, were subject to a twelve weeks public consultation in 2015. Key contacts, particularly those representing people with protected characteristics under the Equality Act 2010, were encouraged to disseminate these amongst their stakeholder networks so as to increase coverage. A total of 61 responses were received in answer to ten individual questions relating to the main components of the framework. These were received from a range of individual stakeholders as well as organisations which represent them. In addition, stakeholder events were held across Wales to explain what was to be implemented and to seek views. Attendance at these included a number of those who represent people with protected characteristics.

In relation to the current changes, a formal five week public consultation is to be held on the amendments to the three regulations necessary to implement them under the relevant sections of the Act. This consultation is to run from 21 December 2016 to 25 January 2017.

**3. Your decisions must be based on robust evidence. What evidence base have you used? Please list the source of this evidence e.g. National Survey for Wales. Do you consider the evidence to be strong, satisfactory or weak and are there any gaps in evidence?**

The evidence base used to support the original introduction of the three sets of regulations consisted of data on existing care and support provision in Wales, and the characteristics of the recipients of this, as contained in the LE Wales report of April 2014 “The Future of Paying for Social Care in Wales – First Report to the Welsh Government”. This report also contained data on local authority charging for care and support and key characteristics of that charging.

This was supplemented by the evidence and views expressed by stakeholders as part of the original public consultation held and those presented by them at the stakeholder events held at that time. While stakeholders commented on particular

aspects of the framework, overall they were supportive of its ethos and its desire to ensure that, where local authorities exercised their discretion to charge, people being charged were ensured an equality of treatment, irrespective of the form of care and support for which they were being charged.

While not an exhaustive evidence base, it was considered as satisfactory for the purposes of implementing the framework.

To support the current changes, the views of stakeholder representatives were obtained as part of the consideration of the long-term reform of paying for social care. This was supplemented by initial consultation with stakeholders on the actual changes planned, which was to be added to by the formal public consultation to be held. In addition, more focussed information gathering and specific research was undertaken by LE Wales. This looked at the impact of, and the cost of, increasing the capital limit in relation to charging for residential care and of applying a full disregard of the war disablement pension in financial assessments.

From a wider evidence base, several recent high profile reports (including those produced by the Care and Social Services Inspectorate Wales, the Wales Audit Office and the UK Homecare Association) have all highlighted the increasing financial pressures affecting the care sector and of the need for additional investment to maintain the quality and capacity of care provided.

The mixture of stakeholder informal and formal views, combined with independent research and key independent studies, is considered as a satisfactory evidence base upon which to implement and assess the changes now proposed.

## Impact

### 4.1 Do you think this policy / decision / practice will have a positive or negative impact on people because of their age?

Age	Positive	Negative	None / Negligible	Reasons for your decision (including evidence) / How might it impact?
Younger people <i>(Children and young people, up to 18)</i>	Positive.			The Act does not allow a local authority to charge young people for the care and support they receive but does allow it to charge a parent or guardian. However, the regulations preclude this so that young people receive care and support at no charge. This is on the basis that Ministers do not think it is appropriate at this time to charge in this circumstance.
People 18-50	Positive.			The financial assessment and charging framework is non-age specific. It looks at people on their individual merits in terms of the care and support they require, its cost and the financial means that person has to meet a charge for this. If a person has low financial means due to their age then this would be reflected in their assessment so as to reduce any charge levied accordingly. As a result the framework ensures any charges levied are proportionate to a person's financial means.  This position is unchanged by the changes now being introduced.
Older people (50+)	Positive.			It is inevitable that people in this older age group pay the most in charges towards the cost of their care and support.

				<p>This is due to the fact that they have, for the most part, had longer to attain financial resources through employment, property ownership or savings. However, for the purposes of financial assessment and charging, the framework is non-age specific. It looks at people on their individual merits in terms of the care and support they require, its cost and the financial means that a person has to meet a charge for this. If a person had low financial means due to their age then this would be reflected in their assessment so as to reduce any charge levied accordingly. As a result the framework ensures any changes levied are proportionate to a person's financial means.</p> <p>This position is unchanged by the changes now being introduced.</p>
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#### 4.2 Because they are disabled?

Impairment	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Visual impairment	Positive.			<p>People with a disability may well be in receipt of a disability related welfare benefit which may, depending on the nature of that benefit, make them more liable to be charged. This is because some benefits contain an element to meet the cost of care needs. However, for the purposes of financial</p>

				<p>assessment and charging the framework is non-disability specific. It looks at people on their individual merits in terms of the care and support they require, its cost and the financial means that person has to meet a charge for this. If a person had low financial means due to a disability then this would be reflected in their assessment so as to reduce any charge levied accordingly. As a result the framework ensures any charges levied are proportionate to a person's financial means.</p> <p>While the increase in the level of the maximum charge could be viewed in isolation as having a negative impact, the changes overall are considered to have a positive impact for those with a disability. This is because the existence of a maximum (which limits charges), coupled with the increases in the capital limit and the MIA, have a substantial positive financial impact which overwhelmingly outweighs the negative impact of the increase in the maximum.</p>
Hearing impairment	Positive.			As above.
Physically disabled	Positive.			As above.
Learning disability	Positive.			As above.
Mental health	Positive.			As above.
Other impairments	Positive.			As above.



### 4.3 Because of their gender (man or woman)?

Gender	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Male	Positive.			<p>For the purposes of financial assessment and charging, the framework is non-gender specific. It looks at people on their individual merits in terms of the care and support they require, its cost and the financial means that person has to meet a charge for this. If a person had low financial means due to their gender then this would be reflected in their assessment so as to reduce any charge levied accordingly.</p> <p>This position is unchanged by the changes now being introduced.</p>
Female	Positive.			As above.

### 4.4 Because they are transgender?

Transgender	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
	Positive.			<p>For the purposes of financial assessment and charging, the framework introduced is non-gender specific. It looks at people on their individual merits in terms of the care and support they require, its cost and the financial means that person has to meet a charge for this. If a person had low financial means due to them being transgender then this would be reflected in their</p>

				<p>assessment so as to reduce any charge levied accordingly.</p> <p>This position is unchanged by the changes now being introduced.</p>
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#### 4.5 Because of their marriage or civil partnership?

<b>Marriage and Civil Partnership</b>	<b>Positive</b>	<b>Negative</b>	<b>None / Negligible</b>	<b>Reason for your decision (including evidence)/ How might it impact?</b>
Marriage	Positive.			<p>For the purposes of financial assessment and charging, the framework is non-relationship specific. It looks at people on their individual merits in terms of the care and support they require, its cost and the financial means that person has to meet a charge for this. If a person had low financial means due to them being single, married or in a civil partnership then this would be reflected in their assessment so as to reduce any charge levied accordingly.</p> <p>This position is unchanged by the changes now being introduced.</p>
Civil Partnership	Positive.			As above.

#### 4.6 Because of their pregnancy or maternity?

Pregnancy and Maternity	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Pregnancy	Positive.			<p>For the purposes of financial assessment and charging, the framework is non-pregnancy related. It looks at people on their individual merits in terms of the care and support they require, its cost and the financial means that person has to meet a charge for this. If a person had low financial means due to them being pregnant or due to maternity then this would be reflected in their assessment so as to reduce any charge levied accordingly.</p> <p>This position is unchanged by the changes now being introduced.</p>
Maternity (the period after birth)	Positive.			As above.

#### 4.7 Because of their race?

Race	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Ethnic minority people e.g. Asian, Black,	Positive.			<p>For the purposes of financial assessment and charging, the framework is non-race specific. It looks at people on their individual merits in terms of the care and support they require, its cost and the financial means that</p>

				<p>person has to meet a charge for this. If a person had low financial means due to their ethnicity then this would be reflected in their assessment so as to reduce any charge levied accordingly.</p> <p>This position is unchanged by the changes now being introduced.</p>
National Origin (e.g. Welsh, English)	Positive.			As above.
Asylum Seeker and Refugees	Positive.			As above.
Gypsies and Travellers	Positive.			As above.
Migrants	Positive.			As above.
Others				

#### 4.8 Because of their religion and belief or non-belief?

Religion and belief or non – belief	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Different religious groups including Muslims, Jews, Christians, Sikhs, Buddhists, Hindus, Others (please specify)	Positive.			<p>For the purposes of financial assessment and charging, the framework does not consider beliefs. It looks at people on their individual merits in terms of the care and support they require, its cost and the financial means that person has to meet a charge for this. If a person had low financial means due to their belief or non-belief then this would be reflected in their assessment so as to reduce any charge levied accordingly.</p> <p>This position is unchanged by the changes now being</p>

				introduced.
Belief e.g. Humanists	Positive.			As above.
Non-belief	Positive.			As above.

#### 4.9 Because of their sexual orientation?

Sexual Orientation	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Gay men	Positive.			<p>For the purposes of financial assessment and charging, the framework does not consider sexual orientation. It looks at people on their individual merits in terms of the care and support they require, its cost and the financial means that person has to meet a charge for this. If a person had low financial means due to their sexual orientation then this would be reflected in their assessment so as to reduce any charge levied accordingly.</p> <p>This position is unchanged by the changes now being introduced.</p>
Lesbians	Positive.			As above.
Bi-sexual	Positive.			As above.

**4.10 Do you think that this policy will have a positive or negative impact on people’s human rights?**

Human Rights	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Human Rights including Human Rights Act and UN Conventions	Positive.			<p>The financial assessment and charging framework ensures a person with low financial means receive their care at no cost. It also ensures a person with moderate financial means receive their care at a reasonable cost so as to protect them from high charges. Both of these ensure that people in this position, who require care and support, are able to access this without a financial barrier so as to enable them to live as independently as possible.</p> <p>This position is unchanged by the changes now being introduced.</p>



## **Equality Impact Assessment – Part 2**

### **1. Building on the evidence you gathered and considered in Part 1, please consider the following:**

#### **1.1 How could, or does, the policy help advance / promote equality of opportunity?**

The financial assessment and charging framework in place through regulations and a code of practice under the Act ensure that, where local authorities use their discretion to charge, it can only be applied in a consistent and equitable manner. This applies to all of the groups of people, age 18 and over, with protected characteristics so as to ensure that all groups are able to access the care and support they need without any financial barrier of not being able to afford to pay for the cost of this or being able to contribute towards its cost.

The current changes do not alter this.

#### **1.2 How could / does the policy / decision help to eliminate unlawful discrimination, harassment or victimisation?**

The framework applies to all groups of people, age 18 and over, and does not single out any particular one for different treatment. It helps prevent local authorities, where they use their discretion to charge, from charging certain groups of people or individuals in a different way as to others purely because of their characteristic.

The current changes do not alter this.

#### **1.3 How could/does the policy impact on advancing / promoting good relations and wider community cohesion?**

The financial assessment and charging framework helps reduce the inconsistency of charging which previously occurred between different forms of care and support which a local authority charges for, and between different local authorities. It promotes a single, more consistent, manner in which a person is financially assessed for a charge, where a local authority chooses to use its discretion to charge, and in the determination of a charge levied. It helps prevent charging of different groups of people or individuals differently purely due to their characteristic. This helps promote a more informed and clearer relationship between local authorities and people who are charged for their care and support.

## 2. Strengthening the policy

**2.1 If the policy is likely to have a negative effect ('adverse impact') on any of the protected groups or good relations, what are the reasons for this?**

**What practical changes/actions could help reduce or remove any negative impacts identified in Part 1?**

No overall direct negative impact was identified when the framework was originally introduced. This position remains unaltered by the changes being introduced currently.

**2.2 If no action is to be taken to remove or mitigate negative / adverse impact, please justify why.**

No action is required as no overall direct negative impact was identified when the framework was originally introduced, or with the changes now proposed.

## 3. Monitoring, evaluating and reviewing

**How will you monitor the impact and effectiveness of the policy?**

List details of any follow-up work that will be undertaken in relation to the policy (e.g. consultations, specific monitoring etc).

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

Consequently, the Welsh Government will monitor, post implementation, the impact of the changes now proposed on local authorities' charging for care and support. This will include people with protected characteristics.

Welsh Government will work with local authorities to put in place monitoring arrangements to capture information on the affects of the key changes these regulations will introduce from April 2017. Data gathered will record the number of people affected by the changes and the financial benefit they experience. This will inform the implementation of the changes planned in future years to ensure their effectiveness.

The results of all impact assessments where the impact is significant will be published on the Welsh Government's website.

#### 4. Declaration

**The policy does not have a significant impact upon equality issues**

<b>Official completing the EIA</b>
<b>Name:</b>
Gareth Griffiths
<b>Department:</b>
Social Services and Intergration Directorate, Health and Social Services Group
<b>Date:</b>
December 2016
<b>Head of Division (Sign-off)</b>
<b>Name:</b>
Lisa Dunsford
<b>Job title and department:</b>
Deputy Director, Social Services and Intergration Directorate, Health and Social Services Group
<b>Date:</b>
December 2016
<b>Review Date:</b>
<ul style="list-style-type: none"><li>• Ongoing monitoring;</li><li>• Post review during 2017-18 of the implementation of the changes proposed.</li></ul>