



Briefing for the Public Petitions Committee

Petition Number: [PE01533](#)

Main Petitioner: Jeff Adamson (on behalf of Scotland Against the Care Tax)

Subject: Abolition of non-residential social care charges for older and disabled people

Calls on the Parliament to urge the Scottish Government to abolish all local authority charges for non-residential care services as under Part 1, Paragraph 1, Subsection (4) of the Community Care and Health (Scotland) Act 2002.

Background

The petitioner contends that “non-residential social care is an equality and human rights issue” and, therefore, should be “free at the point of delivery”. Additionally, the petitioner argues that the current system is unfair, because charging procedures for these care services differ considerably between local authorities.

Charging for non-residential social care services by local authorities

The [Social Work \(Scotland\) Act 1968, Section 87](#) provides local authorities with the power to charge for non-residential social care services (also referred to as community care services). This does not include nursing care at home, which is an NHS service and, therefore, is provided free for people of all ages if they require it. Additionally, since the [Community Care and Health \(Scotland\) Act 2002](#) and the introduction of the associated [Community Care \(Personal Care and Nursing Care\) \(Scotland\) Regulations 2002](#), those over 65 have been entitled to free personal care.

Briefly, personal care is “anything done for you that is of a personal nature”¹ and includes assistance with personal hygiene, dressing, and food preparation and eating, among other services, all of which are outlined in [Schedule 1](#) to the 2002 Act referred to above.

Other non-residential social care services, such as “meals on wheels”, help with housework, and community alarms are “still subject to charges at the

¹ Care Information Scotland (2014). *Care at home*. Available [here](#) [Accessed 23 October 2014]

discretion of the local authority”². Under [Part 1, Paragraph 1, Subsection \(4\)](#) of the 2002 Act, Ministers can regulate these charges. However, subsequent administrations have chosen to support self-regulation through the Convention of Scottish Local Authorities (COSLA).

Although not legally binding, local authorities are expected to follow COSLA’s charging guidance for non-residential social care, the latest issue of which is available [here](#). COSLA indicates that this guidance “draws on the principles of the European Charter of Local Self-Government”, which recognises that “councils should be empowered to raise income in order to ensure that the provision of local services are optimised”. However, COSLA also stresses that councils are not required to charge for these services, and that it wants to see greater consistency between councils’ charging policies.

Financial assessments

After being assessed for their care needs by the Social Work Department of their Local Authority, a financial assessment then determines how much a person should pay. This amount can vary, under the current system, depending on the local authority area in which the person lives. However, COSLA is planning to introduce a standard financial assessment template in the near future, something COSLA states will “go a long way toward improving fairness from the service user perspective”³.

Exemptions for terminally ill patients

A number of recent news articles^{4,5,6} have highlighted that some councils may be charging terminally ill people under 65 for their personal care. COSLA guidance recommends that such charges are waived but not all councils define “terminally ill” in the same way. However, the Scottish Government has advised⁷ that COSLA has recently agreed to change its guidance. It now recommends that terminally ill people under 65 should not pay for personal care if they have less than six months to live. Councils will also have the discretion to “extend the waiving of charges beyond this time period, should that be merited by the circumstances of a particular case”. It should be noted that, at the time of writing, these recommendations have not been added to the published guidance.

² Scottish Government (2002). *Free Personal and Nursing Care in Scotland: Guidance for Local Authorities, the NHS and Other Service Providers*. Available [here](#) [Accessed 24 October 2014]

³ COSLA (2014). *National Strategy & Guidance: Charges Applying to Non-residential Social Care Services*. Available [here](#) [Accessed 27 October 2014]

⁴ BBC News (16 June 2014). [Councils charging terminally ill for care](#).

⁵ BBC News (16 August 2014). [Terminally ill man denied free care again 'for applying too early'](#).

⁶ BBC News (16 August 2014). [East Ayrshire Council changes free care decision for terminally ill man](#).

⁷ Personal communication (Scottish Government), 23 October 2014

Income received by councils from charges

In the 2012/13 financial year, local authorities in Scotland received a combined income of around £51.6 million from charges for non-residential social care services. This corresponds to approximately 3.2 % of total gross local government expenditure on these services over that period⁸.

Scottish Government Action

The Scottish Government's position on charging for non-residential social care services was outlined in a [letter](#) to the Public Petitions Committee. This was sent in response to a related petition, [PE01466](#), which was lodged in January 2013. The letter stated that "it is important that local authorities have the autonomy to set their own charges to take account of local priorities and needs". However, the Scottish Government also wants to ensure that the charging policies are "fair, consistent and transparent".

Scottish Parliament Action

The previously mentioned [PE01466](#) petition called on the Scottish Parliament "to urge the Scottish Government to review the implementation and regulation of local authority charges for non-residential services". In this case, the petitioner was proposing the introduction of legally binding regulations for charges rather than removal of them entirely.

After consideration by the Public Petitions Committee, the petition was referred to the Health and Sport Committee. Following an [evidence session](#) on 17 December 2014, the Committee agreed, on 4 March 2014, to close the petition and draw it to the attention of the Local Government and Regeneration Committee.

Andrew Castle
SPICe Research
30 October 2014

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⁸ Personal communication (Scottish Government), 28 October 2014. *Note that figures exclude Assessment, Casework, Care Management, Occupational Therapy and Criminal Justice Field Work.*