

PE1533/W

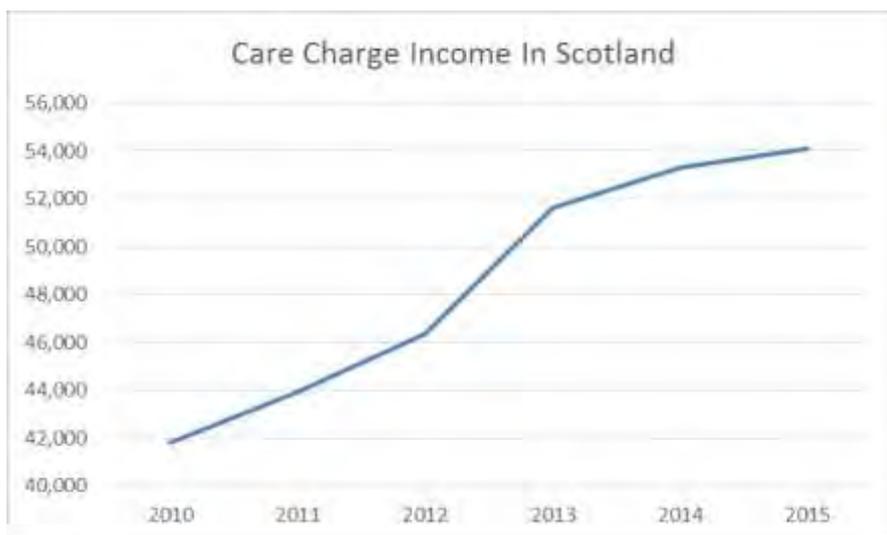
Petitioner Letter of 23 June 2016

Dear Ms Lamont

I understand that you will be considering two linked petitions on the questions of social care charges, mine PE 1533 and Amanda Kopel's PE1480, at your committee meeting of Thursday 30th June and I thought I would write just to bring you up to date with why I think these petitions remain relevant.

Steady Rise In Charges

There has been a consistent rise in Social Care Charges over the last 5 years. This chart uses Scottish Government figures to show charges have risen from £42 million in 2009-10 to about £56 million in 2014-15 – an increase of approximately one third. While we might wish to treat the actuals amounts with caution, the general trend is clear.



At the same time, council tax levels have remained frozen and, according to Oxfam¹, those not in work (including most disabled people) have seen incomes fall by 7% since the financial crash of 2008.

It would seem that local councils have come to see increasing Social Care Charges as one of a number of measures that they can use to offset the effects of austerity and reduced budgets.

Most Complicated Tax in Scotland, Britain or the EU.

¹ The True Cost Of Austerity And Inequality, OXFAM, September 2013. Accessed on 21 June at www.oxfam.org/sites/www.oxfam.org/files/cs-true-cost-austerity-inequality-uk-120913-en.pdf

Social Care Charging is the most complicated income generating tax in the UK. It is complicated because of the range of different rules that are applied to working out how much should be paid.

- **Income Disregards** – Most councils have at least 4 different levels of income that is disregarded to meet basic living needs – younger single people, younger couple - older single people, older couple. Different levels apply to each category ranging from £123 per week to £270 week. Most councils, but not all, follow the guidance that COSLA provides.
- **Trigger Age** – The age at which the younger/older person split applies varies from council to council with some councils using 60 and others the current retirement age (at time of their application) which is currently moving up to 67. Others have a point in between such as 62 or 65.
- **Couples Rules** – There are different rules about how the incomes of couples are treated when calculating care charges. Some councils include the income of the spouse/partner of the person receiving social care in their financial assessment whilst others only consider the income of the person receiving the support.
- **Excluded and Included Benefits and Income** – While the rules on the main benefits such as ESA and DLA are standard throughout the country, the treatment of benefits such as Bereavement Allowance, Industrial and War Injuries Benefits and Child Benefit varies from area to area.
- **Other Allowances** – Some councils make clear allowances for Disability Related Expenditure. This allows a disabled person to submit some costs related to their disability and have an allowance made for this before being charged. Others simply allow a small standard amount per week while others do not make any such allowance
- **Cost for Services**- Councils need to work out how much to charge people and each council has a range of different rates to charge people for home care, community alarms, day care, meals services and so on. Each individual will have a personal estimate based on their own combination of services.
- **Taper on Spare Income** – No Council will charge more than the cost of services that a person gets and all use a taper (tax rate) on income that a person has above the Income Disregard and other allowance. This varies from 100% of income in 7 councils down to 15% in one council area.
- **Maximum Charges** – Even then there is a final calculation in some areas where councils have set a maximum weekly charge. This can be between £50 per week up to £250 per week. Many areas have no maximum charge.
- **New Overlapping system for people on Self Directed Support** – A number of councils are using the Individual Budget given to set a single “cost of service” without having to work out cost of day services, home care, etc. This system uses the other features of the care charging system

Because of this complexity the cost of collection for this tax is high. The Scottish Government have quoted a figure of 15% for this cost, although there are

suggestions it could be significantly higher. This compares to 1% for the cost of collecting Income Tax and 4-5% for the cost of collecting Council Tax.

Who Pays

No accurate national records are kept on how many people are paying social care charges but the Scottish Government estimates that there are about 28,000 people currently paying.

Most people pay charges because they

- Receive the higher rates of DLA or PIP
- Receive Severe Disability Premium
- Receive an occupational pension
- Having savings in excess of a minimum threshold.

The Income Disregards are set at between 16.5% and 25% above the basic DWP income levels for single people or couples. Only people with two types of Disability Benefit consistently come above this level; those who receive higher rates of DLA/PIP and those who live on their own and receive Severe Disability Premium. Both these benefits and in particular SDP are under threat from the proposed welfare reform programme.

People with savings over a threshold that ranges from £10,000 to £23,500 in different parts of Scotland are expected to pay the full cost of their services. Those with savings above £6000 are assumed to be receiving interest on these savings of 25% per annum. This at a time when the Bank of England Base Rate is 0.5% and has been for most of the last 5 years.

What's wrong with Care Charging?

- It's the only critical welfare provision that people on benefits have to pay for.** – Other important services like Education, the Police and the Health Service are provided free at the point of need. Only social care is subject to a means test. It is true that some services like Dentistry and opticians can be subject to a means test but these usually exclude people who are on eligible benefits such as DLA.
- It forces some people to choose between heat and care** – The means test for social care leaves people having to make difficult decision about how they spend their limited funds. Many local authorities have direct experience of people going through the assessment process for social care and agreeing a care plan only to back out when informed of what they will have to pay. The introduction of £15 daily charges for old people day services in Glasgow in 2015 saw 40% of services users reduce or stop their attendance. Failure to take up a service should not be taken to mean that the person does not need support but it does potentially increase isolation and its many consequences.

- c. **It drives disabled people and their families into poverty** – Current ways of calculating poverty suggests that single people on less than £175 per week may be in poverty. Yet many disabled single people on much less than that are paying social care charges.
- d. **It's discriminatory on the grounds of age** – The Equality Act 2010 made discrimination on the grounds of age discriminatory unless it can be objectively justified. COLSA in its guidance on care charges warns councils that their current policies of having separate charges may be open to legal challenge. The different trigger ages throughout Scotland show that there is a scrabbling around by councils to deal with this. But these fail as there is no objective justification that can be used to show why a 64 year old with dementia has to pay for personal care when a 65 year old with dementia doesn't
- e. **It varies from area to area without justification** – In Scotland there are 32 different social care charging system with different tapers, income disregards, treatment of couples, maximum levels and so on. No one can go to live in another area of Scotland with a clear understanding of what they might have to pay. No councillor in Scotland can give an explanation why their system has one set of rules and not another. As an example, I live in Midlothian, were I to move 1 mile away to Edinburgh, and receive the same support package, I would pay more than *£100 less* a month in care charges; moving 3 miles to East Lothian – more than *£200 less*; moving 15 miles to the Borders – more than *£400 less*.
- f. **It lacks central control to ensure fairness** - The Scottish Government has the power to set standard rules for the application of care charges across Scotland. So far they have not used this policy.
- g. **Local authorities increase charges as part of a process to compensate for funding restrictions.** Local councils are treating social care charges as one element in their Income Maximisation processes. This is a change in councils over the last 8 years where they have been encouraged by Audit Scotland and others to make more of their resources to reduce costs and increase income. With some restrictions on spending, this pressure has increased. Social Care is a central welfare service and should be treated differently from the hire of school halls or cost of parking.
- h. **It inhibits disabled people exercising their basic human rights to quality family life at home, and economic, civil and political participation within the community at large.** These rights have been secured under various European and United Nations Conventions, of which the UK Government is a signatory.

What's Being Done?

- **Some people are just not paying** – Some evidence exists that people around Scotland are either withholding payments or have stopped paying altogether. Councils retain a Duty of Care to provide services that people have been assessed as needing even if they opt not to pay any required

social care charges. Unpaid social care charges are treated like any other debt.

- **Scotland Against the Care Tax** – Is an alliance of Disabled People's Organisation and other voluntary organisations campaigning to end all care charges. It takes a human rights approach which sees social care as fundamental if disabled and older people are to have the same freedom, choice, dignity and control as other citizens at home, at work and in the community: to participate in society and live an ordinary life.
- **Frank's Law** - A popular local campaign based around Frank Kopel, a former Dundee United player who developed vascular dementia, at the age of 59, has gained national prominence. It seeks to end discrimination against younger people by providing social care on the same basis as older people.
- **Private Members Bill** – In the last Scottish Parliamentary Session, Siobhan McMahon MSP started the process of a Private Member's Bill on Ending Social Care Charges. There was a consultation on what form the Bill should take and this was published just before the end of the Parliament. There are now discussions about how this should be taken forward.
- **Manifesto's Commitment** – Four out of the five main parties made commitments in their manifestos to tackle social care charges. Even the fifth expressed concern at rising care charges. We expect the ruling administration to bring forward proposals on Frank's Law, the treatment of Army veterans, and national rules in due course.

We think there is a continuing role for the Petitions Committee in scrutinising this matter. There is a great deal of public interest in the matter and the Scottish Parliament is likely to be looking at the matter in more detail during this 5th session. We would ask that the Petitions Committee write to the Scottish Government to ask what their plans in this area are.

Thank you for your consideration.

All the best

Jeff Adamson
Chair
Scotland Against The Care Tax