

# Proposed Bill to abolish charges for non-residential social care

## Page 2: About you

Please provide your name and other contact details. Please provide at least one means of contacting you (address, e-mail or telephone) - e-mail is our preferred option. (NB: you will be given the option shortly to specify whether it is your name or your organisation's name that is to be used, and you may also request anonymity or confidentiality for your response.)

Your name (mandatory)

██████████

Name of your organisation (if applicable - otherwise leave blank)

Learning Disability Alliance  
Scotland

Your Job Title (if applicable - otherwise leave blank)

██████████

Contact details (please provide at least one of: email, telephone number, postal address) (mandatory)

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Please indicate below whether you are content for your response to be attributed to you by name (either your name or that of your organisation)

I am content for my response to be attributed to my organisation

## Page 4: Your comments on the proposal

Q1: Do you support the principle that non-residential social care services should be available free at the point of delivery to those who have been assessed by a relevant professional as requiring them (as is the case within health care)?

Yes

### Please explain your answer

We do not think people should have to pay for care. We think that social care should be free to use. People with learning disabilities believe it is their human right to get support to live valued lives and to take part in the community. This is not something that we believe should be open to discussion about cost.

Human rights should not be affected by which organisation, NHS or local authority social care, gives you help or support. For example, we know that if you need a special diet because you are a coeliac then you can get particular food free on prescription from the NHS.

The Learning Disability Alliance Scotland believes that social care should move from creating dependent clients to sustaining citizenship and empowering disabled and older people to take an active part in the life of their community. We believe that abolishing charges for non-residential community care is an essential step in doing this.

Getting the right support to live good lives in the community is about fulfilling the human rights of disabled and older people. Charging for social care forces people in Scotland to trade off the right to have nutritious

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food or to be warm and secure in their own homes or for help to get out of bed in the morning. Scots law recognises that people should be given the support they need but social care charging threatens this vital response. Having to pay to exercise these basic rights discriminates against disabled and older people.

Having to pay to exercise basic rights like to go out in your community or to get help to pay for goods in shops discriminates against disabled people.

Care Charging has negative impacts on other services such as health. People declining, or not being offered, social care are more at risk of using emergency health or other crisis services. Our evidence suggests that up to 10% of service users decline services because of charges depending on the type of service, the intensity of support and the costs. We think figures from the Scottish Government suggest that as many as 5,200 (20%) people might be declining services because of cost. Either way this is a serious hidden impact on the health of disabled people in Scotland.

Any distinction between "health" and "social" care is false. Poor social care will lead to poor health. Poor health care will make good social care very hard. The distinction is based on outmoded values and approaches; therefore, charging for one and not the other is an unnecessary barrier for the future of proper Health and Social Care Integration. Furthermore, human rights should not be affected by which organisation, NHS or local authority social care, gives you help or support.

The NHS is free, social care should be free too. There are some aspects of health care that are means tested – for example dentistry and opticians. However the means test that is put in place there is simple and straightforward – do you receive means tested state benefits including housing benefit and then any charges are waived. If this was applied for social care then almost no disabled people would be required to pay social care charges.

We would go further and reject any distinction between "health" and "social" care. Poor social care will lead to poor health. Poor health care will make good social care very hard. The distinction is based on outmoded values and approaches. Care charging is an unnecessary barrier for proper Health and Social Care Integration

Some people worry that more people will ask for social care if it is free but already not everyone who asks for help gets it. Local authorities and health services already have elaborate systems established to ensure that only people who need help get it. These include assessment systems and eligibility criteria which are likely to stop lots more people getting social care, even if it is free.

But nonetheless it cannot be right to stop people who need support, who are eligible for support, getting it by using charges to scare them off. At one of our consultation meetings, we had a senior manager from a central Scotland council say that this was exactly what they did – using care charges to manage demand.

Care charging financially disadvantages disabled people and can push them into poverty. Disabled people have many additional costs due to their disability. Yet up to date this has not been recognised in the way that poverty is counted. The Scottish Government is currently considering a proposal to produce poverty figures that exclude DLA, AA and PIP from the income calculation, as these do not represent additional resources compared to needs.

As a result more than twice as many disabled people may be in poverty compared to official figures. An approach like this was used by McInnes et al in a 2014 report for the Joseph Rowntree Foundation. Their figures for the UK suggested that the effect of this was to increase the reported number of people in poverty by about 1 million, raising the percentage from 17% to 33%

This then means that local means tests which take into account DLA, AA and PIP allow disabled people to be charged for any social care they receive as they erroneously think they are not in poverty. We think that those whose needs are such that they require social care are further driven into poverty, a situation masked by their disability. They cannot afford a car, a holiday, a night out, a take away meal and blame their disability rather than social care charges – the real cause of their poverty.

There is a compelling case to end social care charges. It is simply not right that many people who are

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poor have their position made worse by care charges.

Q2. Do you agree that legislation is a necessary and appropriate means of addressing the issues identified?

Yes

**Please explain the reasons for your response**

Yes – Social Care should be free and a new law could change everything and benefit everyone . It would spell out what needed to be done and what needed to change. The law should set up a new system for the whole country,

One of the major advantages of a new law is that councils would be more accountable for what they do.

We think the current system of regulation which has the power of law has not worked. Through the Community Care and Health (Scotland) Act 2002 the Scottish Government took the power to regulate the practice of care charging. This power, if it was ever implemented, would lead to changes in the existing system and not to the end of care charges.

It has not been used in 14 years and has created a strong impression that consensus can solve the current problems; however, COSLA and local authorities have been trying to make the charging system fairer for 14 years without success and, currently, ending care charges is not even on their agenda.

COSLA has produced national guidance on the implementation of care charges, but, as this guidance remains only advisory and local authorities are free to set their own charging policies. It has failed to achieve the consistency sought by the Scottish Government who made a commitment to hold this power in reserve until the implementation of guidance issued by COSLA in 2002 could be evaluated. That evaluation has never been carried out.

Nor can we see this changing. Care Charging is very important for disabled people who need social care but is a very small issue for councils and the Scottish Government. That is why little attention has been paid until we and others started campaigning on this. A new law is needed to help focus the Scottish Government on what needs to be done.

The reality is that COSLA cannot reform Care Charging. It has found it impossible in 14 years to introduce consistency in anything to do with care charging. Its ongoing internal problems means that it has even less authority to reform care charging than it had in 2002.

Care charging is not simply an easy gain for councils short of money. There are important social consequences that arise from using charging as a disincentive to take up services. These costs may fall on other public bodies which currently councils can ignore.

If people without social care need emergency Health Care then the cost will fall on the NHS. Joint Integration Boards may need to pay more attention to this but if they continue to be dominated by Health interests they may focus more on securing resources to tackle their immediate interests and pay less attention to managing demand through preventative services. However all the costs and benefits should be of interest to the Scottish Government and a new law will help them manage these.

COSLA is a balancing operation between different councils trying to manage a whole lot of financial challenges. No council trusts another not to put their own interests first. Every suggestion of a reform in local government finance is first of all seen as favouring those who put it forward.

In a complicated financial assessment there will always be some winners and losers when you propose a change. Losing councils block such changes. The Scottish Government will be trying to do the decent thing and reach a compromise. But since some councils will lose out they will already be demanding more in compensation for having to stop years of unfairly taxing disabled people.

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But if the tax is only reformed and not abolished then there is a risk of a new round of "Income Grab" by cash strapped councils at some point in the future. What's to stop them raising the "taper rate" or anything else that is left to the discretion of the local authorities.

The Scottish Government should not attempt to reform care charging but instead abolish it. Any attempt to reform it would simply leave them attracting blame for all the variations and changes that would appear council by council as they found loopholes to apply "Income Maximisation". The political capital needed by the Scottish Government to deal with care charging should not be wasted on reform but instead used to abolish it altogether.

The Scottish Government should do the decent thing, stop haggling over the human rights of disabled people and make councils completely stop care charging. The decision to end care charges for carers was introduced in legislation and this has set a precedent for other action to change care charges.

A new law can give the government the moral authority to take firm action and would prevent a future government changing their mind and reintroducing care charges.

Q3. The current system has resulted in varying charges in different areas for the same level and quality of service. Do you agree that there should be consistency across Scotland?

Yes

**What do you think the advantages and disadvantages would be?**

Councillors and others can give no rational decision why there rates are different from neighbouring authorities. As the agenda for this is driven by "Income Maximisation" there is no clear explanation or social purpose behind charges. Advantages People will be able to move easily from one part of the country to another to take advantage of informal support or other resources available to them without being affected adversely and creating a level playing field for social care support all over Scotland. Some people live in one area but get funded by another - a national system would be better Many people with learning disabilities don't really understand how charges are worked out. They are left disempowered because of complicated local systems that no one bothers to explain properly. A national system would mean if you have to pay care charges it would be same for everyone. It will generate a sense of fairness for people who receive social care services that they are not disadvantaged just because of where they should live. It will save extensively on the resources involved in the creation and maintenance of 32 different charging systems cutting down on local authority bureaucracy. Disadvantages The loss of charging income may mean local authorities cut back on social care spending to compensate. Therefore new legislation will need to come with resources to replace lost income; however, savings will be made through ending the bureaucratic and costly systems used to collect charges There are no other disadvantages that we can think of.

Q4. Should all social care related services be free at the point of delivery?

Yes

**If you answered Yes, please explain your reasons. If you answered No, please explain which services should be excluded, and why. (Please refer to the services set out on page 7 of the consultation document).**

Access to all social care services is through an assessment of need and eligibility criteria which assesses the risk of the current position. The decision on which services should be provided are based on a decision about what will help a person maintain themselves in the community. Having any charge on one of a range of services risks a person opting out of that aspect of support and then undermining the whole care package. If someone is assessed by social care services and a need for meal services is identified

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and they meet the eligibility criteria they should not be charged for this service. People with certain long-term conditions currently receive some foods free through the NHS. People with coeliac disease are eligible for free prescriptions for certain foods such as; bread, pasta and breakfast cereals. If food can be provided free through NHS services surely social care services should be the same. Obesity is a serious health issue and where people are assessed as needing meals for social care services then it should be free. Where people cannot cook, the alternative to health "meals on wheels" is often the chippy. Some services, for example those for people with drug or alcohol addiction services provide meals free of charge as they recognise the importance of diet in helping people change their behaviour. They already recognise that charging for meals acts as a disincentive. We think that this learning should be extended to all social care services. Charging for community alarms and call services should also be discontinued if an individual is assessed as needing these services and meets the eligibility criteria. These particular services relate directly to those of the NHS. Their primary use is to prevent serious injury thereby saving the NHS money by reducing the need for hospital admissions. The abolition of community care charges is about disabled/order people's human rights and these rights cannot be diluted.

Q5. What are the likely financial implications (if any) of the proposed Bill to you or your organisation? What (if any) other significant financial implications are likely to arise?

Disabled people will be able to meet the additional expenditure associated with their disability without waiting for permission from the local authority. These disability related expenses may include such things as above average laundry, transport and heating costs.

Disabled people will be able to make choices about how they spend their income without their local authority interfering. People with learning disabilities have told us they could have a better social life and have more activities to look forward to.

They will be able to save money for the future such as for holidays. For many people with learning disabilities holidays are impossible sometimes because they have to pay for support to accompany them. It is not possible to save up for this when they are paying so much in care charges. .

Disabled people in work will be able to keep all the money they earn after national taxes are deducted. At the moment, they could be subject to a care tax of 100% on any earnings above £20. Disabled People would have less worry and their

Local Authorities will save significantly on the costs of administrating care charges.

Save on long term social care support by having a better take up of low level social care services and have somewhat more resources available to meet other needs depending on any compensatory intervention by the Scottish Government.

Health Boards will save significantly on unplanned admissions, use of A & E departments as crisis centres and delayed discharges.

The Scottish Government will have to properly fund social care services in Scotland.

Whilst care charges contribute 3% (or approx. £42.6m) to the cost of social care in Scotland, this 3% can be as much as 100% of disabled people's income after basic housing costs.

Local authorities repeat the recurring fallacy that councils are using the income from charges to invest in more and better services. The reality is something different. Charges are being used to substitute for other ways of raising money. Disabled and older people are being punished because they are dependent on the people who charge them for the basic care they need to live a decent life.

Community care charges are a highly inefficient tax that has a number of hidden consequences that are often overlooked in discussions over what it would cost to end. We believe that the actual cash amount raised is only the first part of the calculation. In addition there are the high costs of collection, the cost of emergency care for those who decline preventative services because of the level of charges, and the lost

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income from those who cannot work.

Over a four year period from 2009 to 2013, the amount of money collected from older and disabled people has risen from £40 million to £51 million, while the number of home care clients has fallen from 66,000 to 61,000.

Our calculations suggest that the actual cost of abolishing care charges is actually less than half of the amount taken off disabled people – only £22 million instead of the £50 million charged to disabled people. The following items must be deducted from the headline figure to get a more realistic answer.

1. The cost of collecting care charges in Scotland is between £7.5 and £12.5 million pounds spend on social work staff carrying out financial assessment, finances staff collected and recording payments and debt management officers chasing the thousands who cannot afford to pay.
2. At least £10 million of the amount reported by local authorities is double counted money from the Scottish Independent Living Fund. The computer system used by a number of social work departments adds up social care charges and Independent Living Fund monies into a single "client contribution" and this figure is used in the reporting system for care charges nationally.
3. The Scottish Government has already put aside £16 million for the waving of care charges for carers based "on current levels of social care charging". They expect a new wave of Carers Assessments to see many more services being defined as being for the benefit of carers and therefore not chargeable. This will include many existing respite and day services. Much of the set aside money will go to compensate councils for charges that they don't receive in the future and this will reduce the financial consequences of the proposed bill.

We also think that by abolishing care charges many more disabled people will go to work and there will be more additional spending by disabled people, this could actually lead to a small net gain to the wider economy rather than an ongoing cost.

Q6. What do you think the implications of the proposed Bill are for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

Positive

**Please explain your answer. If you answered Negative, please suggest any ways this impact could be minimised or avoided.**

Positive Disabled people will be able to access services that they need to live good lives in the community without having to worry about the financial consequences. They will have the same ability to live in the community as non-disabled people.. Negative We cannot think of any negative implications for equality. For many disabled people, community care is needed to eliminate discrimination, promote equality of opportunity and protect human rights. Without it, many disabled people cannot: participate in society on an equal basis to others. Social care free at the point of need is as important an infrastructure as health, education, transport and housing, in achieving equalities and human rights. Enabling disabled people to participate in the economic, social, cultural and civic life of the community does not only allow them the freedom to exercise their human rights, it also benefits society as a whole. Human Rights and Equality law is untested in this matter and that there should be a case for the courts to determine the legality of the way that care charging is implemented throughout Scotland.

Q7. Are there any other comments you would wish to make that are relevant to this proposal?

If there are charges, they should be based on the ability to pay taking into account the real costs of daily life for disabled people. If charges go up, it should be less than inflation rather than be more than inflation.

Q7. Are there any other comments you would wish to make that are relevant to this proposal?

Research by the Learning Disability Alliance Scotland found that 21% of disabled people, some 14,300, who pay care charges are now in substantial arrears in their Care Tax payments. Of these, almost 5,600 people have so little prospect of being paid that councils have started debt management procedures against them.

Yet in the whole of 2014, only 25 disabled people in just 4 councils were taken to court for non-payment of their Care Tax. Councils know that many disabled people just cannot afford to pay their care charges and after threatening them through debt management procedures, most councils just give up and write off the debt.

As one council said when explaining why they didn't pursue people to court, "This is mainly due to the client group involved (elderly/vulnerable/etc) but also down to simple economics – the low value of the majority of the debts makes court action uneconomic."

There have been claims that since care charging by councils is discretionary and that they all have a waiver system that anyone who has a problem paying can be excused. However councils have admitted to us that they do not advertise the waiver process for fear of getting too many applications! A low level of application for waivers does not mean that people are happy to pay or that they can afford to pay but more likely that people are simply not told how to apply so that councils can maximise their income at the expense of disabled people.