



7 July 2009

Dear Sir / Madam

Consultation on *proposed Social Care Charges (Wales) Measure*

The National Assembly for Wales' Legislation Committee No.5 is calling for evidence on the general principles of the [proposed Social Care Charges Measure](#) which was proposed by the Welsh Government on 29 June 2009 (closing date for submissions is 28 August 2009).

What is a Measure?

A Measure is a piece of law made by the Assembly, which has a similar effect to an Act of Parliament. The Assembly is able to pass Measures on any 'matter' within its legislative competence (as listed in [Schedule 5](#) to the Government of Wales Act 2006). The proposed Social Care Charges (Wales) Measure is based on the legislative competence granted to the Assembly following the Domiciliary Care Legislative Competence Order (June 2008), regarding matters relating to charges for non-residential social care.

While a Measure is in progress through the Assembly, it is known as a 'proposed Measure'.

There is a four stage process for the consideration of a proposed Measure. Stage 1 involves consideration of the general principles of the proposed Measure by a committee (which includes inviting written from interested parties and stakeholders – which is the purpose of this letter – as well as taking oral evidence), and the agreement of those general principles by the Assembly.

What does this proposed Measure seek to achieve?

The Explanatory Memorandum that accompanies the proposed Measure states:

“The proposed Social Care Charges (Wales) Measure (“the Measure”) is primarily enabling in scope. It will allow Welsh Ministers to set out, in subordinate legislation and in guidance, the detail of a fairer and more consistent framework for local authorities to adopt when charging individual service users for non-residential social care services.”

What is the committee's role?

The role of Legislation Committee No. 5 is to consider and report on the general principles of the proposed Measure. In doing so, the Committee has agreed to work within the following framework:

To consider:

- i) the need for a proposed Measure to deliver the stated objectives:
 - to provide for the introduction of a new regime for charging which will ensure that local authorities across Wales adopt a more consistent approach to charging service users for non-residential social care services;
 - to establish a new legislative framework which will allow for detailed provisions to be set out by Welsh Ministers in regulations and statutory guidance to be made under the Measure, covering the types of services and client groups which are excluded from charging, standard or maximum charges, and the financial assessment process (means testing);
 - to introduce a clear and consistent approach in relation to the information users receive from local authorities about their charges and the way in which request to review will be handled.
- ii) the key provisions set out in the proposed Measure and whether they are appropriate to deliver its stated objectives;
- iii) potential barriers to the implementation of the key provisions and whether the proposed Measure takes account of them;
- iv) the views of stakeholders who will have to work with the new arrangements.

How you can help – the consultation questions

Further details of the proposed Measure and the accompanying Explanatory Memorandum can be found on the National Assembly's website [follow the links in the left-hand column for Business / Legislation / Measures / Proposed Social Care Charges (Wales) Measure]:

<http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/business-legislation-measures-scc-2.htm>

The Committee would like to invite you to submit written evidence to assist in its scrutiny of the proposed Measure. In particular, we would welcome your views on the questions listed in **Annex 1**.

If you wish to submit evidence, please send an electronic copy of your submission to apslegislationcommitteeNo5@wales.gsi.gov.uk and entitle the e-mail *Consultation – Proposed Social Care Charges Measure*.

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Minicom: 029 2082 3280

E-bost / E-mail: apslegislationcommitteeNo5@wales.gsi.gov.uk

Alternatively, you can write to:

Olga Lewis, Deputy Committee Clerk, Legislation Office, National Assembly for Wales,
Cardiff Bay, CF99 1NA.

Submissions should arrive by 28 August 2009. It may not be possible to take into account responses received after this date.

Further information on the **legislative process** can be found at:

<http://www.assemblywales.org/bus-home/bus-legislation/bus-legislation-guidance/bus-legislation-guidance-measures.htm>

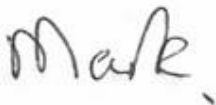
When preparing your submission, please keep the following in mind:

- your response should address the issues before the Committee. Please reference your response using the title applied above;
- please indicate whether you are responding on behalf of an organisation, or as an individual;
- the National Assembly normally makes responses to public consultation available for public scrutiny and they may also be seen and discussed by Assembly Members at Committee meetings;
- **if you do not want your response or name published, it is important that you clearly specify this in your submission and your reasons for this.** However you should be aware that it may not be given the same weight by the Committee when considering the evidence. You should also be aware that the information you have provided in your response to this consultation, including company information, may be published or disclosed in accordance with the Freedom of Information Act 2000 (FOIA);
- please indicate whether or not you would be prepared to give oral evidence to the Committee.

The Committee welcomes contributions in English and Welsh and will consider responses to the written consultation during the autumn term.

If you have any queries, please contact Anna Daniel, Committee Clerk on 029 2089 8144 or Olga Lewis, Deputy Clerk on 029 2089 8155.

Yours faithfully,



Mark Isherwood AM
Committee Chair

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Proposed Social Care Charges (Wales Measure): Consultation Questions

1. Is there a need for legislation to be made to ensure that local authorities across Wales adopt a more consistent approach to charging service users for non-residential social care services, and if so, why?
2. Are the sections of the proposed Measure appropriate in terms of reforming legislation relating to the social care charging regime? If not, how does the proposed Measure need to change?

In considering this question, consultees may wish to consider, in particular, the nature of the provisions in the proposed Measure that:

- (a) when considering what is a reasonable charge for a service, local authorities must comply with regulations to be made by Welsh Ministers which would control or set a maximum charge (**Section 2**);
 - (b) the power given to Welsh Ministers to specify in regulations which categories of person, service or combination of services are excluded from charging (**section 3**);
 - (c) the right of service users to have their means assessed and for any charge for the services to be determined in light of that assessment (**section 4**);
 - (d) the requirement on local authorities to provide information about charges and means testing (**section 5**);
 - (e) the right to request a review of charging decisions and the power given to Welsh Ministers to make regulations regarding this process (**section 6**);
 - (f) the non-residential care services to which this Measure applies (**section 7**);
3. How will the proposed Measure change what organisations do currently and what impact will such changes have, if any?
 4. What are the potential barriers to implementing the provisions of the proposed Measure (if any) and does the proposed Measure take account of them?
 5. What are the financial implications of the proposed Measure for organisations, if any? In answering this question you may wish to consider Section 2 of the Explanatory Memorandum (the Regulatory Impact Assessment), which estimates the costs and benefits of implementation of the proposed Measure.
 6. Has the appropriate balance been struck between the provisions set out in the Measure and the power delegated to Welsh Ministers to set out the detail of the revised charging arrangements in regulations, orders and statutory guidance? Are the

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procedures which would apply to these regulations appropriate (negative or affirmative)? (See Part 1, section 5 of the Explanatory Memorandum – “Power to make subordinate legislation”).

7. Are there any other comments you wish to make about specific sections of the proposed Measure?

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