



Briefing for the Public Petitions Committee

Petition Number: [PE1466](#)

Main Petitioner: William Tait

Subject: Local authority charges for non-residential services

Calls on the Parliament to urge the Scottish Government to review the implementation and regulation of local authority charges for non-residential services.

Background

The petitioner describes and highlights an apparent inconsistency in the way that local authorities charge for non-residential services. The petitioner is also concerned that there is no independent body to which appeals can be made. The petitioner states that if COSLA guidelines on charging for services, which have no legal force, were replaced by a prescriptive formula, charging for services would be more fair and consistent across Scotland.

Relevant Legislation Covering Charges for Non-residential Services

The current legislative framework for non-residential care services is the [Social Work \(Scotland\) Act 1968](#). Section 87 of that Act provides local authorities with the powers to charge for services and accommodation.

However, there was some debate during stage 2 and stage 3 scrutiny of the Self-Directed Support Bill. See, for example the Official Report from [stage 3](#) scrutiny regarding charges to carers. It considered Sub-section 5 of Section 87 which gives Scottish Ministers powers to:

“...make regulations for modifying or adjusting the rates at which payments under this section are made, where such a course appears to him to be justified, and any such regulations may provide for the waiving of any such payment in whole or in part in such circumstances as may be specified in the regulations.”

According to the [COSLA National Strategy and Guidance for Charges 2012/13](#), “there is no ‘duty’ placed on local authorities to charge for services, but they are empowered to develop and administer local charging policies”. These services include day care, aids and adaptations, laundry services, lunch clubs and alarms. Since the [Community Care and Health \(Scotland\) Act](#)

[2002](#), local authorities have not been able to charge for personal care services which includes help with dressing, washing, toileting, preparation of food and help with taking medicines. More details on what constitutes personal and nursing care can be found on the Care Information Scotland website, [here](#).

Consistency of Charging

COSLA is aware of issues around the transparency and consistency of charging information given by local authorities. However, according to its [Charging Guidance for Non-residential Social Care update for 2013/14](#), its “policy aim has been to reduce unwarranted or inexplicable variation while accepting that some local differences will be justified and appropriate” Under the section on ‘progress in delivering consistency’, they describe two mechanisms for improvement:

- An annual survey of councils in respect of thresholds, waivers and disregards used, along with information on charges levied for individual services;
- The establishment of a national benchmarking arrangement, where officials from each local authority are able to understand and compare charging policies;

As noted earlier, however, COSLA guidance has no legal force.

The Scottish Government does issue Charging for Residential Accommodation Guidance ([CRAG](#)), but none for non-residential services. CRAG refers to the regulations with regard to ‘Sums for Personal Requirements’ and ‘Assessment of Resources’¹. More information pertaining to charges relating to residential care can be found [here](#).

Scottish Government Action

With regard to centralising information on charging from local authorities, and on enforcing uniform charging across local authorities, a Scottish Government official has stated² that the rationale that allows variation in charging according to local circumstances will not be reviewed in the near future. However, a Short-Life Working Group was established in February 2013 to review social work complaints and appeals procedures, which are currently operated by local authorities³. This work follows a Scottish Government consultation that took place between December 2011 and March 2012. The report of this [consultation](#) was published in August 2012. The Group will

¹ The National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2012 (**SSI 2011 No.67**).

The National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2012 (**SSI 2011 No.68**);

² Personal communication, [date]

³ Scottish Public Services Ombudsman (2010). *What to do if you have a complaint about a council Social Work Department*. Available at: <http://www.spsso.org.uk/files/webfm/Leaflets/Social%20Work.pdf>

define available options for updating the social work complaints procedures with reference [to Article 6 of the European Convention on Human Rights](#). It will also consider the current appeals process and agree recommendations for future appeals procedures. This work will be done in the context of the Scottish Government agenda on integration of health and social care. The Group will agree a preferred option, and present proposals to Ministers in early summer 2013

Scottish Parliament Action

There have been a small number of Parliamentary Questions on issues related to those raised by the petitioner. See [here](#).

There has been no Parliamentary action relating to the specific issues raised by the petitioner.

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12 February 2013

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