



Llywodraeth Cymru
Welsh Government

GUIDANCE

Implementing the Real Living Wage for social care workers in Wales

How local authorities and health boards should implement the Real Living Wage (RLW).

Part of:

Real Living Wage for social care workers: guidance (<https://www.gov.wales/real-living-wage-social-care-workers-guidance>) and Health and social care workforce (<https://www.gov.wales/health-workforce>)

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1. Purpose

One of the key pledges in the Welsh Government's Programme for Government is to pay social care workers in Wales the RLW. The RLW is independently calculated by the Resolution Foundation and overseen by the Living Wage Commission in an annual process. The Real Living Wage rate for the UK (excluding London) announced in September 2022, is £10.90 per hour.

This guidance is intended to support a consistent approach to the continued implementation of the Welsh Government's RLW commitment, which was first introduced from 1 April 2022. It has been developed in partnership with stakeholders and encourages full transparency and collaboration between care providers and local authorities/health boards, as commissioners of services, to ensure delivery of the commitment.

Whilst the guidance supports implementation of the commitment to pay social care workers in Wales the RLW, local authorities and health boards should also take

advice, including legal and financial, in addition to this guidance, taking account of local circumstances, employment and market dynamics and engaging with providers in the spirit of **Let's agree to agree** (<https://www.costofcaretoolkit.co.uk/download>)'.

This guidance sets out a set of minimum expectations. Local authorities and health boards should not feel constrained by these if they are able to go further in their financial support for social care workers in order to boost retention or sector stability. They should however bear in mind the impact on providers who operate across borders.

2. Real Living Wage rate

The new RLW rate of £10.90 was announced in September 2022 by the Living Wage Foundation – for implementation in April 2023. The Welsh Government has worked with local authorities, through the Association of Directors of Social Services Cymru (ADSSC), and with health boards, to identify the cost of implementing this commitment at £9.90 for year 1 (financial year 2022-23) of implementation which indicated that the commitment would cost in the region of £43.2m.

Utilising the same methodology, we have calculated that the commitment for 2023 to 2024 will cost in the region of £70m. £15m is for care commissioned by health boards and will be met from the Welsh Government's health budget; funding of £55m for local authorities will be provided through the local government un-hypothecated settlement on a formula basis.

Alongside the RLW, the National Living Wage will also be increasing from 1 April 2023 from £9.50 to £10.42. Whilst this will need to be recognised in the fee rates paid to providers by commissioners, it does not form part of the funding for the RLW which is only intended to cover an uplift from National Living Wage £10.42 to £10.90.

For local authority registered workers, the RLW rate applied from 1 April each year may be considered inclusive of any subsequent public sector pay awards agreed in that year.

The ability of providers in the third and private sectors to increase pay from £9.90 to £10.90 will largely depend on the adequacy of the rates paid through commissioning and contracting arrangements. These should include on-costs and this is addressed in more detail in [section 5](#). Local authorities and health boards should seek to take reasonable steps to satisfy themselves, as part of a collaborative process with providers, that the rates paid to providers are adequate to support delivery of this commitment. The expectation is the full amount of funding provided to local authorities and health boards for implementing the RLW commitment will be passed to providers to be passed on to the workers, and it will be additional to any annual inflationary fee increases.

The costings do not currently include sick pay, sleep-ins or any other hours where there is no requirement to pay the national minimum wage. However, local authorities and health boards should be aware there may be circumstances in which providers have a legal obligation and/or maybe required to pay the RLW in order to meet their duties as an employer when a social care worker is absent from work.

3. Who is included in this commitment?

The uplift will apply to registered workers in care homes and domiciliary care (both adults and children's services) and in residential family centres. It will also apply to registered domiciliary care workers in supported living settings and to all personal assistants funded through a local authority direct payment ([see section 7](#)).

'Registered workers' in this context means those roles for which a workforce register is held by Social Care Wales and where registration has become mandatory or where action is being taken to make that register mandatory.

Domiciliary care workers starting in employment currently have twelve months from the date on which they commenced employment to register. The fact that a worker has not yet registered but will need to do so within a defined period would not exclude them from receiving the uplift.

The uplift will also apply to registered workers who work for agencies. It is recognised there are potentially more significant challenges in reaching registered social care workers that are only employed by employment agencies as they are not a directly commissioned service. Commissioners and providers should seek to

assure themselves, as far as possible, that they are procuring services from agencies who engage in fair work practices and who will pay the RLW to their eligible workers.

This commitment to uplifting pay is for registered social care workers, and the focus is very much on social care delivery professionals, where we have a clear agenda to provide improved terms and conditions and career pathways. Whilst ancillary staff undertake a very valuable role and were included in the payments during COVID-19 in recognition of the contribution they made outside of their normal duties during times of greatest pressure, they are not currently included within this commitment.

Further detail on those roles in scope and not in scope for this commitment can be found in [Annex A](#).

4. Implementation date and mechanism

Funding has been made available from April 2023 therefore the expectation is that implementation of the uplift to the RLW rate of £10.90 should commence from April 2023 and we would expect workers to feel the benefit by June 2023. As in year 1, local authorities and health boards should aim to agree and deliver the uplift figure to cover the RLW with providers at the earliest opportunity so providers can pass on the uplift to social care workers from June at the latest, as will be the worker expectation. This could help to reduce destabilisation of the market caused by providers carrying the financial burden until the funding is received and/or workers changing providers or agencies in order to receive the uplift sooner.

As in year 1, we anticipate that local authorities and health boards will build in an uplift to commissioning costs to enable the RLW to be paid. It will be important to ensure that those providers who are already paying workers the RLW are not disadvantaged.

Local authorities and health boards may need to make backdated pay awards. Employers will need to consider how to apply the awards as lump sum payments may impact welfare benefits. The option of paying backdated amounts in instalments should be made available if requested by the employee.

We recognise there may be additional financial pressure on providers in respect of non-commissioned services, services commissioned from outside Wales or any legal duties that may apply when a social care worker is absent from work ([see paragraph 2.5](#)). In the event that the uplift provided through the commissioning fee is deemed insufficient by providers to uplift salaries to the RLW for all workers in scope of this commitment, we would expect employers to discuss with the relevant commissioners or funders the importance of fair work principles as set out in [Annex B](#) of the guidance. We would also expect employers and commissioners or funders to work jointly towards a solution. Evidence may need to be provided to support this, e.g., pay scales (which show RLW as starting point of the scale).

If the action set out above does not produce a suitable resolution then for the purpose of this guidance the relevant commissioner is the host local authority in which the provider is based, unless a provider is commissioned solely by health and not the local authority in which case it is the health board in which the provider is based.

The extent to which the funding provided enables providers to fully implement the RLW for all eligible workers will also be considered as part of the proposed process evaluation ([see Section 9](#)) and will inform our approach for future years.

Local authority registered social care workers will already be subject to terms and conditions which have been determined through the National Joint Council for Local Government Services. Local authorities will need to engage with relevant trade unions regarding the uplift to salaries where this impacts on the established terms and conditions within social care or across all local authority staff. Some local authorities may also need to review employee pay scales as a consequence of paying the RLW.

5. Agreeing rates on costs, maintaining differentials and transparency

A range of different models of commissioning and procurement exist. However, a collaborative approach between commissioners and providers is essential. A commissioning process in line with the spirit of 'Let's agree to agree' that results in rates that, by mutual agreement, are fair, transparent and achieve 'buy-in' from

providers will increase the likelihood of successful delivery of the RLW commitment.

The clearest cost is the rate of pay itself, which will rise to £10.90 from 1 April 2023. In addition to this basic cost increase, a provider will accrue additional workforce statutory costs as a direct consequence of employing staff. These are generally termed 'on-costs'.

They include National Insurance contributions, employer pension contributions, travel time allowances and holiday pay. These costs will rise in direct proportion to any increase in staff pay (including an increase to the RLW). These on-costs may vary between providers, depending on pension and holiday arrangements, travel time allowances etc.

Provision for on-costs has been made in the funding for implementation of this commitment.

The costings also include a contribution towards the cost of maintaining differentials at the lower end of pay scales. This will help employers to recognise those registered workers that carry out additional duties, or that are paid above the statutory minimum because they have longer service for example.

A principle of this funding is that it should not disadvantage employers who are already paying the RLW, or that have taken steps towards this. The contribution towards maintaining pay differentials will also provide some flexibility in ensuring that those providers that have demonstrated good practice previously are not disadvantaged, not least because they may have taken money from other parts of their budgets e.g. repairs and renewals.

6. Issues for providers working in multiple local authority and health board areas

Providers working in multiple local authority and health board areas may experience particular difficulties in implementing this policy. Implementation methods and timetables will vary between authorities and health boards and some providers operate a national pay policy, and cannot offer differential pay rates to staff depending on where they are located.

Local authorities and health boards should therefore be aware that even where agreement has been reached on the uplift, the provider may not be in a position to implement an increase, or the full increase, in staff pay until it has reached similar agreements with all (or most) of the other authorities/health boards with whom it works and received the funds.

It is therefore unhelpful to apply a time-limit for providers to accept revised rates and/or price uplifts relating to the RLW. However, providers should respond to offers within a reasonable timescale and make the local authority/health board aware of issues to ensure it does not impact on the budget setting process.

Where local authorities and health boards commission services from the same provider they will need to ensure good communication and handling arrangements are in place, with evidence provided where required (e.g., a record of refusal by the commissioning authority to pay the fee), to avoid the possibility of duplication of funding or gaps in funding.

7. Direct payment recipients and personal assistants

Personal assistants, funded via a Direct Payment, will also remain in scope. The uplift for personal assistants should continue to be provided through increasing the amount of the direct payment. It should cover the uplift to the RLW and associated workforce costs including National Insurance and pension contribution on-costs.

The **Social Services and Well-being (Wales) Act 2014 Part 4 Code of Practice (Meeting Needs)** (<https://gov.wales/sites/default/files/publications/2019-05/part-4-code-of-practice-meeting-needs.pdf>) confirms that direct payments can be provided for any assessed, eligible need for care and support.

The Code requires that the value of a direct payment made is equivalent to the estimate of the reasonable cost of securing the care and support required, subject to any financial contribution or reimbursement the recipient is required to make. The value must be sufficient to enable the recipient, or their representative, to secure the care and support required to a standard the local authority considers reasonable and must include inherent costs associated with being a legal employer, or by providing sufficient financial support to purchase an adequate legal

service. Local authorities will therefore need to ensure the value of any Personal Assistant element of the direct payment remains consistent with the payment of the RLW to other social care workers such as domiciliary care workers.

The Code requires that a local authority must be satisfied before it begins to make payments that the recipient, or their representative, understands all of the conditions they will be required to meet including payment of the RLW to personal assistants.

The Code also sets out specific requirements for the review of the suitability of direct payment arrangements including financial monitoring, repayment and discontinuation of direct payments and mitigating potential risks. Local authorities should use existing review mechanisms to confirm uplifts to the direct payment are being passed on as an uplift to personal assistants' pay.

8. Monitoring

Local authorities and health boards will want to assure themselves as part of the contract management process that they are aware of, and where necessary, provided with proportionate evidence of how providers are passing on the uplift to eligible social care workers and ensuring wider fair work practices are adopted (see relevant section below). They may wish to consider the use of a provider self-declaration form to support this process. An example form is included at [Annex C](#).

As part of ongoing monitoring arrangements, Welsh Ministers will continue to ask commissioners to provide information on a quarterly basis; feedback and learning from year 1 returns has been used to support improvements and developments to these arrangements.

9. Evaluation

An independent evaluation will be commissioned to assess the effectiveness of the roll out of the RLW in year 1 and learn lessons for continuing and further implementation in the future. The initial research will involve a period of dynamic evaluation, where the lessons learned can be tested and developed with

commissioners and partners to develop processes and get full implementation right.

Following on from this will be a larger outcomes evaluation, which will consider the impact of the RLW on the workforce, which will include recruitment, retention, staff wellbeing and potential unintended consequences including impacts at geographical borders. This will run for multiple years and will need to work with commissioners, employers, and staff to gain detailed information about the effectiveness of the RLW.

The RLW for Social Care Workers Steering Group will continue to provide advice and support in developing this implementation guidance. It will also input into the design of the evaluation specification and will continue to provide ongoing oversight of implementation, responding to issues arising with a focus on delivering fairness and consistency of approach.

10. Fair work

The RLW is an important step in not only recognising the vital role of social care workers in Wales and also in addressing the increasingly challenging recruitment and retention issues and pressurised working conditions within the social care sector.

There is growing evidence that improving pay, terms and conditions for care workers benefits commissioners, employers and workers, as well as those who are receiving care and support.

However, 'fair reward' is only one characteristic of fair work, and the Social Care Fair Work Forum has drafted a 'Fair Work Principles' document ([Annex B](#)). It is calling on all social care commissioners and employers to commit to a broader set of principles, as set out by the Social Care Fair Work Forum, to ensure that the RLW implementation is successful and that social care workers are recognised as valued professionals providing a vital public service.

The evaluation of the implementation of the RLW will also consider commissioners' use and monitoring of the Fair Work Principles and the resulting impact on fair work.

Annex A

Job roles included within the Welsh Government commitment to paying social care workers the RLW

Job roles in scope for this Welsh Government commitment

- Social care workers in registered care homes (children's and adult) in a role where registration with Social Care Wales is or will be required
- Social care workers in residential family centres in a role where registration with Social Care Wales is or will be required
- Domiciliary care workers in registered domiciliary support services (including supported living services) in a role where registration with Social Care Wales is required
- Personal Assistants employed by people in receipt of a local authority direct payment

Jobs roles not in scope for this commitment

- Registered providers, regional managers and other senior staff not employed exclusively to work in the registered care home or domiciliary support service
- Other care home staff not subject to a requirement to be registered with Social Care Wales. For example; catering, cleaning and maintenance staff, finance officers, therapists, business support, trainers, reception staff and activity co-ordinators
- Other domiciliary support services staff not subject to a requirement to be registered with Social Care Wales. For example; business support staff, trainers, finance officers and schedulers
- Other social care roles not in registered care homes or domiciliary support services, whether or not individuals are registered with Social Care Wales
- Other care workers paid using direct payments from the local authority but not employed as a personal assistant by the person receiving care and support
- Staff in independent hospitals and hospices

Annex B

Fair work in social care - principles for the sector.

Sign up to fair work in social care

Implementing the RLW for social care workers is a first important step in recognising the vital role of social care workers in Wales and addressing the increasingly challenging recruitment and retention issues within the care sector.

‘Fair reward’ is only one characteristic of fair work. We call on all social care commissioners and employers to commit to a broader set of principles, as set out by the Fair Work Commission, to ensure that the RLW implementation is successful and that social care workers are recognised as valued professionals providing a vital public service.

We ask you to commit to this shared goal of improving fair work for social care workers in Wales by ensuring the following:

The implementation of the RLW achieves its objective by:

- Making sure the funding is used so that the RLW reaches the pay packets of the workers outlined. Engagement between commissioners, providers, the workforce and trade unions should clearly communicate what the uplift will mean for social care workers and confirm when they will receive it.
- Meeting a minimum expectation that existing terms and conditions of the workforce should be maintained, with no negative impact on workers, or groups of workers such as younger employees, resulting from the uplift. Employers and commissioners are encouraged to go beyond the RLW expectation where they are able.

Working together on other aspects of fair work in social care so that:

- Employees have a voice in the workplace, and that employers consider the benefits that working with recognised trade unions can bring. The sector is

encouraged to invite recognised trade unions to engage with staff on the benefits and advantages of membership.

- Staff are engaged and consulted with regards to health and safety in the workplace by, for instance, encouraging elected trade union safety representatives and establishment of health and safety committees.
- Social care workers have a clear progression pathway that befits a key public service profession. The Forum has been developing a progression framework throughout 2022 which will form part of a wider Welsh Government consultation in the summer.
- Opportunities for continuous learning, training and development are available to all social care workers through development of a 'learning culture' across the social care sector.
- Greater diversity within the social care workforce is achieved, creating more inclusive social care workplaces.

Thanks to all our commissioners and employers for supporting these commitments and in doing so, improving the terms and conditions for care workers.

Annex C

Implementing the RLW for social care workers in Wales: [provider self-declaration form](https://gov.wales/provider-self-declaration-form) (<https://gov.wales/provider-self-declaration-form>).