

STATES OF JERSEY



DRAFT LONG-TERM CARE (STATES CONTRIBUTION) (JERSEY) REGULATIONS 201- (P.140/2013) – ADDENDUM

**Presented to the States on 3rd December 2013
by the Minister for Social Security**

STATES GREFFE

ADDENDUM TO P.140/2013

1. Summary

P.99/2013 – Long-Term Care Scheme and P.140/2013 – Draft Long-Term Care (States Contribution) (Jersey) Regulations 201- propose an annual contribution from the Consolidated Fund into the Long-Term Care Fund from 2016 onwards. This report supplements the information provided in P.99/2013 and provides additional detail as to the calculations that make up that annual contribution, the corresponding budget adjustments that will be applied to Health and Social Services (HSSD) and Social Security (SSD) in the next MTFP period and the transitional payments that the two Departments will make into the LTC Fund during the current MTFP in 2014 and 2015.

Separately, this report also provides details of the additional amounts that will be paid into the Long-Term Care Fund by SSD in 2013 – 2015 to compensate for the proposed delay in the introduction of long-term care contributions. Instead of collecting contributions from 1st January 2014 at 1%, it is now proposed to start making collections in January 2015 at 0.5% with 1% contributions starting from January 2016. Subject to States approval of these rates, one-off payments will be made from existing Social Security allocations during the current MTFP.

2. Calculation of States contribution – 2016 onwards

As set out in section 13 of the report accompanying P.99/2013, both HSSD and SSD currently provide funding for long-term care costs; and HSSD also provides long-term care services directly as a care provider. The introduction of the new Long-Term Care (LTC) Fund will change the way in which these costs are met, and the departmental budgets in the next Medium Term Financial Plan (MTFP) will be adjusted to take account of these changes.

As detailed in P.140/2013, from 2016 onwards, an annual States Contribution will be paid into the LTC Fund from the Consolidated Fund. The contribution for 2016 will be set according to the impact on the existing budgets held by both HSSD and SSD as assessed during 2014. This will enable the amount of the States' contribution to be known in time to be included in the next MTFP.

3. Benefits to be provided by the LTC Fund

The LTC Fund will provide universal benefits and means-tested support for eligible adults who are assessed as having permanent long-term care needs above a minimum level and are receiving approved services in Jersey from an approved provider. The LTC Fund will support care costs with a range of benefit rates up to a specified maximum weekly value.

Under the LTC Law, the Minister for Social Security will be responsible for –

- Setting the minimum level of care needs that are supported under the LTC scheme
- Setting the minimum and maximum benefit rates payable under the LTC scheme

- Maintaining a list of approved care homes
- Detailing the assessment criteria in respect of individual care needs.

These details will be provided in Ministerial Orders.

The proposed universal LTC benefit will include a number of weekly rates based on separate care levels, reflecting the varying long-term care needs of individuals. These needs will be assessed by a registered healthcare professional to confirm eligibility for the long-term care scheme, and to identify the appropriate LTC benefit rate. The minimum level of care needs to qualify for the LTC scheme will be set as if an individual was appropriately placed in a registered residential care home. The LTC scheme will be available to people living in care homes and to people receiving care in their own home. Current legislation in respect of private care home registration is maintained by the Minister for Health and Social Services. Following the implementation of a new Regulation of Care Law (due in 2016) all care homes, including HSSD homes, will be registered and domiciliary agencies will also be regulated.

LTC care assessments to be undertaken under the auspices of the LTC Fund will be controlled through an agency agreement between SSD and HSSD, and HSSD will undertake the assessment function on behalf of SSD. Assessments will be recorded using specialist software maintained by HSSD and will be subject to regular internal quality control and external audit. The Minister for Social Security will maintain a list of healthcare professionals who have been approved to undertake care assessments. A detailed agency agreement will govern the relationship between the two departments.

Table 1 shows indicative weekly LTC benefit rates (2013 prices) based on existing Income Support rates. Actual benefit rates to be used from July 2014 will be approved by the Minister for Social Security early next year.

<i>Care Level</i>	<i>Universal LTC benefit</i>	<i>Minimum co-payment</i>	<i>Minimum gross fee</i>
1	£340	£300	£640
2	£520	£300	£820
3	£670	£300	£970
4	£940	£300	£1,240

Table 1: Indicative LTC benefit rates (2013 prices)

Care levels 1 and 2 cover “residential” care needs. Individuals require significant help with personal care throughout the day. This could include activities such as washing, dressing and eating. The help needed could be physical – the person is not mobile enough to wash themselves, or it could be supervision – the person is physically able to undertake the activity, but lacks awareness of their situation or needs frequent psychological support to perform these activities, due to a mental or cognitive condition or disability. Care level 2 is paid at a higher level to reflect a higher intensity of assistance required with these issues.

Care levels 3 and 4 mainly cover “nursing” care needs. In addition to assistance with personal care needs (as for levels 1 and 2), individuals also need the regular input of a qualified nurse to address their nursing care needs – for example, multiple combinations of activities such as administering injections, managing pressure sores,

catheterizations, or monitoring medical needs that fluctuate, or to provide frequent reassurance, reorientation and psychological support. Care level 4 is paid at a higher level to reflect a higher intensity of assistance required with these issues. Some individuals who do not need nursing care but do have very high personal care needs will also qualify for these two levels.

It is proposed to create a number of additional LTC benefit rates to reflect the various types of specialist care provision available locally, in particular for people below 65 years of age.

4. HSSD existing budget and the impact of the LTC Scheme

HSSD currently supports adults with long-term care needs, both through services directly provided by HSSD, including Sandybrook, The Limes, and a number of other services and group homes, as well as purchasing care packages from other care providers. A significant proportion of these costs will in the future be met through the payment of benefits from the LTC Fund. The LTC Fund will only pay benefits in respect of the care of adults (aged 18 and above). HSSD will continue to support the long-term care needs of children from within its cash limit.

This diagram identifies the areas where responsibility for existing HSSD funding will be allocated as a payment to the LTC Fund, and those where it will remain with HSSD. The outer rectangle represents all 18 and over LTC costs that are currently met by HSSD. The inner shaded rectangle identifies those services/costs that will in future be met through benefits and co-payments under the LTC scheme. The 4 outer areas represent residual services/costs that HSSD will continue to support.

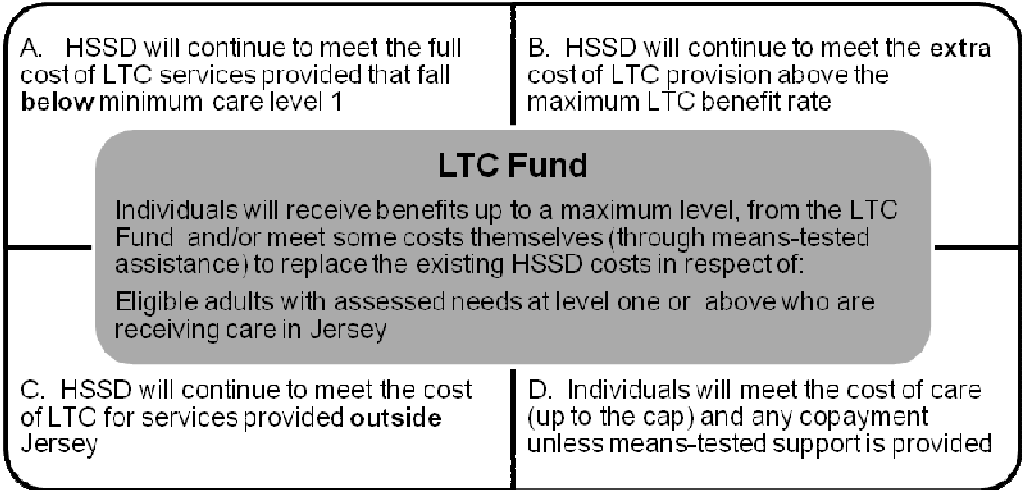


Figure 1: HSSD LTC Funding

The services currently provided by HSSD in the inner shaded rectangle fall into 2 main categories: supporting the cost of care purchased in the private/voluntary sector and providing services directly. The introduction of the LTC Fund will lead to both a reduction in expenditure and an increase in income for HSSD.

5. Reduction in HSSD expenditure

HSSD currently uses part of its budget to purchase external nursing beds and provide additional payments in respect of some external residential care and under-65 placements. HSSD will no longer be involved in funding standard care costs for claimants cared for by other providers – these individuals will receive support for their standard care costs through the LTC scheme. Excluding Les Amis, there are about 156 individuals currently receiving support from HSSD through external providers.

- The budgetary value to be allocated by HSSD as a payment to the LTCF in 2014 (6 months): £1.9 million
- The budgetary value to be allocated by HSSD as a payment to the LTCF in 2015: £3.9 million.

6. Increase in HSSD income

HSSD currently supports adults with long-term care needs at Sandybrook, The Limes, and a number of group homes. In this case, the cost of the service is not affected by introduction of the LTC scheme. However, the income received by HSSD will increase as the standard charges levied under the new Long-Term Care (Health and Social Services Charges) (Jersey) Law 201- come in line with the standard benefit rates payable under the Long-Term Care Law. At present, HSSD is only able to levy a fixed charge of £474 per week, regardless of the income or assets of the individual receiving care or the value of the care provided. No charge at all is levied on individuals under the age of 65. The cost of most care packages provided in HSS care homes is well in excess of £1,000 per week. Under the proposed Long-Term Care (Health and Social Services Charges) (Jersey) Law 201-, HSSD will be able to make charges that reflect the care provided, up to the maximum benefit rate set under the LTC scheme. The value of the payment into the LTC Fund will be set equal to the reduction in the HSSD net budget which is equivalent to the increase in its income.

The calculation of the payment amount in 2014 and 2015 will take account of each person cared for in a HSSD home, and the difference between the income HSSD would have received under the current legislation, and the income that will be received under the proposed legislation. HSSD will make interim payments to the LTC Fund during the year, and an adjustment will be calculated at the end of each period to reflect the exact number of people cared for in HSSD homes over the period and the level of their individual care needs.

HSS is currently supporting approximately 156 adults in HSSD-run homes, wards, and services.

- The estimated budgetary value to be allocated by HSSD as a payment to the LTCF in 2014 (6 months): £2.8 million¹
- The estimated budgetary value to be allocated by HSSD as a payment to the LTCF in 2015: £5.9 million¹.

¹ Based on 90% occupancy levels and a range of assessed levels of care need in the budget used to run facilities provided directly by HSSD to eligible LTC claimants.

These payment amounts are estimates, as actual payments will be determined based on actual income received during each year.

In both cases the transfers made in 2014 will be used in the calculation of the States' contribution for 2016.

7. HSSD budget retained

The outer areas of the diagram represent services and costs that HSSD will continue to meet directly. HSSD will continue to fund –

- A. The provision of services for eligible adults who have **care needs below the minimum** required to qualify for the LTC scheme. These adults will not be eligible for the LTC benefit as their long-term care needs are below the minimum level set in the LTC Law. HSSD is currently supporting approximately 565 individuals in relation to low-cost care in the home, including respite needs and day care services. These services are estimated to cost £1.4 million in the second half of 2014 and £2.9 million in 2015.
- B. The **additional costs above the maximum** benefit rates paid by the LTC Fund for eligible adults who have very high care packages provided in Jersey; note that these adults will also be receiving the maximum available under the LTC scheme and will have their additional costs met directly by HSSD. HSSD currently supports approximately 56 individuals in HSSD retained long-term care services whose care needs currently exceed the maximum benefit level. This additional support is estimated to cost £1.3 million in the second half of 2014 and £2.7 million in 2015
- C. In some **ineligible cases**, it is impossible to provide the specialist care that an individual needs in Jersey, and HSSD will support the cost of a specialist placement outside Jersey. HSSD will also continue to support the care costs of individuals who are detained under the Mental Health Law. Finally, in very exceptional circumstances, HSSD may provide care to an individual who does not meet the usual residency test. Funding for these wholly exceptional cases will continue to be considered by both the Ministers for Health and Social Services and Social Security on a case by case basis, as now.

In total, HSSD currently supports 25 individuals within these services. These services are estimated to cost £1.3 million in the second half of 2014 and £2.6 million in 2015.

In total –

- The estimated budgetary value retained by HSSD in 2014 (6 months): £4.0 million
- The estimated budgetary value retained by HSSD in 2015: £8.2 million.

In addition, as a transitional measure, HSSD will continue to support local charitable homes through grants/Service Level Agreements during the current MTFP at a total cost of £0.7 million in 2014 (6 months) and £1.3 million in 2015.

In summary, as agreed with the Minister for Health and Social Services and the Minister for Treasury and Resources –

- The estimated HSSD budgetary value to be allocated as a payment into the LTC Fund in 2014 (6 months): £4.7 million.
- The estimated HSSD budgetary value to be allocated as a payment into the LTC Fund in 2015: £9.8 million.

8. SSD existing budget and impact of the LTC Scheme

SSD holds a budget (within the overall Income Support budget) in respect of means-tested support for individuals with long-term care needs who are currently unable to meet the full cost of their care fees. To qualify for this support, claimants need at least 5 years' residence. However, the great majority of these claimants have been resident in Jersey for at least 10 years, and so will become eligible for means-tested support from the LTC Fund next year. A small portion of the existing budget will not be allocated as a payment into the LTC Fund, and will be retained to continue to support those individuals who do not meet the residence requirements for the LTC scheme although they do satisfy the income support residence test (see **Appendix A**). An analysis of existing claims suggests that approximately 10% do not satisfy the LTC residency test.

The future benefit cost for most of these claimants will be very similar to the existing means-tested scheme. However, there will be additional costs in respect of individuals receiving nursing care in a HSSD care home. SSD currently only supports the cost of the standard HSSD long-stay charge, and HSSD meets the remainder of the care costs. With the replacement of the Hospital Charges (Long-Stay Patients) (Jersey) Law 1999, individuals in HSSD beds will be charged and means-tested at the appropriate LTC benefit rate plus the minimum co-payment, which will result in a higher benefit cost.

It is proposed to retain 10% of this budget to fund future IS claims. Note that the budget for 2014 and 2015 includes growth at RPI, as provided for in the MTFP on the assumption that the LTC scheme would be in effect in 2014.

9. SSD budget allocated to create payments into the LTC Fund

The total amount of budget to be allocated as payments into the LTC Fund is made up of –

- 90% of 6 months of the budget for 2014 (£8.7 million); and
- 90% of the budget for 2015 (£18.1 million).

The transfer made in 2014 will be used in the calculation of the States' contribution for 2016.

10. SSD budget retained

The total amount of the existing budget not to be allocated as payments into the LTC Fund is made up of –

- 10% of 6 months of the budget for 2014 (£1.0 million); and
- 10% of the budget for 2015 (£2.0 million).

<p>In summary, as agreed with the Minister for Social Security and the Minister for Treasury and Resources –</p>

- | |
|---|
| <ul style="list-style-type: none">• The SSD budgetary value to be allocated as a payment into the LTC Fund in 2014: £8.7 million• The SSD budgetary value to be allocated as a payment into the LTC Fund in 2015: £18.1 million. |
|---|

11. Other SSD budget underspend allocated to create payments into the LTC Fund

Until the LTC contribution rate is set at 1% in 2016, additional payments into the LTC Fund will be needed to ensure that the LTC scheme can operate.

Based on 2011 tax data, a 1% LTC contribution is estimated to yield £15.3 million in 2011 prices.

As such, taking into account changes proposed in the budget (P.122/2013) and RPI/Average Earnings, it is estimated that 1% in 2014 would yield £16.3 million and £16.9 million in 2015. With LTC contributions starting at 0.5% in 2015, this equates to a loss of income into the LTC Fund over the first 2 years of £24.7 million.

Due to the level of provision for the costs of the recession within tax-funded benefit budgets and actual costs being lower than originally anticipated, the Medium Term Financial Plan includes funding for the Social Security Department in 2013, 2014 and 2015, which is unlikely to be spent fully. These surplus budgetary amounts will be released to create payments into the LTC Fund to maintain the viability of the LTC scheme until 2016.

These amounts are only provided as an indication of the likely amounts available.

They cannot be confirmed until the end of each year, when actual expenditure has been calculated.

As agreed with the Minister for Social Security and the Minister for Treasury and Resources –

- The estimated SSD budgetary value to be allocated as a payment to the LTCF in 2013: £11.7 million
- The estimated SSD budgetary value to be allocated as a payment to the LTCF in 2014: £9.0 million
- The estimated SSD budgetary value to be allocated as a payment to the LTCF in 2015: £6.4 million.

12. Overview

The following summarises the total estimated amounts to be allocated as payments into the LTC Fund –

Details	2013	2014	2015
	£m	£m	£m
HSSD budget allocated to create payments into the LTC Fund	–	£4.7	£9.8
SSD budget allocated to create payments into the LTC Fund	–	£8.7	£18.1
Sub-Total HSSD and SSD budgets allocated to create payments into the LTC Fund	–	£13.4	£27.9
SSD budget underspend allocated to create payments into the LTC Fund	£11.7	£9.0	£6.4
Grand Total – HSSD and SSD budgets allocated to create payments into the LTC Fund	£11.7	£22.4	£34.3

Table 2: HSSD and SSD departmental budgets allocated to create payments into the LTC Fund in 2013-2015

13. Conclusion

One of the aims of the long-term care scheme is to reduce the pressure on tax-funded budgets as the number of older people needing care increases in the coming years. This will be achieved by substantially reducing the long-term care costs currently included in the tax-funded budgets of HSSD and SSD at the end of the current MTFP, and replacing this funding with a single States Contribution. For 2016 and future years, the total amount of the States' Contribution will be maintained in real terms, with the annual amount adjusted in line with the change in the RPI. This index will be taken from the March figure the year before the start of each MTFP, to allow the full cost of the States' Contribution to be calculated for each year of that MTFP period.

Care costs are predicted to increase faster than RPI, as both the number of people receiving care and the unit cost of care increase. The Long-Term Care Fund will bear these additional costs in future years, removing the pressure on tax-funded budgets to meet this growing expenditure.

APPENDIX A

Residence tests

LTC Scheme	<p>Ordinary residence in Jersey:</p> <ul style="list-style-type: none"> • either for 10 years immediately before applying; or • for 10 years as an adult in the past and for another year immediately before applying.
SSD – Income Support Residential Care Scheme	<p>Ordinary residence in Jersey without any breaks for:</p> <ul style="list-style-type: none"> • the past 5 years immediately before the date that you claim Income Support; or • at least 5 years at a time in the past, moving away (for less than five years) and then living in Jersey continuously for longer than the period spent away; or • at least 10 years at any time in the past, without any breaks; or • Jersey-born adults only – ordinary residence in Jersey for a total of at least 10 years at any time in the past. The 10 years can be made up of a number of separate periods living in Jersey, with gaps in between; or • adult child of a parent with ‘entitled’ residential status – ordinary residence in Jersey for a total of at least 10 years at any time in the past (you must have moved to Jersey before the age of 20 and your parent must have ‘entitled’ status under the Control of Housing and Work (Jersey) Law 2012. The 10 years can be made up of a number of separate periods living in Jersey, with gaps in between.
HSSD	<p>Ordinary residence in Jersey for 5 years before applying.</p>

Table 3: residence conditions

Analysis of existing HSSD and SSD long-term care budgets

SSD budget	2014 (6 months) £m		2015 £m	
	Pay into LTC Fund	Retain	Pay into LTC Fund	Retain
ISRC budget (90%)	8.7		18.1	
ISRC budget (10%)		1.0		2.0

Table 4: SSD budgets long-term care budgets 2014 – 2015

HSSD budget	2014 (6 months) £m		2015 £m	
	Pay into LTC Fund	Retain in HSSD	Pay into LTC Fund	Retain in HSSD
Purchase LTC care from external providers in Jersey	1.9		3.9	
Providing care through HSSD facilities (level 1 to level 4) (Net cost)	2.8		5.9	
Provide care through HSSD facilities (cost above level 4)		1.3		2.7
Provide grants to local charities providing LTC		0.7		1.3
Provide low-level care support (below level 1)		1.4		2.9
Provide specialist LTC care (off-Island, detained persons, etc.)		1.3		2.6
Total	4.7	4.7	9.8	9.5

Table 5: HSSD long-term care budgets 2014 – 2015

Note:

Within P.99/2013, an existing LTC spend of £31 million (in 2013) is quoted across the 2 departments, made up of approximately £17 million in the SSD budget and £14 million in the HSSD budget. The sum of £14 million for HSSD excluded the cost of a number of LTC services which both departments agreed, at an early stage, would not be included in the LTC scheme (for example, the cost of off-Island placements). This paper includes those costs for completeness, with the result that the gross spend for HSSD shown in this Table (£18.8 million 2014; £19.3 million 2015) is higher than, and not directly comparable with, the £14 million figure alluded to in P.99/2013.