



WELSH STATUTORY
INSTRUMENTS

2011 Rhif 831 (Cy.125)

**GWASANETHAU
CYMDEITHASOL, CYMRU**

Rheoliadau Gofal Cymunedol,
Gwasanaethau ar gyfer Gofalwyr a
Gwasanaethau Plant (Taliadau
Uniongyrchol) (Cymru) 2011

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn darparu ar gyfer gwneud taliadau uniongyrchol er mwyn i berson sicrhau darpariaeth o rai gwasanaethau gofal cymdeithasol. Wrth wneud hynny, maent yn dirymu ac yn disodli Rheoliadau Gofal Cymunedol, Gwasanaethau ar gyfer Gofalwyr a Gwasanaethau Plant (Taliadau Uniongyrchol) (Cymru) 2004.

Y gwasanaethau dan sylw yw'r rheini y byddid yn eu darparu o dan y deddfiadau gofal cymunedol a grybwyllir yn adran 46(3) o Ddeddf y Gwasanaeth Iechyd Gwladol a Gofal Cymunedol 1990, i ofalwyr o dan adran 2 o Ddeddf Gofalwyr a Phlant Anabl 2000 neu wasanaethau o dan adran 17 o Ddeddf Plant 1989 (darparu gwasanaethau i blant mewn angen, eu teuluoedd ac eraill).

Mae rheoliadau 3, 4 a 5 yn rhagnodi disgrifiadau o bersonau y caniateir iddynt gael taliadau uniongyrchol.

Mae rheoliad 6 yn rhagnodi personau y caniateir iddynt weithredu fel cynrychiolwyr i bersonau sydd heb alluedd i gydsynio â gwneud taliadau uniongyrchol, o fewn yr ystyr a roddir i "persons lacking capacity" yn Neddf Galluedd Meddyliol 2005.

Mae rheoliad 7 yn rhagnodi'r pwerau y mae'n rhaid i ddirprwy neu dderbyniwr eu cael er mwyn gweithredu ar ran person heb alluedd.

Mae rheoliad 8 yn pennu'r amgylchiadau pan fo rhaid, neu pan ganiateir, i awdurdod cyfrifol

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SOCIAL SERVICES, WALES

The Community Care, Services for
Carers and Children's Services
(Direct Payments) (Wales)
Regulations 2011

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the making of direct payments in respect of a person securing the provision of certain social care services. In doing so they revoke and replace the Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2004.

The services in question are those which would be provided under the community care enactments mentioned in section 46(3) of the National Health Service and Community Care Act 1990, to carers under section 2 of the Carers and Disabled Children Act 2000 or services under section 17 of the Children Act 1989 (provision of services for children in need, their families and others).

Regulations 3, 4 and 5 prescribe the descriptions of persons who may receive direct payments.

Regulation 6 prescribes persons who may act as representatives of persons lacking the capacity to consent to the making of direct payments within the meaning of the Mental Capacity Act 2005 ("persons lacking capacity").

Regulation 7 prescribes powers which a depute or donee must have in order to be a surrogate of a person lacking capacity.

Regulation 8 sets out the circumstances where a responsible authority ("an authority") must, or may,

("awdurdod") wneud taliadau uniongyrchol i bersonau sydd â galluedd i gydsynio â gwneud taliad uniongyrchol.

Mae rheoliad 9 yn pennu'r amgylchiadau pan fo rhaid, neu pan ganiateir, i awdurdod wneud taliadau uniongyrchol i bersonau heb alluedd.

Mae rheoliadau 10 ac 11 yn gwneud darpariaeth ynglŷn â swm taliadau uniongyrchol ac ynglŷn â'u talu i bersonau sydd â galluedd i gydsynio ac i bersonau sydd heb alluoedd, yn eu trefn. Rhaid i daliadau uniongyrchol fod naill ai'n daliadau gros neu'n daliadau net o ba bynnag swm yn penderfynar awdurdod sy'n ddyledus fel cyfraniad gan y person mewn perthynas â'r gwasanaeth. Mewn rhai achosion, taliad gros yn unig a ganiateir. Yn achos taliadau uniongyrchol i bersonau sydd â galluedd i gydsynio, ceir gwneud taliad naill ai i'r person rhagnodedig neu i ba bynnag berson arall a enwebir gan y person hwnnw. Maent yn pennu'r amgylchiadau pan fo'n ofynnol i awdurdod benderfynu modd person yn unol â Rheoliadau Ffioedd Gofal Cymdeithasol (Taliadau Uniongyrchol) (Asesu Modd a Phenderfynu ar Ad-daliad neu Gyfraniad) (Cymru) 2011.

Mae rheoliadau 12 a 13 yn pennu amodau y mae'n rhaid, neu y caniateir, eu gosod ynglŷn â thaliadau uniongyrchol i bersonau sydd â galluedd i gydsynio neu i bersonau heb alluoedd, yn eu trefn. Yn benodol, gwaherddir defnyddio taliad uniongyrchol i sicrhau gwasanaeth gan bersonau penodol, ac eithrio mewn amgylchiadau penodedig.

Mae rheoliad 14 yn pennu'r cyfnodau hwyaf o lety preswyl y caniateir eu sicrhau gan ddefnyddio taliad uniongyrchol a'r amgylchiadau pan na chaniateir defnyddio taliad uniongyrchol i sicrhau llety o'r fath.

Mae rheoliad 15 yn darparu bod awdurdod, pan yw'n gwneud taliad uniongyrchol, yn cadw ei swyddogaethau mewn perthynas â darparu'r gwasanaeth. Mae'n darparu hefyd nad yw awdurdod o dan unrhyw rwymedigaeth mewn perthynas â darparu'r gwasanaeth, ar yr amod y bodlonir ef y bydd anghenion y person yn cael eu diwallu gan y trefniadau a wneir gan y person ei hunan.

Mae rheoliad 16 yn pennu'r amgylchiadau pan gaiff awdurdod wneud yn ofynnol bod taliad uniongyrchol yn cael ei ad-dalu.

Mae rheoliad 17 yn darparu ar gyfer adolygu'r trefniant taliadau uniongyrchol gan yr awdurdod mewn rhai amgylchiadau.

Mae rheoliadau 18 a 19 yn darparu ar gyfer yr amgylchiadau pan fo rhaid, neu pan ganiateir, i awdurdod roi'r gorau i wneud taliadau uniongyrchol i bersonau sydd â galluedd i gydsynio ac i bersonau sydd heb alluoedd, yn eu trefn.

Mae rheoliad 20 ac Atodlen 3 yn darparu ar gyfer dirymu rheoliadau penodedig.

make direct payments to persons who have the capacity to consent to the making of a direct payment.

Regulation 9 sets out the circumstances where an authority must, or may, make direct payments to persons lacking capacity.

Regulations 10 and 11 make provision as to the amount and payment of direct payments to persons who have the capacity to consent and to persons lacking capacity respectively. Direct payments must be made either gross or net of such amount determined by the authority as being due to be contributed by the person in respect of the service. In certain cases a payment may only be made gross. In the case of direct payments to persons who have the capacity to consent, a payment may be made to the prescribed person or to such other person nominated by that person. They specify the circumstances in which an authority is required to determine a person's means in accordance with the Social Care Charges (Direct Payments) (Means Assessment and Determination of Reimbursement or Contribution) (Wales) Regulations 2011.

Regulations 12 and 13 specify conditions which must or may be imposed in respect of direct payments to persons with the capacity to consent and to persons lacking capacity respectively. In particular they prohibit a direct payment from being used to secure a service from certain persons, except in specified circumstances.

Regulation 14 sets out the maximum periods of residential accommodation which may be secured by means of a direct payment and the circumstances in which a direct payment may not be used to secure such accommodation.

Regulation 15 provides that where an authority makes a direct payment it retains the functions as respects the provision of the service. It also provides that an authority is not under any obligation with respect to the provision of the service provided if it is satisfied that the needs of the person will be secured by their own arrangements.

Regulation 16 sets out the circumstances where an authority may require a direct payment to be repaid.

Regulation 17 provides for the authority to review the making of direct payments in certain circumstances.

Regulations 18 and 19 provide for the circumstances where an authority must, or may, stop making direct payments to persons who have the capacity to consent and to persons lacking capacity respectively.

Regulation 20 and Schedule 3 make provision for the revocation of specified regulations.

2011 Rhif 831 (Cy.125)

**GWASANETHAU
CYMDEITHASOL, CYMRU**

Rheoliadau Gofal Cymunedol,
Gwasanaethau ar gyfer Gofalwyr a
Gwasanaethau Plant (Taliadau
Uniongyrchol) (Cymru) 2011

Gwnaed 16 Mawrth 2011

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 18 Mawrth 2011

Yn dod i rym 11 Ebrill 2011

Mae Gweinidogion Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddir gan adrannau 57(1), (1A) (3), (5B), (5C), (6), (7) a (7B) a 64(4A), (6) ac (8) o Ddeddf Iechyd a Gofal Cymdeithasol 2001(1) ac adrannau 17A(1), (3) a (4) a 104(4) a 104A o Ddeddf Plant 1989(2).

Enwi, cychwyn a chymhwyso

1.–(1) Enw'r Rheoliadau hyn yw Rheoliadau Gofal Cymunedol, Gwasanaethau ar gyfer Gofalwyr a Gwasanaethau Plant (Taliadau Uniongyrchol) (Cymru) 2011 a deuant i rym ar 11 Ebrill 2011.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(1) 2001 p.15 ("y Ddeddf"). Diwygiwyd adran 57 o'r Ddeddf gan adran 146 o Ddeddf Iechyd a Gofal Cymdeithasol 2008 (p.14) ("Deddf 2008"). Mewnosodwyd adrannau 57(1A), (5B) a (5C) o'r Ddeddf gan adran 146(2) a (6) o Ddeddf 2008 a mewnosodwyd adran 57(7B) gan adran 16 o Fesur Codi Ffioedd am Wasanaethau Cymdeithasol (Cymru) 2010 (mccc 2). *Gweler* adran 57(8) o'r Ddeddf am y diffiniad o "prescribed" ac adran 66 am y diffiniadau o "regulations" a "the relevant authority". Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru o dan y Ddeddf i Weiniogion Cymru yn unol â pharagraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

(2) 1989 p.41. Amnewidiwyd 17A gan adran 58 o'r Ddeddf, a diwygiwyd hi gan baragraff 3 o Atodlen 3 i Ddeddf Plant a Phobl Ifanc 2008 (p.23) ("DPPHI"). Diwygiwyd adran 104 gan baragraff 25 o Atodlen 3 i DPPHI a mewnosodwyd adran 104A gan baragraff 26 o Atodlen 3 i DPPHI. *Gweler* adran 17A(6) am y diffiniad o "prescribed" ac adran 30A (fel y'i mewnosodwyd gan baragraff 22 o Atodlen 3 i DPPHI) am y diffiniad o "appropriate national authority".

2011 No. 831 (W.125)

SOCIAL SERVICES, WALES

The Community Care, Services for
Carers and Children's Services
(Direct Payments) (Wales)
Regulations 2011

Made 16 March 2011

*Laid before the National
Assembly for Wales* 18 March 2011

Coming into force 11 April 2011

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 57(1), (1A) (3), (5B), (5C), (6), (7) and (7B) and 64(4A), (6) and (8) of the Health and Social Care Act 2001(1) and sections 17A(1), (3) and (4) and 104(4) and 104A of the Children Act 1989(2).

Title, commencement and application

1.–(1) The title of these Regulations is the Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2011 and they come into force on 11 April 2011.

(2) These Regulations apply in relation to Wales.

(1) 2001 c.15 ("the Act"). Section 57 of the Act was amended by section 146 of the Health and Social Care Act 2008 (c.14) ("the 2008 Act"). Sections 57(1A), (5B) and (5C) of the Act were inserted by section 146(2) and (6) of the 2008 Act and section 57(7B) was inserted by section 16 of the Social Care Charges (Wales) Measure 2010 (nawm 2). *See* section 57(8) of the Act for the definition of "prescribed" and section 66 for the definitions of "regulations" and "the relevant authority". The functions of the National Assembly for Wales under the Act were transferred to the Welsh Ministers in accordance with paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

(2) 1989 c.41. Section 17A was substituted by section 58 of the Act, and amended by paragraph 3 of Schedule 3 to the Children and Young Persons Act 2008 (c.23) ("the CYPA"). Section 104 was amended by paragraph 25 of Schedule 3 to the CYPA and section 104A was inserted by paragraph 26 of Schedule 3 to the CYPA. *See* section 17A(6) for the definition of "prescribed" and section 30A (as inserted by paragraph 22 of Schedule 3 to the CYPA) for the definition of "appropriate national authority".

Dehongli

2. Yn y Rheoliadau hyn—

ystyr "Deddf 1983" ("*the 1983 Act*") yw Deddf Iechyd Meddwl 1983(1);

ystyr "Deddf 1989" ("*the 1989 Act*") yw Deddf Plant 1989;

ystyr "Deddf 1990" ("*the 1990 Act*") yw Deddf y Gwasanaeth Iechyd Gwladol a Gofal Cymunedol 1990(2);

"ystyr "Deddf 2001" ("*the 2001 Act*") yw Deddf Iechyd a Gofal Cymdeithasol 2001;

ystyr "gwasanaeth perthnasol" ("*relevant service*") yw—

(a) yn achos taliadau uniongyrchol o dan adran 57(1) o Ddeddf 2001 neu adran 17A(1) o Ddeddf 1989—

(i) gwasanaeth gofal cymunedol o fewn yr ystyr a roddir i "community care service" gan adran 46 o Ddeddf 1990(3),

(ii) gwasanaeth o dan adran 2 o Ddeddf Gofalwyr a Phlant Anabl 2000 (gwasanaethau ar gyfer gofalwyr)(4), neu

(iii) gwasanaeth y caiff yr awdurdod cyfrifol(5) ei ddarparu drwy arfer swyddogaethau o dan adran 17 o Ddeddf 1989(6) (darparu gwasanaethau i blant mewn angen, eu teuluoedd ac eraill); neu

(b) yn achos taliadau uniongyrchol o dan adran 57(1A) o Ddeddf 2001, gwasanaeth gofal cymunedol o fewn yr ystyr a roddir i "community care service" gan adran 46 o Ddeddf 1990;

(1) 1983 p.20.

(2) 1990 p.19.

(3) Diwygiwyd adran 46 gan baragraff 14 o Atodlen 10 i Ddeddf Llywodraeth Leol (Cymru) 1994 (p.19) a chan baragraffau 128 a 129 o Atodlen 1 i Ddeddf y Gwasanaeth Iechyd Gwladol (Darpariaethau Canlyniadol) 2006 (p.43).

(4) 2000 p.16.

(5) *Gweler* adran 17A(2) o Ddeddf Plant 1989 (p.41) am y diffiniad o "awdurdod cyfrifol".

(6) Diwygiwyd adran 17 gan adran 7(1) a (2) o Ddeddf Plant (Ymadael â Gofal) 2000 (p.35), gan baragraffau 15 a 16 o Atodlen 3 i Ddeddf Credydau Treth 2002 (p.21), gan adran 116(1) o Ddeddf Mabwysiadu a Phlant 2002 (p.38), gan adran 53(1) o Ddeddf Plant 2004 (p.31), gan baragraff 6 o Atodlen 3 i Ddeddf Diwygio Lles 2007 (c.5), gan adran 24 o Ddeddf plant a Phobl Ifanc 2008 (p.23) a chan baragraff 1 o Atodlen 1, paragraffau 1 a 2 o Atodlen 3 a chan Atodlen 4 i'r Ddeddf honno.

Interpretation

2. In these Regulations—

"the 1983 Act" ("*Deddf 1983*") means the Mental Health Act 1983(1);

"the 1989 Act" ("*Deddf 1989*") means the Children Act 1989;

"the 1990 Act" ("*Deddf 1990*") means the National Health Service and Community Care Act 1990(2);

"the 2001 Act" ("*Deddf 2001*") means the Health and Social Care Act 2001;

"chargeable service" ("*gwasanaeth y caniateir codi ffioedd amdano*") has the meaning set out in section 13 of the Social Care Charges (Wales) Measure 2010(3);

"direct payment" ("*taliad uniongyrchol*") has the meaning given in regulation 8 or 9;

"prescribed person" ("*person rhagnodedig*") means a person falling within the description prescribed by regulation 3 or 5 who falls within section 57(2) of the 2001 Act or section 17A(2) of the 1989 Act;

"P" means a person falling within the description prescribed by regulation 4 who falls within subsection (2)(a) of section 57 of the 2001 Act and subsection (5A)(4) of that section or is reasonably believed by the responsible authority(5) to fall within that subsection;

"relevant service" ("*gwasanaeth perthnasol*") means —

(a) in the case of direct payments under section 57(1) of the 2001 Act or section 17A(1) of the 1989 Act—

(1) 1983 c.20.

(2) 1990 c.19.

(3) 2010 nawm 2. Section 13(2) contains the list of chargeable services which are —

(a) a service provided under section 29 of the National Assistance Act 1948 (c.29) unless the service is one for which payment may be required under section 22 or 26 of that Act;

(b) a service provided under section 45(1) of the Health Services and Public Health Act 1968 (c.46);

(c) a service provided under Schedule 15 to the National Health Service (Wales) Act 2006 (c.42);

(d) a service provided under paragraph 1 of Part II of Schedule 9 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41) unless the service is one for which payment may be required under section 22 or 26 of the National Assistance Act 1948;

(e) a service provided under section 2 of the Carers and Disabled Children Act 2000 (c.16) unless the service is provided in the form of residential care.

The Welsh Ministers may, by order, amend the list of services prescribed by section 13(2).

(4) Section 57A of the Act was inserted by section 146(6) of the 2008 Act.

(5) See section 57(2) of the Act for the definition of "responsible authority".

mae i "gwasanaeth y caniateir codi ffioedd amdano" ("*chargeable service*") yr ystyr a bennir yn adran 13 o Fesur Codi Ffioedd am Wasanaethau Cymdeithasol (Cymru) 2010(1);

ystyr "P" ("P") yw person o fewn y disgrifiad a ragnodir gan reoliad 4, sy'n dod o fewn is-adran (2)(a) o adran 57 o Ddeddf 2001 ac is-adran (5A)(2) o'r adran honno neu y credir yn rhesymol gan yr awdurdod cyfrifol(3) ei fod yn dod o fewn yr is-adran honno;

ystyr "person rhagnodedig" ("*prescribed person*") yw person o fewn y disgrifiad a ragnodir gan reoliad 3 neu 5, sy'n dod o fewn adran 57(2) o Ddeddf 2001 neu adran 17A(2) o Ddeddf 1989;

ystyr "S" ("S") yw'r person addas y cyfeirir ato yn rheoliad 9(1);

mae i "taliad uniongyrchol" ("*direct payment*") yr ystyr a roddir yn rheoliad 8 neu 9.

Disgrifiadau rhagnodedig o bersonau o dan adran 57(1) o Ddeddf 2001 – gwasanaethau gofal cymunedol a gwasanaethau i ofalwyr

3. At ddibenion adran 57(1) o Ddeddf 2001, mae person yn berson o ddisgrifiad rhagnodedig os–

- (a) yw'n berson sy'n ymddangos i'r awdurdod cyfrifol yn alluog i reoli taliad uniongyrchol ar ei ben ei hunan, neu gyda pha bynnag gymorth ag y gallai fod ar gael iddo;
- (b) nad yw'n berson sy'n dod, neu y credir yn rhesymol gan yr awdurdod cyfrifol ei fod yn dod, o fewn adran 57(5A) o Ddeddf 2001; ac
- (c) nad yw'n berson y mae Atodlen 1 yn gymwys iddo.

(1) 2010 mccc 2. Mae adran 13(2) yn cynnwys y rhestr o wasanaethau y caniateir codi ffioedd amdanynt, sef -
(a) *gwasanaeth a ddarperir o dan adran 29 o Ddeddf Cymorth Gwladol 1948 (p.29) oni bai bod y gwasanaeth yn un y caniateir ei gwneud yn ofynnol codi tâl amdano o dan adran 22 neu 26 o'r Ddeddf honno;*
(b) *gwasanaeth a ddarperir o dan adran 45(1) o Ddeddf Gwasanaethau Iechyd ac Iechyd y Cyhoedd 1968 (p. 46);*
(c) *gwasanaeth a ddarperir o dan Atodlen 15 i Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p. 42);*
(d) *gwasanaeth a ddarperir o dan baragraff 1 o Ran II o Atodlen 9 i Ddeddf Iechyd a Gwasanaethau Cymdeithasol a Dyfarniadau Nawdd Cymdeithasol 1983 (p.41) oni bai bod y gwasanaeth yn un y gall fod taliad yn ofynnol amdano o dan adran 22 neu 26 o Ddeddf Cymorth Gwladol 1948;*
(e) *gwasanaeth a ddarperir o dan adran 2 o Ddeddf Gofalwyr a Phlant Anabl 2000 (p. 16) oni bai i'r gwasanaeth gael ei ddarparu ar ffurf gofal preswyl.*
Caiff Gweinidogion Cymru, drwy orchymyn, ddiwygio'r rhestr o wasanaethau a ragnodir gan adran 13(2).

(2) Mewnosodwyd adran 57A o'r Ddeddf gan adran 146(6) o Ddeddf 2008.

(3) *Gweler* adran 57(2) o'r Ddeddf am y diffiniad o "awdurdod cyfrifol".

- (i) a community care service within the meaning of section 46 of the 1990 Act(1),
- (ii) a service under section 2 of the Carers and Disabled Children Act 2000 (services for carers)(2), or
- (iii) a service which the responsible authority(3) may provide in exercise of functions under section 17 of the 1989 Act (4) (provision of services for children in need, their families and others); or

- (b) in the case of direct payments under section 57(1A) of the 2001 Act, a community care service within the meaning of section 46 of the 1990 Act;

"S" is the suitable person referred to in regulation 9(1).

Prescribed descriptions of persons under section 57(1) of the 2001 Act – community care services and services for carers

3. For the purposes of section 57(1) of the 2001 Act, a person is of a prescribed description if he or she is–

- (a) a person who appears to the responsible authority to be capable of managing a direct payment by himself or herself, or with such assistance as may be available to him or her;
- (b) not a person who falls, or is reasonably believed by the responsible authority to fall within section 57(5A) of the 2001 Act; and
- (c) not a person to whom Schedule 1 applies.

(1) Section 46 was amended by paragraph 14 of Schedule 10 to the Local Government (Wales) Act 1994 (c.19) and by paragraphs 128 and 129 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c.43).

(2) 2000 c. 16.

(3) *See* section 17A(2) of the Children Act 1989 (c.41) for the definition of "responsible authority".

(4) Section 17 was amended by section 7(1) and (2) of the Children (Leaving Care) Act 2000 (c.35), by paragraphs 15 and 16 of Schedule 3 to the Tax Credits Act 2002 (c.21) and by section 116(1) of the Adoption and Children Act 2002 (c.38), by section 53(1) of the Children Act 2004 (c.31), by paragraph 6 of Schedule 3 to the Welfare Reform Act 2007 (c.5), by section 24 of the Children and Young Persons Act 2008 (c.23), paragraph 1 of Schedule 1, paragraphs 1 and 2 of Schedule 3 and by Schedule 4 to that Act.

Disgrifiadau rhagnodedig o bersonau o dan adran 57(1A) o Ddeddf 2001 – gwasanaethau gofal cymunedol

4. At ddibenion adran 57(1A) o Ddeddf 2001 mae person yn berson o ddisgrifiad rhagnodedig os nad yw'n berson y mae Atodlen 1 yn gymwys iddo.

Disgrifiadau rhagnodedig o bersonau o dan adran 17A(1) o Ddeddf 1989 – gwasanaethau plant

5. At ddibenion adran 17A(1) o Ddeddf 1989, mae person yn person o ddisgrifiad rhagnodedig os–

- (a) yw'n berson sy'n ymddangos i'r awdurdod cyfrifol yn alluog i reoli taliad uniongyrchol ar ei ben ei hunan, neu gyda pha bynnag gymorth ag y gallai fod ar gael iddo; a
- (b) nad yw'n berson y mae Atodlen 1 yn gymwys iddo.

Personau a ragnodir fel cynrychiolwyr

6. At ddibenion adran 57(5B) o Ddeddf 2001, rhagnodir person fel cynrychiolydd mewn perthynas â pherson arall–

- (a) os yw'n ddirprwy a benodwyd ar gyfer y person arall hwnnw gan y Llys Gwarchod o dan adran 16(2)(b) o Ddeddf Galluedd Meddylol 2005(1); neu
- (b) os yw'n dderbyniwr atwrneiaeth arhosol, o fewn yr ystyr a roddir i "lasting power of attorney" gan adran 9 o Ddeddf Galluedd Meddylol 2005, a grëwyd gan y person arall hwnnw.

Pwerau a ragnodir ar gyfer lladmeryddion

7. At ddibenion adran 57(5C) o Ddeddf 2001 (sy'n darparu mai ystyr "lladmerydd" ("*surrogate*"), mewn perthynas â pherson, yw person a restrir yn y ddarpariaeth honno ac sydd â phwerau a gyfansoddir gan, neu sy'n cynnwys, pa bynnag bwerau y ceir eu rhagnodi), y pwerau a ragnodir yw pwerau mewn perthynas â phenderfyniadau ynghylch sicrhau darpariaeth o wasanaeth gofal cymunedol o fewn yr ystyr a roddir i "community care service" gan adran 46 o Ddeddf 1990.

Taliadau uniongyrchol o dan adran 57(1) o Ddeddf 2001 neu adran 17A(1) o Ddeddf 1989

8.–(1) Os bodlonir yr amodau ym mharagraff (2)–

- (a) caiff awdurdod cyfrifol, mewn perthynas â pherson rhagnodedig, gyda chydysyniad y person hwnnw, wneud y cyfryw daliadau o dan adran 57(1) o Ddeddf 2001 neu adran 17A(1)

Prescribed descriptions of persons under section 57(1A) of the 2001 Act – community care services

4. For the purposes of section 57(1A) of the 2001 Act a person is of a prescribed description if they are not a person to whom Schedule 1 applies.

Prescribed descriptions of persons under section 17A(1) of the 1989 Act – children's services

5. For the purposes of section 17A(1) of the 1989 Act, a person is of a prescribed description if he or she is–

- (a) a person who appears to the responsible authority to be capable of managing a direct payment by himself or herself or with such assistance as may be available to him or her; and
- (b) not a person to whom Schedule 1 applies.

Persons prescribed as representatives

6. For the purposes of section 57(5B) of the 2001 Act, a person is prescribed as a representative in relation to another person if they are–

- (a) a deputy appointed for that other person by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005(1); or
- (b) a donee of a lasting power of attorney within the meaning of section 9 of the Mental Capacity Act 2005 created by that other person.

Prescribed powers for surrogates

7. For the purposes of section 57(5C) of the 2001 Act (which provides that a "surrogate" ("*lladmerydd*"), in relation to a person, means a person listed in that provision whose powers consist of or include such powers as may be prescribed), the prescribed powers are powers relating to decisions about securing the provision of a community care service within the meaning of section 46 of the 1990 Act.

Direct payments under section 57(1) of the 2001 Act or section 17A(1) of the 1989 Act

8.–(1) If the conditions in paragraph (2) are satisfied, a responsible authority–

- (a) may, with that person's consent, make in respect of a prescribed person such payments under section 57(1) of the 2001 Act or section 17A(1) of the 1989 Act as are determined in

(1) 2005 p.9.

(1) 2005 c.9.

o Ddeddf 1989 ag a benderfynir yn unol â rheoliad 10 ("taliadau uniongyrchol") ("*direct payments*") er mwyn i'r person rhagnodedig sicrhau darpariaeth o wasanaeth perthnasol y mae'r person rhagnodedig o dan rwymedigaeth i'w gael, o ganlyniad i ofyniad a osodwyd o dan ddeddfiad a grybwyllir yn Atodlen 2;

- (b) caiff awdurdod cyfrifol, mewn perthynas â pherson rhagnodedig y mae amod mewn grym mewn perthynas ag ef, a osodwyd yn unol ag adran 42(2) neu 73(4) (gan gynnwys amod o'r fath a amrywiwyd yn unol ag adran 73(5) neu 75(3)) o Ddeddf 1983, neu sy'n glaf a ryddhawyd yn amodol o dan adran 193(7) o Ddeddf Iechyd Meddwl (Gofal a Thriniaeth) (Yr Alban) 2003(1), wneud taliadau uniongyrchol, gyda chydysyniad y person rhagnodedig, er mwyn i'r person hwnnw sicrhau darpariaeth o wasanaeth perthnasol; ac
- (c) ym mhob achos arall, rhaid i awdurdod cyfrifol, mewn perthynas â pherson rhagnodedig, gyda chydysyniad y person rhagnodedig, wneud taliadau uniongyrchol er mwyn i'r person hwnnw sicrhau darpariaeth o wasanaeth perthnasol.

(2) Yr amodau y cyfeirir atynt ym mharagraff (1) yw fod yr awdurdod cyfrifol wedi ei fodloni—

- (a) y gellir diwallu angen y person am y gwasanaeth perthnasol drwy sicrhau darpariaeth ohono gan ddefnyddio taliad uniongyrchol; a
- (b) yn achos gwasanaeth perthnasol fel y'i diffinnir ym mharagraff (a)(iii) o'r diffiniad o'r term hwnnw yn rheoliad 2, y bydd lles y plentyn y mae angen y gwasanaeth ar ei gyfer yn cael ei ddiogelu a'i hyrwyddo drwy sicrhau darpariaeth ohono gan ddefnyddio taliad uniongyrchol.

Taliadau uniongyrchol o dan adran 57(1A) o Ddeddf 2001

9.—(1) Rhaid i'r awdurdod perthnasol gymryd y camau ym mharagraff (2) cyn y caiff fodloni ei hunan ei bod yn briodol gwneud taliad o dan adran 57(1A) o Ddeddf 2001 i berson addas ("S") er mwyn i S sicrhau darpariaeth o wasanaeth perthnasol i berson sy'n dod o fewn y disgrifiad a ragnodir gan reoliad 4 ("P").

(2) Y camau y cyfeirir atynt ym mharagraff (1) yw fod rhaid i'r awdurdod cyfrifol—

- (a) i'r graddau y bo'n rhesymol ymarferol a phriodol, ymgynghori â'r canlynol a chymryd eu safbwyntiau i ystyriaeth—
 - (i) unrhyw un a enwir gan P fel rhywun i ymgynghori ag ef ynglŷn ag a ddylid gwneud taliad i S er mwyn sicrhau

accordance with regulation 10 ("*direct payments*") ("*taliadau uniongyrchol*") in respect of the prescribed person securing the provision of a relevant service which the person is obliged to receive as a result of an obligation imposed under an enactment mentioned in Schedule 2;

- (b) may, with that person's consent, make in respect of a prescribed person in respect of whom there is in force a condition imposed in accordance with section 42(2) or 73(4) (including such a condition which has been varied in accordance with section 73(5) or 75(3)) of the 1983 Act or who is a patient who has been conditionally discharged under section 193(7) of the Mental Health (Care and Treatment) (Scotland) Act 2003(1), direct payments in respect of the prescribed person securing the provision of a relevant service; and
- (c) in all other cases must, with that person's consent, make in respect of a prescribed person direct payments in respect of the prescribed person securing the provision of a relevant service.

(2) The conditions referred to in paragraph (1) are that the responsible authority is satisfied—

- (a) that the person's need for the relevant service can be met by securing the provision of it by means of a direct payment; and
- (b) in the case of a relevant service as defined in paragraph (a)(iii) of the definition of that term in regulation 2 that the welfare of the child in respect of whom the service is needed will be safeguarded and promoted by securing the provision of it by means of a direct payment.

Direct payments under section 57(1A) of the 2001 Act

9.—(1) The responsible authority must take the steps in paragraph (2) before it may be satisfied that it is appropriate for a payment under section 57(1A) of the 2001 Act to be made to a suitable person ("S") in respect of S securing the provision of a relevant service for a person falling within the description prescribed by regulation 4 ("P").

(2) The steps referred to in paragraph (1) are that the responsible authority must—

- (a) so far as is reasonably practicable and appropriate, consult and take into account the views of—
 - (i) anyone named by P as someone to be consulted on the matter of whether a payment should be made to S for the

- darpariaeth o wasanaeth perthnasol i P, neu ynglŷn â materion o'r math hwnnw,
- (ii) unrhyw un sy'n ymwneud â gofalu am P neu sydd â diddordeb yn lles P, a
 - (iii) unrhyw gynrychiolydd neu ladmerydd i P(1);
- (b) i'r graddau y bo'n rhesymol ganfyddadwy, ystyried y canlynol—
- (i) dymuniadau a theimladau P, ar y pryd ac yn y gorffennol (ac yn benodol, unrhyw ddatganiad ysgrifenedig perthnasol a wnaed gan P pan oedd galluedd ganddo, o fewn yr ystyr a roddir i "capacity" yn Neddf Galluedd Meddyliol 2005(2), i gydsynio â gwneud taliadau uniongyrchol),
 - (ii) y credoau a'r gwerthoedd a fyddai'n debygol o dylanwadu ar benderfyniad P pe bai ganddo alluedd o'r fath, a
 - (iii) y ffactorau eraill y byddai P yn debygol o'u hystyried pe gallai wneud hynny;
- (c) cael tystysgrif cofnod troseddol manylach a ddyroddir o dan adran 113B o Ddeddf yr Heddlu 1997(3)—
- (i) mewn perthynas ag S os yw S yn unigolyn ac nad yw'n berson a grybwyllir ym mharagraff (3) nac yn gyfaill i P sy'n ymwneud â darparu gofal i P, a
 - (ii) os yw S yn gorff corfforaethol neu'n corff anghorfforedig o bersonau, mewn perthynas â'r unigolyn a fydd â chyfrifoldeb cyffredinol, ar ran y corff hwnnw, am reoli taliadau uniongyrchol P o ddydd i ddydd,

a rhaid i'r cyfryw dystysgrif gynnwys gwybodaeth am addasrwydd mewn perthynas ag oedolion hyglwyf (o fewn yr ystyr a roddir i "suitability information relating to vulnerable adults" yn adran 113BB(2) o'r Ddeddf honno(4)).

(3) Y personau y cyfeirir atynt ym mharagraff (2)(c)(i) yw—

- (a) priod neu bartner sifil P;

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- (1) *Gweler* adran 57(5B) o Ddeddf 2001 a rheoliad 6 am y diffiniad o "representative". *Gweler* adran 57(5C) o Ddeddf 2001 a rheoliad 7 am y diffiniad o "surrogate".
 - (2) 2005 p.9. *Gweler* adran 1 o'r Ddeddf honno am yr egwyddorion allweddol sy'n gymwys i benderfyniadau a gweithredoedd a wneir o dan y Ddeddf honno, gan gynnwys rhagdybio galluedd. *Gweler* adran 2 o'r Ddeddf honno am y diffiniad o berson sydd heb alluedd.
 - (3) 1997 p.50. Mewnodsodwyd adran 113B gan adran 163(2) o Ddeddf Troseddu Cyfundrefnol Difrifol a'r Heddlu 2005 (p.15) a diwygiwyd hi gan baragraff 14 o Atodlen 9 i Ddeddf Diogelu Grwpiau Hyglwyf 2006 (p.47), gan paragraff 149 o Atodlen 16 i Ddeddf y Lluoedd Arfog 2006 (p.52), gan adrannau 79(1) a 80 of the Ddeddf Diogelu Grwpiau Hyglwyf (Yr Alban) 2007 (dsa 14) a chan O.S. 2009/203.
 - (4) Mewnodsodwyd gan Ddeddf Diogelu Grwpiau Hyglwyf 2006 (p.47); diwygiwyd is-adran (2)(d) gan Ddeddf Plismona a Throsedd 2009 (p.26), adran 81(2) a (3)(h).

- purpose of securing provision for P of a relevant service or on matters of that kind,
- (ii) anyone engaged in caring for P or interested in P's welfare, and
 - (iii) any representative or surrogate of P(1);
- (b) so far as is reasonably ascertainable, consider—
- (i) P's past and present wishes and feelings (and, in particular, any relevant written statement made by P when P had capacity, within the meaning of the Mental Capacity Act 2005(2), to consent to the making of direct payments),
 - (ii) the beliefs and values that would be likely to influence P's decision if P had such capacity, and
 - (iii) the other factors that P would be likely to consider if P were able to do so;
- (c) obtain an enhanced criminal record certificate issued under section 113B of the Police Act 1997(3)—

- (i) in respect of S where S is an individual and is neither a person mentioned in paragraph (3) nor a friend of P who is involved in the provision of care for P, and
- (ii) where S is a body corporate or an unincorporated body of persons, in respect of the individual who will, on behalf of that body, have overall responsibility for the day-to-day management of P's direct payments,

such certificate to include suitability information relating to vulnerable adults (within the meaning of section 113BB(2) of that Act(4)).

(3) The persons referred to in paragraph (2)(c)(i) are—

- (a) the spouse or civil partner of P;

-
- (1) *See* section 57(5B) of the 2001 Act and regulation 6 for the definition of "representative". *See* section 57(5C) of the 2001 Act and regulation 7 for the definition of "surrogate".
 - (2) 2005 c.9. *See* section 1 of that Act for the key principles applying to decisions and actions taken under that Act, including the presumption of capacity. *See* section 2 of that Act for the definition of a person who lacks capacity.
 - (3) 1997 c.50. Section 113B was inserted by section 163(2) of the Serious Organised Crime and Police Act 2005 (c.15) and was amended by paragraph 14 of Schedule 9 to the Safeguarding Vulnerable Groups Act 2006 (c.47), by paragraph 149 of Schedule 16 to the Armed Forces Act 2006 (c.52), by sections 79(1) and 80 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14) and by S.I. 2009/203.
 - (4) Inserted by the Safeguarding and Vulnerable Groups Act 2006 (c.47); sub-section (2)(d) was amended by the Policing and Crime Act 2009 (c.26), section 81(2) and (3)(h).

- (b) person sy'n byw gyda P fel pe bai'n briod neu'n bartner sifil P;
- (c) person sy'n dwyn y berthynas ganlynol i P–
 - (i) rhiant neu riant-yng-nghyfraith,
 - (ii) mab neu ferch,
 - (iii) mab-yng-nghyfraith neu ferch-yng-nghyfraith,
 - (iv) llysfab neu lysferch,
 - (v) brawd neu chwaer,
 - (vi) modryb neu ewythr, neu
 - (vii) tad-cu neu fam-gu neu daid neu nain;
- (ch) priod neu bartner sifil unrhyw berson a bennir yn is-baragraff (c); a
- (d) person sy'n byw gydag unrhyw berson a bennir yn is-baragraff (c) fel pe bai'n briod neu'n bartner sifil i'r person hwnnw.

(4) Pan fo'r awdurdod cyfrifol, ar ôl cymryd y camau ym mharagraff (2), wedi ei fodloni ynglŷn â'r materion a restrir ym mharagraff (5)–

- (a) caiff awdurdod cyfrifol, gyda'r cydsyniad sy'n ofynnol⁽¹⁾, wneud y cyfryw daliadau o dan adran 57(1A) o Ddeddf 2001 neu adran 17A(1) o Ddeddf 1989 ag a benderfynir yn unol â rheoliad 11 ("taliadau uniongyrchol") ("*direct payments*") i S er mwyn i S sicrhau ar gyfer P ddarpariaeth o wasanaeth perthnasol y mae P o dan rwymedigaeth i'w gael, o ganlyniad i ofyniad a osodwyd o dan ddeddfiad a grybwyllir yn Atodlen 2;
- (b) caiff awdurdod cyfrifol, mewn achos pan fo amod mewn grym mewn perthynas â P, a osodwyd yn unol ag adran 42(2) neu 73(4) (gan gynnwys amod o'r fath a amrywiwyd yn unol ag adran 73(5) neu 75(3)) o Ddeddf 1983, neu pan fo P yn glaf a ryddhawyd yn amodol o dan adran 193(7) o Ddeddf Iechyd Meddwl (Gofal a Thriniaeth) (Yr Alban) 2003, wneud, gyda'r cydsyniad sy'n ofynnol, taliadau uniongyrchol i S er mwyn i S sicrhau darpariaeth o wasanaeth perthnasol i P; ac
- (c) ym mhob achos arall, rhaid i awdurdod cyfrifol, gyda'r cydsyniad sy'n ofynnol, wneud taliadau uniongyrchol i S er mwyn i S sicrhau darpariaeth o wasanaeth perthnasol i P.

(5) Y materion y cyfeirir atynt ym mharagraff (4) yw–

- (a) y gellir diwallu angen P am y gwasanaeth perthnasol drwy sicrhau darpariaeth ohono gan ddefnyddio taliad uniongyrchol;

- (b) a person who lives with P as if their spouse or civil partner;
- (c) a person who is P's–
 - (i) parent or parent-in-law,
 - (ii) son or daughter,
 - (iii) son-in-law or daughter-in-law,
 - (iv) stepson or stepdaughter,
 - (v) brother or sister,
 - (vi) aunt or uncle, or
 - (vii) grandparent;
- (d) the spouse or civil partner of any person specified in sub-paragraph (c); and
- (e) a person who lives with any person specified in sub-paragraph (c) as if that person's spouse or civil partner.

(4) Where, having taken the steps in paragraph (2), the responsible authority is satisfied of the matters listed in paragraph (5), the responsible authority –

- (a) may, with the requisite consent⁽¹⁾, make such payments under section 57(1A) of the 2001 Act as are determined in accordance with regulation 11 ("direct payments") ("*taliadau uniongyrchol*") to S in respect of S securing the provision of a relevant service for P which P is obliged to receive as a result of an obligation imposed under an enactment mentioned in Schedule 2;
- (b) in a case where there is in force, in respect of P, a condition imposed in accordance with section 42(2) or 73(4) (including such a condition which has been varied in accordance with section 73(5) or 75(3)) of the 1983 Act or in a case where P is a patient who has been conditionally discharged under section 193(7) of the Mental Health (Care and Treatment) (Scotland) Act 2003, may, with the requisite consent, make direct payments to S in respect of S securing the provision of a relevant service for P; and
- (c) in all other cases must, with the requisite consent, make direct payments to S in respect of S securing the provision of a relevant service for P.

(5) The matters referred to in paragraph (4) are that–

- (a) P's need for the relevant service can be met by securing the provision of it by means of a direct payment;

(1) *Gweler* adran 57(1B) o Ddeddf 2001 Act am y diffiniad o "requisite consent". Mewnosodwyd adran 57(1B) gan adran 146(2) o Ddeddf Iechyd a Gofal Cymdeithasol 2008 (p.14).

(1) *See* section 57(1B) of the 2001 Act for the definition of "requisite consent". Section 57(1B) was inserted by section 146(2) of the Health and Social Care Act 2008 (c.14).

- (b) bod S—
- (i) wrth sicrhau'r ddarpariaeth o wasanaethau y gwneir y taliad uniongyrchol mewn perthynas â hwy, yn gweithredu er budd bennaf P, o fewn yr ystyr a roddir i "best interests" gan Ddeddf Galluedd Meddyliol 2005(1), a
 - (ii) yn ymddangos yn alluog i reoli taliad uniongyrchol ar ei ben ei hunan, neu gyda pha bynnag gymorth ag y gallai fod ar gael iddo, ac
- (c) ei bod yn briodol, yn yr holl amgylchiadau, gwneud taliad uniongyrchol i S.

Swm a thalu taliadau uniongyrchol o dan adran 57(1) o Ddeddf 2001 neu adran 17A(1) o Ddeddf 1989

10.—(1) Yn ddarostyngedig i baragraffau (5) a (6), gwneir taliad uniongyrchol o dan adran 57(1) o Ddeddf 2001 neu adran 17A(1) o Ddeddf 1989 fel taliad gros(2) oni fydd yr awdurdod cyfrifol yn penderfynu y bydd yn cael ei wneud fel taliad net(3).

(2) Yn ddarostyngedig i baragraffau (3) ac (8), at y diben o wneud y taliad y cyfeirir ato ym mharagraff (1), bydd yr awdurdod cyfrifol yn penderfynu, gan ystyried modd P, pa swm neu symiau (os oes rhai) y mae'n rhesymol ymarferol i P ei dalu, neu eu talu, tuag at sicrhau'r ddarpariaeth o'r gwasanaeth perthnasol (pa un ai ar ffurf ad-daliad fel a grybwyllir yn adran 57(4) o Ddeddf 2001 neu ar ffurf cyfraniad fel a grybwyllir yn adran 57(5) o'r Ddeddf honno).

(3) Nid yw paragraffau (2), (5) ac (8) yn gymwys i berson rhagnodedig sydd—

- (a) yn dod o fewn y disgrifiad a ragnodir gan reoliad 3; a
- (b) sydd, neu a fydd, yn sicrhau darpariaeth o wasanaeth y caniateir codi ffioedd amdano,

ond mae paragraff (4) yn cael effaith mewn perthynas â pherson o'r fath.

(4) At ddibenion gwneud y taliad y cyfeirir ato ym mharagraff (1), rhaid i'r awdurdod cyfrifol benderfynu pa swm neu symiau (os oes rhai) y mae'n rhesymol ymarferol i'r person rhagnodedig ei dalu, neu eu talu, tuag at sicrhau'r ddarpariaeth o wasanaeth y caniateir codi ffioedd amdano (pa un ai ar ffurf ad-daliad fel a grybwyllir yn adran 57(4) o Ddeddf 2001 neu ar ffurf cyfraniad fel a grybwyllir yn adran 57(5) o'r Ddeddf

- (b) S—
- (i) will act in the best interests, within the meaning of the Mental Capacity Act 2005(1), of P when securing the provision of services in respect of which the direct payment is made, and
 - (ii) appears to be capable of managing a direct payment by himself or herself or with such assistance as may be available to him or her, and
- (c) in all the circumstances it is appropriate for a direct payment to be made to S.

Amount and payment of direct payments under section 57(1) of the 2001 Act or section 17A(1) of the 1989 Act

10.—(1) Subject to paragraphs (5) and (6), a direct payment under section 57(1) of the 2001 Act or section 17A(1) of the 1989 Act will be made as a gross payment(2) unless the responsible authority decides it will be made as a net payment(3).

(2) Subject to paragraphs (3) and (8), for the purpose of making the payment referred to in paragraph (1), the responsible authority must determine, having regard to the prescribed person's means, what amount or amounts (if any) it is reasonably practicable for the prescribed person to pay towards securing the provision of the relevant service (whether by way of reimbursement as mentioned in section 57(4) of the 2001 Act or by way of a contribution as mentioned in section 57(5) of that Act).

(3) Paragraphs (2), (5) and (8) do not apply to a prescribed person who—

- (a) falls within the description prescribed by regulation 3; and
- (b) is, or will be, securing the provision of a chargeable service,

but paragraph (4) has effect in respect of such a person.

(4) For the purposes of making the payment referred to in paragraph (1), the responsible authority must determine what amount or amounts (if any) it is reasonably practicable for the prescribed person to pay towards securing the provision of a chargeable service (whether by way of reimbursement as mentioned in section 57(4) of the 2001 Act or by way of contribution as mentioned in section 57(5) of that Act) in

(1) 2005 p.9. *Gweler* adran 4 o'r Ddeddf honno, ynglŷn ag egwyddor y budd pennaf.

(2) *Gweler* adran 57(4) o Ddeddf 2001, fel y'i diwygiwyd gan adran 146(4) o Ddeddf 2008, am y diffiniad o "gross payment".

(3) *Gweler* adran 57(5) o Ddeddf 2001, fel y'i diwygiwyd gan adran 146(5) o Ddeddf 2008, am y diffiniad o "net payment".

(1) 2005 c.9. *See* section 4 of that Act for the best interests principle.

(2) *See* section 57(4) of the 2001 Act, as amended by section 146(4) of the 2008 Act, for the definition of "gross payment".

(3) *See* section 57(5) of the 2001 Act, as amended by section 146(5) of the 2008 Act, for the definition of "net payment".

honno) yn unol â Rheoliadau Ffioedd Gofal Cymdeithasol (Taliadau Uniongyrchol) (Asesu Modd a Phenderfynu ar Ad-daliad neu Gyfraniad) (Cymru) 2011.

(5) Pan fo'r gwasanaeth perthnasol yn un a ddarperid, oni bai am y Rheoliadau hyn, o dan adran 117 o Ddeddf 1983 (ôl-ofal)–

- (a) rhaid gwneud y taliad yn ôl y gyfradd a grybwyllir yn is-adran (4)(a) o adran 57 o Ddeddf 2001; a
- (b) nid yw is-adran (4)(b) o'r adran honno yn gymwys.

(6) Pan wneir taliad uniongyrchol i berson sy'n dod o fewn adran 17A(5) o Ddeddf 1989–

- (a) rhaid gwneud y taliad yn ôl y gyfradd a grybwyllir yn is-adran (4)(a) o adran 57 o Ddeddf 2001; a
- (b) nid yw is-adran (4)(b) o'r adran honno yn gymwys.

(7) Caniateir gwneud y taliad ym mharagraff (1) i–

- (a) y person rhagnodedig; neu
- (b) person a enwebwyd gan y person rhagnodedig i gael y taliad ar ei ran.

(8) At y diben o wneud taliad uniongyrchol o dan adran 57(1) o Ddeddf 2001 er mwyn i'r person rhagnodedig sicrhau darpariaeth o lety preswyl, caiff yr awdurdod cyfrifol wneud y penderfyniad y cyfeirir ato ym mharagraff (2) heb ystyried modd y person rhagnodedig.

Swm a thalu taliadau uniongyrchol o dan adran 57(1A) o Ddeddf 2001

11.–(1) Yn ddarostyngedig i baragraff (5), rhaid gwneud taliad uniongyrchol o dan adran 57(1A) o Ddeddf 2001 fel taliad gros oni fydd yr awdurdod cyfrifol yn penderfynu y bydd yn cael ei wneud fel taliad net.

(2) Yn ddarostyngedig i baragraffau (3) a (6), at y diben o wneud y taliad y cyfeirir ato ym mharagraff (1), bydd yr awdurdod cyfrifol yn penderfynu, gan ystyried modd y person rhagnodedig, pa swm neu symiau (os oes rhai) y mae'n rhesymol ymarferol i'r person rhagnodedig ei dalu, neu eu talu, tuag at sicrhau'r ddarpariaeth o'r gwasanaeth perthnasol (pa un ai ar ffurf ad-daliad fel a grybwyllir yn adran 57(4) o Ddeddf 2001 neu ar ffurf cyfraniad fel a grybwyllir yn adran 57(5) o'r Ddeddf honno).

(3) Nid yw paragraffau (2), (5) a (6) yn gymwys i P os yw P yn berson–

- (a) sy'n dod o fewn y disgrifiad a ragnodir gan reoliad 4; a
- (b) os oes, neu os bydd, darpariaeth o wasanaeth y caniateir codi ffioedd amdano yn cael ei sicrhau ar ei gyfer,

accordance with the Social Care Charges (Direct Payments) (Means Assessment and Determination of Reimbursement or Contribution) (Wales) Regulations 2011.

(5) Where the relevant service is one which, apart from these Regulations, would be provided under section 117 of the 1983 Act (after-care)–

- (a) the payment is to be made at the rate mentioned in subsection (4)(a) of section 57 of the 2001 Act; and
- (b) subsection (4)(b) of that section does not apply.

(6) Where a direct payment is made to a person falling within section 17A(5) of the 1989 Act–

- (a) the payment is to be made at the rate mentioned in subsection (4)(a) of section 57 of the 2001 Act; and
- (b) subsection (4)(b) of that section does not apply.

(7) The payment referred to in paragraph (1) may be made to–

- (a) the prescribed person; or
- (b) a person nominated by the prescribed person to receive the payment on their behalf.

(8) For the purpose of making a direct payment under section 57(1) of the 2001 Act in respect of the prescribed person securing the provision of residential accommodation, the responsible authority may make the determination referred to in paragraph (2) irrespective of the means of the prescribed person.

Amount and payment of direct payments under section 57(1A) of the 2001 Act

11.–(1) Subject to paragraph (5), a direct payment under section 57(1A) of the 2001 Act will be made to S as a gross payment unless the responsible authority decides it will be made as a net payment.

(2) Subject to paragraphs (3) and (6), for the purpose of making the payment referred to in paragraph (1), the responsible authority must determine, having regard to P's means, what amount or amounts (if any) it is reasonably practicable for P to pay towards securing the provision of the relevant service (whether by way of reimbursement as mentioned in section 57(4) of the 2001 Act or by way of a contribution as mentioned in section 57(5) of that Act).

(3) Paragraphs (2), (5) and (6) do not apply to P where P is a person–

- (a) who falls within the description prescribed by regulation 4; and
- (b) for whom provision of a chargeable service is or will be secured,

ond mae paragraff (4) yn gymwys mewn perthynas â pherson o'r fath.

(4) At ddibenion gwneud y taliad y cyfeirir ato ym mharagraff (1), rhaid i'r awdurdod cyfrifol benderfynu pa swm neu symiau (os oes rhai) y mae'n rhesymol ymarferol i P ei dalu, neu eu talu, tuag at sicrhau'r ddarpariaeth o wasanaeth y caniateir codi ffioedd amdano (pa un ai ar ffurf ad-daliad fel a grybwyllir yn adran 57(4) o Ddeddf 2001 neu ar ffurf cyfraniad fel a grybwyllir yn adran 57(5) o'r Ddeddf honno) yn unol â Rheoliadau Ffioedd Gofal Cymdeithasol (Taliadau Uniongyrchol) (Asesu Modd a Phenderfynu ar Ad-daliad neu Gyfraniad) (Cymru) 2011.

(5) Pan fo'r gwasanaeth perthnasol yn un a ddarperid, oni bai am y Rheoliadau hyn, o dan adran 117 o Ddeddf 1983 (ôl-ofal)–

- (a) rhaid gwneud y taliad yn ôl y gyfradd a grybwyllir yn is-adran (4)(a) o adran 57 o Ddeddf 2001; a
- (b) nid yw is-adran (4)(b) o'r adran honno yn gymwys.

(6) At y diben o wneud taliad uniongyrchol o dan adran 57(1A) o Ddeddf 2001 er mwyn i'r person rhagnodedig sicrhau darpariaeth o lety preswyl, caiff yr awdurdod cyfrifol wneud y penderfyniad y cyfeirir ato ym mharagraff (2) heb ystyried modd P.

Amodau mewn perthynas â thaliadau uniongyrchol o dan adran 57(1) o Ddeddf 2001 neu adran 17A(1) o Ddeddf 1989

12.–(1) Mae taliad uniongyrchol o dan adran 57(1) o Ddeddf 2001 neu adran 17A(1) o Ddeddf 1989 yn darostyngedig i'r amod na chaniateir sicrhau'r gwasanaeth, y gwneir y taliad uniongyrchol mewn perthynas ag ef, gan berson a grybwyllir ym mharagraff (2) oni fodlonir yr awdurdod cyfrifol bod sicrhau'r gwasanaeth gan berson o'r fath yn angenrheidiol–

- (a) yn achos gwasanaeth perthnasol fel y'i diffinnir ym mharagraff (a)(i) neu (ii) o'r diffiniad o'r term hwnnw yn rheoliad 2, er mwyn diwallu'n foddhaol angen y person rhagnodedig am y gwasanaeth hwnnw; neu
- (b) yn achos gwasanaeth perthnasol fel y'i diffinnir ym mharagraff (a)(iii) o'r diffiniad o'r term hwnnw yn rheoliad 2, er mwyn hyrwyddo lles y plentyn y mae angen y gwasanaeth mewn perthynas ag ef.

(2) Y personau y cyfeirir atynt ym mharagraff (1) yw–

- (a) priod neu bartner sifil y person rhagnodedig;
- (b) person sy'n byw gyda'r person rhagnodedig fel pe bai'n briod neu'n bartner sifil iddo;

but paragraph (4) applies in respect of such a person.

(4) For the purposes of making the payment referred to in paragraph (1), the responsible authority must determine what amount or amounts (if any) it is reasonably practicable for P to pay towards securing the provision of a chargeable service (whether by way of reimbursement as mentioned in section 57(4) of the 2001 Act or by way of contribution as mentioned in section 57(5) of that Act) in accordance with the Social Care Charges (Direct Payments) (Means Assessment and Determination of Reimbursement or Contribution) (Wales) Regulations 2011.

(5) Where the relevant service is one which, apart from these Regulations, would be provided under section 117 of the 1983 Act (after-care)–

- (a) the payment is to be made at the rate mentioned in subsection (4)(a) of section 57 of the 2001 Act; and
- (b) subsection (4)(b) of that section does not apply.

(6) For the purpose of making the payment referred to in paragraph (1) in respect of the person securing the provision of residential accommodation, the responsible authority, in making the determination referred to in paragraph (2), may do so irrespective of P's means.

Conditions in respect of direct payments under section 57(1) of the 2001 Act or section 17A(1) of the 1989 Act

12.–(1) A direct payment under section 57(1) of the 2001 Act or section 17A(1) of the 1989 Act is subject to the condition that the service in respect of which it is made must not be secured from a person mentioned in paragraph (2) unless the responsible authority is satisfied that securing the service from such a person is necessary–

- (a) in the case of a relevant service as defined in paragraph (a)(i) or (ii) of the definition of that term in regulation 2, to meet satisfactorily the prescribed person's need for that service; or
- (b) in the case of a relevant service as defined in paragraph (a)(iii) of the definition of that term in regulation 2, for promoting the welfare of the child in respect of whom the service is needed.

(2) The persons referred to in paragraph (1) are–

- (a) the spouse or civil partner of the prescribed person;
- (b) a person who lives with the prescribed person as if their spouse or civil partner;

- (c) person sy'n dwyn y berthynas ganlynol i'r person rhagnodedig—
 - (i) rhiant neu riant-yng-nghyfraith,
 - (ii) mab neu ferch,
 - (iii) mab-yng-nghyfraith neu ferch-yng-nghyfraith,
 - (iv) llysfab neu lysferch,
 - (v) brawd neu chwaer,
 - (vi) modryb neu ewythr, neu
 - (vii) tad-cu neu fam-gu neu daid neu nain;
- (ch) priod neu bartner sifil unrhyw berson a bennir yn is-baragraff (c) sy'n byw ar yr un aelwyd â'r person rhagnodedig; a
- (d) person sy'n byw gydag unrhyw berson a bennir yn is-baragraff (c) fel pe bai'n briod neu'n bartner sifil i'r person hwnnw.

(3) Nid yw paragraffau (2)(c)(ii) a (iii) yn gymwys yn achos person a grybwyllir yn adran 17A(2)(c) o Ddeddf 1989.

(4) Caiff awdurdod cyfrifol wneud taliad uniongyrchol o dan adran 57(1) o Ddeddf 2001 neu adran 17A(1) o Ddeddf 1989 yn ddarostyngedig i ba bynnag amodau eraill (os oes rhai) a ystyrir yn briodol gan yr awdurdod cyfrifol.

(5) Yn benodol, caiff yr y cyfeirir atynt ym mharagraff (4) wneud yn ofynnol bod y talai—

- (a) yn peidio â sicrhau'r gwasanaeth perthnasol gan berson penodol; a
- (b) yn darparu pa bynnag wybodaeth i'r awdurdod cyfrifol a ystyrir yn angenrheidiol gan yr awdurdod, mewn perthynas â'r taliad uniongyrchol.

Amodau mewn perthynas â thaliadau uniongyrchol o dan adran 57(1A) o Ddeddf 2001

13.—(1) Mae taliad uniongyrchol o dan adran 57(1A) o Ddeddf 2001 yn ddarostyngedig i'r amodau ym mharagraff (2).

(2) Yr amodau y cyfeirir atynt ym mharagraff(1) yw—

- (a) na chaniateir sicrhau'r gwasanaeth, y gwneir y taliad uniongyrchol mewn perthynas ag ef, gan berson a grybwyllir ym mharagraff (3) oni fodlonir yr awdurdod cyfrifol bod sicrhau'r gwasanaeth gan berson o'r fath yn angenrheidiol er mwyn diwallu'n foddhaol angen P am y gwasanaeth hwnnw; a
- (b) rhaid i S —
 - (i) weithredu er budd gorau P, o fewn yr ystyr a roddir i "best interests" yn Neddf Galluedd Meddyliol 2005, wrth sicrhau'r ddarpariaeth o wasanaethau y gwneir y

- (c) a person living in the same household as the prescribed person who is the prescribed person's—
 - (i) parent or parent-in-law,
 - (ii) son or daughter,
 - (iii) son-in-law or daughter-in-law,
 - (iv) stepson or stepdaughter,
 - (v) brother or sister,
 - (vi) aunt or uncle, or
 - (vii) grandparent;
- (d) the spouse or civil partner of any person specified in sub-paragraph (c) who lives in the same household as the prescribed person; and
- (e) a person who lives with any person specified in sub-paragraph (c) as if that person's spouse or civil partner.

(3) Paragraphs (2)(c)(ii) and (iii) do not apply in the case of a person mentioned in section 17A(2)(c) of the 1989 Act.

(4) A responsible authority may make a direct payment under section 57(1) of the 2001 Act or section 17A(1) of the 1989 Act subject to such other conditions (if any) as it considers appropriate.

(5) The conditions referred to in paragraph (4) may, in particular, require that the payee—

- (a) must not secure the relevant service from a particular person; and
- (b) must provide such information to the responsible authority as the authority considers necessary in connection with the direct payment.

Conditions in respect of direct payments under section 57(1A) of the 2001 Act

13.—(1) A direct payment under section 57(1A) of the 2001 Act is subject to the conditions in paragraph (2).

(2) The conditions referred to in paragraph (1) are that—

- (a) the service in respect of which the direct payment is made may not be secured from a person mentioned in paragraph (3) unless the responsible authority is satisfied that securing the service from such a person is necessary to meet satisfactorily P's need for that service; and
- (b) S must —
 - (i) act in the best interests, within the meaning of the Mental Capacity Act 2005, of P when securing the provision of services in respect of which the direct payment is

taliad uniongyrchol mewn perthynas ag ef,

- (ii) darparu pa bynnag wybodaeth i'r awdurdod cyfrifol a ystyrir yn angenrheidiol gan yr awdurdod, mewn perthynas â'r taliad uniongyrchol,
- (iii) os yw S yn unigolyn a grybwyllir yn rheoliad 9(2)(c)(i) neu'n gorff corfforaethol neu gorff anghorfforedig o bersonau, cael tystysgrif cofnod troseddol manylach a ddyroddir o dan adran 113B o Ddeddf yr Heddlu 1997, ac sy'n cynnwys gwybodaeth am addasrwydd mewn perthynas ag oedolion hyglwyf (o fewn yr ystyr a roddir i "suitability information relating to vulnerable adults" yn adran 113BB(2) o'r Ddeddf honno), neu wirio bod tystysgrif foddhaol o dan y Ddeddf honno wedi ei chael, mewn perthynas ag unrhyw berson y sicrheir ganddo wasanaeth y gwnaed taliad uniongyrchol mewn perthynas ag ef,
- (iv) hysbysu'r awdurdod cyfrifol os bydd S yn credu, yn rhesymol, nad yw P bellach yn dod o fewn adran 57(5A) o Ddeddf 2001, a
- (v) defnyddio'r taliad uniongyrchol i sicrhau darpariaeth i P o'r gwasanaethau y gwnaed y taliad mewn perthynas â hwy.

(3) Y personau y cyfeirir atynt ym mharagraff (2) yw—

- (a) priod neu bartner sifil P;
- (b) person sy'n byw gyda P fel pe bai'n briod neu'n bartner sifil P;
- (c) person sy'n dwyn y berthynas ganlynol i P—
 - (i) rhiant neu riant-yng-nghyfraith,
 - (ii) mab neu ferch,
 - (iii) mab-yng-nghyfraith neu ferch-yng-nghyfraith,
 - (iv) llysfab neu lysferch,
 - (v) brawd neu chwaer,
 - (vi) modryb neu ewythr, neu
 - (vii) tad-cu neu fam-gu neu daid neu nain;
- (ch) priod neu bartner sifil unrhyw berson a bennir yn is-baragraff (c), sy'n byw ar yr un aelwyd â P; a
- (d) person sy'n byw gydag unrhyw berson a bennir yn is-baragraff (c) fel pe bai'n briod neu'n bartner sifil i'r person hwnnw.

(4) Caiff awdurdod cyfrifol wneud taliad uniongyrchol o dan adran 57(1A) o Ddeddf 2001 yn ddarostyngedig i ba bynnag amodau eraill (os oes rhai) a ystyrir yn briodol gan yr awdurdod cyfrifol.

made,

- (ii) provide such information to the responsible authority as that authority considers necessary in connection with the direct payment,
- (iii) if S is an individual mentioned in regulation 9(2)(c)(i) or a body corporate or an unincorporated body of persons, obtain an enhanced criminal record certificate issued under section 113B of the Police Act 1997, which includes suitability information relating to vulnerable adults (within the meaning of section 113BB (2) of that Act), or obtain verification that a satisfactory certificate under that Act has been obtained, in respect of any person from whom a service in respect of which a direct payment is made is secured,
- (iv) notify the responsible authority if S reasonably believes that P no longer falls within section 57(5A) of the 2001 Act, and
- (v) use the direct payment for securing the provision for P of the services for which the payment was made.

(3) The persons referred to in paragraph (2) are—

- (a) the spouse or civil partner of P;
- (b) a person who lives with P as if their spouse or civil partner;
- (c) a person living in the same household as P who is P's—
 - (i) parent or parent-in-law,
 - (ii) son or daughter,
 - (iii) son-in-law or daughter-in-law,
 - (iv) stepson or stepdaughter,
 - (v) brother or sister,
 - (vi) aunt or uncle, or
 - (vii) grandparent;
- (d) the spouse or civil partner of any person specified in sub-paragraph (c) who lives in the same household as P; and
- (e) a person who lives with any person specified in sub-paragraph (c) as if that person's spouse or civil partner.

(4) A responsible authority may make a direct payment under section 57(1A) of the 2001 Act subject to such other conditions (if any) as it considers appropriate.

Y cyfnodau hwyaf o lety preswyl y caniateir eu sicrhau gan ddefnyddio taliad uniongyrchol

14.–(1) Yn ddarostyngedig i baragraffau (2) a (4), ni chaniateir gwneud taliad uniongyrchol, ni cheir gwneud taliad uniongyrchol mewn perthynas â pherson rhagnodedig sy'n dod o fewn rheoliad 3 neu 4, ar gyfer darparu llety preswyl i'r person hwnnw am gyfnod hwy na 4 wythnos mewn unrhyw gyfnod o 12 mis.

(2) Wrth gyfrifo'r cyfnod o 4 wythnos a grybwyllir ym mharagraff (1), o fewn unrhyw gyfnod o 12 mis–

- (a) ni fydd unrhyw gyfnod cyntaf o lety preswyl sy'n llai na 4 wythnos (cyfnod A) yn cael ei adio at gyfnod olynol (cyfnod B) ac eithrio pan fo'r cyfnod B yn cychwyn o fewn 4 wythnos ar ôl diwedd y cyfnod A; a
- (b) bydd unrhyw gyfnod mewn llety preswyl sy'n dilyn y cyfnod B yn cael ei gynnwys yn y cyfrifiad.

(3) Ni chaniateir gwneud taliad uniongyrchol mewn perthynas â pherson rhagnodedig sy'n dod o fewn rheoliad 5 ar gyfer darparu llety preswyl–

- (a) am unrhyw gyfnod sengl sy'n hwy na 4 wythnos; a
- (b) am unrhyw gyfnod o fwy na 120 diwrnod mewn unrhyw gyfnod o 12 mis.

(4) Ni chaniateir gwneud taliad uniongyrchol ar gyfer darparu llety preswyl–

- (a) pan fo person yn dod o fewn y disgrifiad o berson a ragnodir gan reoliad 3 neu 4; a
- (b) pan fo'r person hwnnw'n cael, neu'n mynd i gael, taliad uniongyrchol, neu pan fo taliad uniongyrchol yn cael ei wneud neu'n mynd i gael ei wneud mewn perthynas â'r person hwnnw, at y diben o sicrhau darpariaeth o wasanaeth y caniateir codi ffioedd amdano.

Swyddogaethau dadleoledig a rhwymedigaethau'r awdurdod cyfrifol

15.–(1) Ac eithrio fel a ddarperir gan baragraff (2), nid yw'r ffaith bod awdurdod cyfrifol yn gwneud taliad uniongyrchol yn effeithio ar ei swyddogaethau mewn perthynas â darparu, o dan y deddfiad perthnasol, y gwasanaeth y mae'r taliad yn ymwneud ag ef.

(2) Pan fo awdurdod cyfrifol yn gwneud taliad uniongyrchol, ni fydd o dan unrhyw rwymedigaeth mewn perthynas â darparu, o dan y deddfiad perthnasol, y gwasanaeth y mae'r taliad yn ymwneud ag ef, cyn belled ag y bo'n fodlon y diwellir yr angen sy'n ysgogi'r ddarpariaeth o wasanaeth–

- (a) yn achos taliadau uniongyrchol o dan adran 57(1) o Ddeddf 2001 neu adran 17A(1) o Ddeddf 1989, gan drefniadau'r talai ei hunan; neu

Maximum periods of residential accommodation which may be secured by means of a direct payment

14.–(1) Subject to paragraphs (2) and (4), a direct payment may not be made in respect of a prescribed person who falls within regulation 3 or 4 for the provision to that person of residential accommodation for a period in excess of 4 weeks in any period of 12 months.

(2) In calculating the period of 4 weeks mentioned in paragraph (1), in any 12 month period–

- (a) an initial period in residential accommodation of less than 4 weeks (period A) will only be added to a succeeding period (period B) where period B begins within 4 weeks of the end of period A; and
- (b) any period in residential accommodation subsequent to period B will be included in the calculation.

(3) A direct payment may not be made in respect of a prescribed person who falls within regulation 5 for the provision of residential accommodation–

- (a) for any single period in excess of 4 weeks; and
- (b) for any period in excess of 120 days in any period of 12 months.

(4) A direct payment may not be made for the provision of residential accommodation where a person–

- (a) falls within the description of a person prescribed by regulation 3 or 4; and
- (b) that person is or will be receiving a direct payment, or a direct payment is being or will be made in respect of that person, for the purposes of securing the provision of a chargeable service.

Displaced functions and obligations of the responsible authority

15.–(1) Except as provided by paragraph (2), the fact that a responsible authority makes a direct payment does not affect its functions with respect to the provision under the relevant enactment of the service to which the payment relates.

(2) Where a responsible authority makes a direct payment, it is not under any obligation with respect to the provision under the relevant enactment of the service to which the payment relates as long as it is satisfied that the need which calls for the provision of the service will be secured by–

- (a) in the case of direct payments under section 57(1) of the 2001 Act or section 17A(1) of the 1989 Act, the payee's own arrangements; or

- (b) yn achos taliadau uniongyrchol o dan adran 57(1A) o Ddeddf 2001, gan y trefniadau a wneir gan S.

(3) Ym mharagraffau (1) a (2), mae'r cyfeiriadau at y deddfiad perthnasol, mewn perthynas â'r ddarpariaeth o wasanaeth, yn gyfeiriadau at y deddfiad y byddid yn darparu'r gwasanaetho oddi tano, oni bai am y Rheoliadau hyn.

Ad-dalu taliadau uniongyrchol

16.–(1) Caiff awdurdod cyfrifol a wnaeth daliad uniongyrchol wneud yn ofynnol bod y taliad neu ran o'r taliad yn cael ei ad-dalu, os bodlonir yr awdurdod–

- (a) nad yw'r taliad uniongyrchol neu ran o'r taliad wedi ei ddefnyddio i sicrhau darpariaeth o'r gwasanaeth y mae'r taliad yn ymwneud ag ef; neu
- (b) na chydymffurfiwyd ag amod a wnaed o dan reoliad 12 neu 13.

(2) Gellir adennill unrhyw swm sy'n agored i'w ad-dalu yn rhinwedd paragraff (1) fel dyled sy'n ddyledus i'r awdurdod cyfrifol.

Adolygu

17.–(1) Rhaid i awdurdod cyfrifol adolygu'r modd y gwneir taliadau uniongyrchol o dan adran 57(1A) o Ddeddf 2001–

- (a) o leiaf unwaith yn ystod y flwyddyn gyntaf y gwneir y taliadau uniongyrchol;
- (b) fesul cyfnod priodol o ddim mwy na deuddeg mis wedi hynny;
- (c) pan fo'r awdurdod cyfrifol o'r farn, yn rhesymol, ar sail gwybodaeth a roddir gan S neu gan unrhyw berson arall, nad y P bellach yn dod o fewn adran 57(5A) o Ddeddf 2001; ac
- (ch) pan hysbysir ef gan unrhyw berson ynghylch pryderon–
 - (i) nad yw'r taliad uniongyrchol hwyrach wedi ei ddefnyddio i sicrhau'r ddarpariaeth i P o'r gwasanaethau y gwnaed y taliad ar eu cyfer, neu
 - (ii) a allai olygu na fyddai'r awdurdod wedi ei fodloni mwyach ynglŷn â'r materion a restrir yn rheoliad 9(5)(b) neu (c).

(2) Rhaid i awdurdod cyfrifol adolygu'r arfer o wneud taliadau uniongyrchol o dan adran 57(1) o Ddeddf 2001 os yw'r awdurdod cyfrifol o'r farn, yn rhesymol, ar sail gwybodaeth a roddir gan unrhyw berson, nad yw P yn dod o fewn adran 57(5A) o Ddeddf honno.

- (b) in the case of direct payments under section 57(1A) of the 2001 Act, the arrangements made by S.

(3) In paragraphs (1) and (2), references to the relevant enactment, in relation to the provision of a service, are to the enactment under which the service would fall to be provided apart from these Regulations.

Repayment of direct payments

16.–(1) A responsible authority which has made a direct payment may require the payment or part of the payment to be repaid where it is satisfied that–

- (a) the direct payment or part of the payment has not been used to secure the provision of the service to which it relates; or
- (b) a condition imposed under regulation 12 or 13 has not been complied with.

(2) Any sum falling to be repaid by virtue of paragraph (1) may be recoverable as a debt due to the responsible authority.

Review

17.–(1) A responsible authority must review the making of direct payments under section 57(1A) of the 2001 Act–

- (a) at least once within the first year of the direct payments being made;
- (b) at appropriate intervals, not exceeding twelve months, thereafter;
- (c) where the responsible authority reasonably considers, on the basis of information given by S or by any other person, that P no longer falls within section 57(5A) of the 2001 Act; and
- (d) whenever notified by any person of concerns that–
 - (i) the direct payment may not have been used to secure the provision for P of the services for which the payment was made, or
 - (ii) may mean that the responsible authority would no longer be satisfied of the matters listed in regulation 9(5)(b) or (c).

(2) A responsible authority must review the making of direct payments under section 57(1) of the 2001 Act where the responsible authority reasonably considers, on the basis of information given by any person, that P falls within section 57(5A) of that Act.

Terfynu taliadau uniongyrchol o dan adran 57(1) o Ddeddf 2001 neu adran 17A(1) o Ddeddf 1989

18.–(1) Yn ddarostyngedig i baragraff (3), rhaid i awdurdod cyfrifol beidio â gwneud taliadau uniongyrchol i berson o dan adran 57(1) o Ddeddf 2001 neu adran 17A(1) o Ddeddf 1989–

- (a) os yw'r person yn peidio â bod yn berson rhagnodedig; neu
- (b) os oes amod a grybwyllir yn rheoliad 8(2) yn peidio â chael ei fodloni.

(2) Caiff awdurdod cyfrifol beidio â gwneud y cyfan neu ran o daliadau uniongyrchol o dan adran 57(1) o Ddeddf 2001 neu adran 17A(1) o Ddeddf 1989 i berson rhagnodedig–

- (a) os na chydymffurfir ag unrhyw amod a osodwyd o dan reoliad 12 neu y cyfeirir ato yn adran 57(4)(b) o Ddeddf 2001; neu
- (b) os yw'r awdurdod cyfrifol o'r farn ei bod yn briodol, yn yr holl amgylchiadau, peidio â gwneud y taliadau uniongyrchol.

(3) Caiff awdurdod cyfrifol barhau i wneud taliadau uniongyrchol i berson sy'n peidio â bodloni rheoliad 3(b) ac a fyddai fel arall yn berson rhagnodedig–

- (a) os bodlonir yr awdurdod yn rhesymol mai dros dro y bydd y person heb alluedd i gydsynio;
- (b) os oes person arall, sy'n ymddangos i'r awdurdod cyfrifol yn alluog i reoli taliad uniongyrchol, yn barod i dderbyn a rheoli taliadau o'r fath ar ran y person cyntaf yn ystod cyfnod ei analluedd; ac
- (c) os yw'r person y trefnwyd gydag ef i ddarparu'r gwasanaeth perthnasol yn cydsynio i dderbyn tâl am y gwasanaeth gan y person a grybwyllir yn is-baragraff (b).

Terfynu taliadau uniongyrchol o dan adran 57(1A) o Ddeddf 2001

19.–(1) Rhaid i awdurdod cyfrifol beidio â gwneud taliadau i S o dan adran 57(1A) o Ddeddf 2001–

- (a) os yw'r person y gwneir y taliadau mewn perthynas ag ef ("y buddiolwr") ("*the beneficiary*")–
 - (i) yn peidio â dod o fewn y disgrifiad o bersonau a ragnodir gan reoliad 4, neu
 - (ii) yn peidio â dod o fewn adran 57(2)(a) o Ddeddf 2001; neu
- (b) os nad yw'r awdurdod cyfrifol wedi ei fodloni mwyach ynglŷn ag unrhyw un o'r materion a restrir yn rheoliad 9(5).

Termination of direct payments under section 57(1) of the 2001 Act or section 17A(1) of the 1989 Act

18.–(1) Subject to paragraph (3), a responsible authority must stop making direct payments under section 57(1) of the 2001 Act or section 17A(1) of the 1989 Act to a person if–

- (a) the person ceases to be a prescribed person; or
- (b) a condition mentioned in regulation 8(2) ceases to be met.

(2) A responsible authority may stop making the whole or part of direct payments under section 57(1) of the 2001 Act or section 17A(1) of the 1989 Act to a prescribed person if–

- (a) any condition imposed under regulation 12 or referred to in section 57(4)(b) of the 2001 Act is not complied with; or
- (b) in all the circumstances the responsible authority considers it appropriate to stop the making of direct payments.

(3) A responsible authority may continue to make direct payments to a person who ceases to satisfy regulation 3(b) who would otherwise be a prescribed person if–

- (a) the authority is reasonably satisfied that that person's lack of capacity to consent will be temporary;
- (b) another person who appears to the responsible authority to be capable of managing a direct payment is prepared to accept and manage such payments on behalf of that person during the period of their incapacity; and
- (c) the person with whom the arrangement for the provision of the relevant service has been made agrees to accept payment for the service from the person mentioned in sub-paragraph (b).

Termination of direct payments under section 57(1A) of the 2001 Act

19.–(1) A responsible authority must stop making direct payments under section 57(1A) of the 2001 Act to S if–

- (a) the person in respect of whom the payments are made ("*the beneficiary*") ("*y buddiolwr*") ceases to–
 - (i) fall within the description of persons prescribed by regulation 4, or
 - (ii) fall within section 57(2)(a) of the 2001 Act; or
- (b) the responsible authority is no longer satisfied of any of the matters listed in regulation 9(5).

(2) Yn ddarostyngedig i baragraffau (4) a (5), rhaid i awdurdod cyfrifol beidio â gwneud taliadau uniongyrchol i S o dan adran 57(1A) o Ddeddf 2001 os nad yw'r buddiolwr mwyach yn dod o fewn adran 57(5A) o Ddeddf 2001 neu os yw'r awdurdod cyfrifol yn credu, yn rhesymol, nad yw mwyach yn dod o fewn yr adran honno.

(3) Caiff awdurdod cyfrifol beidio â gwneud y cyfan neu ran o'r taliadau uniongyrchol i S os peidir â chydymffurfio ag unrhyw amod a osodir o dan reoliad 13 neu y cyfeirir ato yn adran 57(4)(b) o Ddeddf 2001.

(4) Caiff awdurdod cyfrifol barhau i wneud taliadau uniongyrchol i S o dan adran 57(1A) o Ddeddf 2001 hyd yn oed pan fo'r buddiolwr yn peidio â dod o fewn adran 57(5A) o Ddeddf 2001—

- (a) os yw'r awdurdod yn rhesymol fodlon mai dros dro y bydd galluedd gan y buddiolwr i gydsynio â gwneud taliadau uniongyrchol; a
- (b) os gwneir y taliadau uniongyrchol yn ddarostyngedig i'r amod ychwanegol y bydd S yn caniatáu i'r buddiolwr reoli'r taliadau uniongyrchol ei hunan, yn ystod unrhyw gyfnod pan fodlonir yr awdurdod cyfrifol y bydd galluedd gan y buddiolwr i gydsynio â gwneud y taliadau uniongyrchol ac y bydd yn alluog i reoli taliadau o'r fath.

(5) Pan fo paragraff (2) yn gymwys ac awdurdod cyfrifol o'r farn, yn rhesymol, nad galluedd dros dro i gydsynio sydd gan y buddiolwr, rhaid i'r awdurdod, cyn terfynu taliadau o dan adran 57(1A), ymgynghori â'r buddiolwr ynglŷn ag a yw'r buddiolwr yn cydsynio â gwneud taliadau uniongyrchol o dan adran 57(1) o Ddeddf 2001.

(6) Yn ddarostyngedig i baragraff (7), ni chaniateir i daliadau a wneir o dan adran 57(1A) gael eu terfynu o dan baragraff (2) cyn bo taliadau uniongyrchol o dan 57(1) o Ddeddf 2001 yn cael eu gwneud os yw'r buddiolwr, yn unol â pharagraff (5), yn cydsynio â gwneud taliadau uniongyrchol o dan adran 57(1) o Ddeddf 2001, ac—

- (a) os yw'r yn berson rhagnodedig;
- (b) os yw'n dod o fewn adran 57(2)(a) o Ddeddf 2001; ac
- (c) os bodlonir yr amod yn rheoliad 8(2)(a) is met.

(7) Nid oes dim ym mharagraff (6) sy'n effeithio ar ddisgresiwn yr awdurdod cyfrifol i beidio â gwneud taliadau uniongyrchol o dan adran 57(1) o Ddeddf 2001, o dan reoliad 8(1)(a) neu (b).

Dirymu

20. Dirymir yr offerynnau a bennir yng ngholofn 1 o Atodlen 3 i'r rheoliadau hyn, i'r graddau a bennir yng ngholofn 3 o'r Atodlen honno.

(2) Subject to paragraphs (4) and (5), a responsible authority must stop making direct payments under section 57(1A) of the 2001 Act to S if the beneficiary no longer falls within section 57(5A) of the 2001 Act or is reasonably believed by the responsible authority no longer to fall within that section.

(3) A responsible authority may stop making the whole or part of the direct payments to S if any condition imposed under regulation 13 or referred to in section 57(4)(b) of the 2001 Act is not complied with.

(4) A responsible authority may continue to make direct payments under section 57(1A) of the 2001 Act to S notwithstanding that the beneficiary ceases to fall within section 57(5A) of the 2001 Act, if—

- (a) the authority is reasonably satisfied that the beneficiary's capacity to consent to the making of direct payments will be temporary; and
- (b) the direct payments are made subject to the additional condition that S will allow the beneficiary to manage the direct payments themselves for any period in respect of which the responsible authority is satisfied that the beneficiary has capacity to consent to the making of direct payments and is capable of managing such payments.

(5) Where paragraph (2) applies and a responsible authority reasonably believes that the beneficiary's capacity to consent is not temporary, before terminating payments under section 57(1A), the authority must consult the beneficiary with regard to whether the beneficiary consents to the making of direct payments under section 57(1) of the 2001 Act.

(6) Subject to paragraph (7), direct payments under section 57(1A) may not be terminated under paragraph (2) until direct payments under section 57(1) of the 2001 Act are made where, in accordance with paragraph (5), the beneficiary consents to direct payments under section 57(1) of the 2001 Act, if the beneficiary—

- (a) is a prescribed person;
- (b) falls within section 57(2)(a) of the 2001 Act; and
- (c) the condition in regulation 8(2)(a) is met.

(7) Nothing in paragraph (6) affects the responsible authority's discretion not to make direct payments under section 57(1) of the 2001 Act under regulation 8(1)(a) or (b).

Revocation

20. The instruments specified in column 1 of Schedule 3 to these Regulations are revoked to the extent specified in column 3 of that Schedule.

Gwenda Thomas

Y Dirprwy Weinidog dros Wasanaethau Cymdeithasol
o dan awdurdod y Gweinidog dros Iechyd a
Gwasanaethau Cymdeithasol, un o Weinidogion
Cymru

Deputy Minister for Social Services under authority of
the Minister for Health and Social Services, one of the
Welsh Ministers

16 Mawrth 2011

16 March 2011

ATODLEN 1

Rheoliadau 3, 4 a 5

PERSONAU NA CHEIR GWNEUD TALIADAU UNIONGYRCHOL IDDYNT

Mae'r Atodlen hon yn gymwys i berson os yw'r person hwnnw—

- (a) yn destun gofyniad adsefydlu cyffuriau o fewn ystyr "drug rehabilitation requirement", fel y'i diffinnir gan adran 209 o Ddeddf Cyfiawnder Troseddol 2003(1), a osodwyd gan orchymyn cymunedol o fewn yr ystyr a roddir i "community order" gan adran 177 o'r Ddeddf honno, neu gan ddedfryd gohiriedig o garchar o fewn yr ystyr a roddir i "suspended sentence of imprisonment" yn adran 189 o'r Ddeddf honno;
- (b) yn destun gofyniad triniaeth alcohol o fewn yr ystyr a roddir i "alcohol treatment requirement" fel y'i diffinnir gan adran 212 o Ddeddf Cyfiawnder Troseddol 2003, a osodwyd gan orchymyn cymunedol o fewn ystyr adran 177 o'r Ddeddf honno neu gan ddedfryd gohiriedig o garchar o fewn ystyr adran 189 o'r Ddeddf honno;
- (c) wedi ei ryddhau ar drwydded o dan Ran 2 o Ddeddf Cyfiawnder Troseddol 1991(2), Pennod 6 o Ran 12 o Ddeddf Cyfiawnder Troseddol 2003 neu Bennod 2 o Ddeddf (Dedfrydau) Troseddau 1997(3) yn ddarostyngedig i amod trwydded ansafonol sy'n gwneud yn ofynnol bod y tramgwyddwr yn ymgymryd â gwaith ymddygiad troseddol ynglŷn ag ymddygiad sy'n gysylltiedig â chyffuriau neu alcohol;
- (ch) o dan ofyniad i dderbyn triniaeth ar gyfer ei ddibyniaeth ar gyffuriau neu alcohol yn rhinwedd gorchymyn adsefydlu cymunedol o fewn yr ystyr a roddir i "community rehabilitation order" gan adran 41 o Ddeddf Pwerau'r Llysoedd Troseddol (Dedfrydu) 2000(4) neu orchymyn cosbi ac adsefydlu cymunedol o fewn yr ystyr a roddir i "community punishment and rehabilitation order" gan adran 51 o'r Ddeddf honno;

(1) 2003 p.44 ("Deddf 2003"). Diwygiwyd adran 209 gan baragraff 88 o Atodlen 4 i Ddeddf Cyfiawnder Troseddol a Mewnfudo 2008 (p.4) a chan O.S. 2008/912. Diwygiwyd adran 177 gan baragraff 82 o Atodlen 4 i'r Ddeddf honno. Diwygiwyd adran 189 gan O.S. 2005/643.

(2) 1991 p.53.

(3) 1997 p.43.

(4) 2000 p.6. Diddymwyd adrannau 41 a 51, gydag arbedion, gan adran 37 o Ddeddf 2003.

SCHEDULE 1

Regulations 3, 4 and 5

PERSONS TO WHOM DIRECT PAYMENTS MAY NOT BE MADE

This Schedule applies to a person if that person is—

- (a) subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003(1), imposed by a community order within the meaning of section 177 of that Act, or by a suspended sentence of imprisonment, within the meaning of section 189 of that Act;
- (b) subject to an alcohol treatment requirement as defined by section 212 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section 177 of that Act, or by a suspended sentence of imprisonment, within the meaning of section 189 of that Act;
- (c) released on licence under Part 2 of the Criminal Justice Act 1991(2), Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Chapter 2 of the Crime (Sentences) Act 1997(3) subject to a non standard licence condition requiring the offender to undertake offending behaviour work to address drug or alcohol related behaviour;
- (d) required to submit to treatment for his or her drug or alcohol dependency by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000(4) or a community punishment and rehabilitation order within the meaning of section 51 of that Act;

(1) 2003 c.44 ("the 2003 Act"). Section 209 was amended by paragraph 88 of Schedule 4 to the Criminal Justice and Immigration Act 2008 (c.4) and by S.I. 2008/912. Section 177 was amended by paragraph 82 of Schedule 4 to that Act. Section 189 was amended by S.I. 2005/643.

(2) 1991 c.53.

(3) 1997 c.43.

(4) 2000 c.6. Sections 41 and 51 were repealed, with savings, by section 37 of the 2003 Act.

(d) yn destun gorchymyn trin a phrofi cyffuriau a osodwyd o dan adran 52 o Ddeddf Pwerau'r Llysoedd Troseddol (Dedfrydu) 2000(1);

(dd) naill ai –

(i) o dan ofyniad i dderbyn triniaeth ar gyfer ei ddibyniaeth ar gyffuriau neu alcohol yn rhinwedd gofyniad mewn gorchymyn prawf o fewn yr ystyr a roddir i "probation order" gan adrannau 228 i 230 o Ddeddf Gweithdrefn Droseddol (Yr Alban) 1995(2);

(ii) yn destun gorchymyn trin a phrofi cyffuriau o fewn yr ystyr a roddir i "drug treatment and testing order" gan adran 234B o'r Ddeddf honno; neu

(iii) yn destun gorchymyn talu'n ôl i'r gymuned yn yr ystyr a roddir i "community payback order" gan adran 227A o'r Ddeddf honno sy'n gosod gofynion o ran triniaeth mewn perthynas â chyffuriau neu alcohol; neu

(e) wedi ei ryddhau ar drwydded o dan adran 22 neu 26 o Ddeddf Carchardai (Yr Alban) 1989(3) neu o dan adran 1 neu 1AA o Ddeddf Carcharorion a Gweithdrefnau Troseddol (Yr Alban) 1993(4) ac yn ddarostyngedig i amod ei fod yn derbyn triniaeth am ei ddibyniaeth ar gyffuriau neu alcohol.

(e) subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000(1);

(f) either–

(i) required to submit to treatment for his or her drug or alcohol dependency by virtue of a requirement of a probation order within the meaning of sections 228 to 230 of the Criminal Procedure (Scotland) Act 1995(2);

(ii) subject to a drug treatment and testing order within the meaning of section 234B of that Act; or

(iii) subject to a community payback order under section 227A of that Act imposing requirements relating to drug or alcohol treatment; or

(g) released on licence under section 22 or 26 of the Prisons (Scotland) Act 1989(3) or under section 1 or 1AA of the Prisoners and Criminal Proceedings (Scotland) Act 1993(4) and subject to a condition that he or she submits to treatment for his or her drug or alcohol dependency.

(1) Diddymwyd adran 52, gydag arbediad, gan Atodlen 37 i Ddeddf 2003.

(2) 1995 p.46. Diwygiwyd adran 228 gan baragraff 21 o Atodlen 1 i Ddeddf Trosedd a Chosb (Yr Alban) 1997 (p.48), gan baragraff 1 o Atodlen 6 i Ddeddf Trosedd ac Anhrefn 1998 (p.37), gan baragraff 122 o Atodlen 7 i Ddeddf Cyfiawnder Troseddol a Gwasanaethau Llys 2000 (p.43), gan adrannau 42(11) a 89 o Ddeddf Cyfiawnder Troseddol (Yr Alban) 2003 (dsa 7) a chan O.S. 1998/2327, 2001/919, 2002/1149 (C.28), 2003/288 a 2008/912. Diwygiwyd adran 229 gan adran 49(4) o Ddeddf Achosion Troseddol etc. (Diwygio) (Yr Alban) 2007 (dsa 6). Mewnosodwyd adran 229A gan adrannau 12(2) a 24 o Ddeddf Rheoli Troseddwr etc. (Yr Alban) 2005 (dsa 14) a diwygiwyd hi gan O.S.A. 2006/48. Diwygiwyd adran 230 gan Atodlen 6 i Ddeddf Oedolion ag Analluedd (Yr Alban) 2000 (dsa 4), gan adrannau 135, 331 a 333 o Ddeddf Iechyd Meddwl (Gofal a Thriniaeth) (Yr Alban) 2003 (dsa 13) a pharagraff 8 o Atodlen 4 a Rhan 1 o Atodlen 5 i'r Ddeddf honno a chan O.S.A. 2005/161 ac O.S. 2009/1182. Mewnosodwyd adran 234B gan adran 89 o Ddeddf Trosedd ac Anhrefn 1998 a diwygiwyd hi gan O.S. 1998/2327. Mewnosodwyd adran 227A yn Neddf Gweithdrefn Droseddol (Yr Alban) 1995 gan adran 14 o Ddeddf Cyfiawnder Troseddol a Thrwyddedu (Yr Alban) 2010 (dsa 13). Mae adran 227A(2)(g) ac (h) yn darparu ar gyfer gosod gofynion i dderbyn triniaeth ar gyfer cyffuriau ac alcohol, yn eu trefn.

(3) Diddymwyd adrannau 22 a 26, gydag arbedion, gan Atodlen 7 i Ddeddf Carcharorion a Gweithdrefnau Troseddol (Yr Alban) 1993 (p.9).

(4) Diwygiwyd adran 1 gan baragraff 98 o Atodlen 8 i Ddeddf Trosedd ac Anhrefn 1998, gan adran 1(2) o Ddeddf Hawliau Confensiwn (Cydydffurfio) (Yr Alban) 2001 (dsa 7) a chan adran 15(2) o Ddeddf Rheoli Troseddwr etc (Yr Alban) 2005 (dsa 14). Mewnosodwyd adran 1AA gan adran 15(3) of o'r Ddeddf honno.

(1) Section 52 was repealed, with saving, by Schedule 37 to the 2003 Act.

(2) 1995 c.46. Section 228 was amended by paragraph 21 of Schedule 1 to the Crime and Punishment (Scotland) Act 1997 (c.48), by paragraph 1 of Schedule 6 to the Crime and Disorder Act 1998 (c.37), by paragraph 122 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c.43), by sections 42(11) and 89 of the Criminal Justice (Scotland) Act 2003 (asp 7) and by S.I. 1998/2327, 2001/919, 2002/1149 (C.28), 2003/288 and 2008/912. Section 229 was amended by section 49(4) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6). Section 229A was inserted by sections 12(2) and 24 of the Management of Offenders etc (Scotland) Act 2005 (asp 14) and amended by S.S.I. 2006/48. Section 230 was amended by Schedule 6 to the Adults with Incapacity (Scotland) Act 2000 (asp 4), by sections 135, 331 and 333 and paragraph 8 of Schedule 4 and Part 1 of Schedule 5 to the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) and by S.S.I. 2005/161 and S.I. 2009/1182. Section 234B was inserted by section 89 of the Crime and Disorder Act 1998 and amended by S.I. 1998/2327. Section 227A was inserted into the Criminal Procedure (Scotland) Act 1995 by section 14 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13). Section 227A(2)(g) and (h) provide for the imposition of requirements relating to drug and alcohol treatment respectively.

(3) Sections 22 and 26 were repealed, with savings, by Schedule 7 to the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9).

(4) Section 1 was amended by paragraph 98 of Schedule 8 to the Crime and Disorder Act 1998, by section 1(2) of the Convention Rights (Compliance) (Scotland) Act 2001 (asp 7) and by section 15(2) of the Management of Offenders etc (Scotland) Act 2005 (asp 14). Section 1AA was inserted by section 15(3) of that Act.

Rheoliadau 8 a 9

Regulations 8 and 9

DEDDFIADAU Y GELLIR GOSOD
 RHWYMEDIGAETH ODANYNT I DDERBYN
 GWSANAETHAU PERTHNASOL, Y CANIATEIR
 GWNEUD TALIADAU UNIONGYRCHOL MEWN
 PERTHYNAS Â HWY

Y deddfiadau y cyfeirir atynt yn rheoliadau 8(1)(a) a 9(4)(a) yw—

- (a) Rhan 1 o Atodlen 1A i Ddeddf Gweithdrefn Droseddol (Gorffwylltra) 1964(1);
- (b) adran 8, 17 neu 17B o Ddeddf 1983 neu adran 40(2) a ddarllenir ar y cyd ag adran 8 o'r Ddeddf honno(2);
- (c) adran 57A o Ddeddf Gweithdrefn Droseddol (Yr Alban) 1995(3) neu Atodlen 4 i'r Ddeddf honno;
- (ch) adran 41, 53, 127, 179, 221 neu 224 o Ddeddf Iechyd Meddwl (Gofal a Thriniaeth) (yr Alban) 2003 neu adran 66 a ddarllenir ar y cyd ag adran 64 neu 65 o'r Ddeddf honno(4);
- (d) adran 177 neu 189 o Ddeddf Cyfiawnder Troseddol 2003(5) i'r graddau y mae'r adrannau hynny'n ymwneud â pherson sy'n destun gofyniad triniaeth iechyd meddwl o fewn yr ystyr a roddir i "mental health treatment requirement" gan adran 207 o'r Ddeddf honno;
- (dd) adran 41 neu 51 o Ddeddf Pwerau Llysoedd Troseddol (Dedfrydu) 2000 i'r graddau y mae'r adrannau hynny'n ymwneud â pherson sydd o dan ofyniad i dderbyn triniaeth ar gyfer ei gyflwr meddyliol(6);

ENACTMENTS UNDER WHICH AN
 OBLIGATION TO RECEIVE RELEVANT
 SERVICES MAY BE IMPOSED AND IN RESPECT
 OF WHICH DIRECT PAYMENTS MAY BE MADE

The enactments referred to regulations 8(1)(a) and 9(4)(a) are—

- (a) Part 1 of Schedule 1A to the Criminal Procedure (Insanity) Act 1964(1);
- (b) section 8, 17 or 17B of the 1983 Act or section 40(2) read with section 8 of that Act(2);
- (c) section 57A of or Schedule 4 to the Criminal Procedure (Scotland) Act 1995(3);
- (d) section 41, 53, 127, 179, 221 or 224 of the Mental Health (Care and Treatment) Scotland Act 2003 or section 66 read with section 64 or 65 of that Act(4);
- (e) section 177 or 189 of the Criminal Justice Act 2003(5) insofar as those sections relate to a person who is subject to a mental health treatment requirement as defined by section 207 of that Act;
- (f) section 41 or 51 of the Powers of Criminal Courts (Sentencing) Act 2000 insofar as those sections relate to a person who is required to submit to treatment for his or her mental condition(6);

(1) 1964 p.84.

(2) 1983 p.20 (diffinnir "Deddf 1983" yn rheoliad 2). Diwygiwyd adran 8 gan baragraff 2(b) o Atodlen 2 i Ddeddf Iechyd Meddwl 2007 (p.12) ("Deddf 2007"). Diwygiwyd adran 17 gan adran 3(3) o Ddeddf Iechyd Meddwl (Cleifion yn y Gymuned) 1995 (p.52) a chan adrannau 9(3) a 33(2) o Ddeddf 2007. Mewnosodwyd adran 17B gan adran 33(2) o Ddeddf 2007.

(3) 1995 p.46. Mewnosodwyd adran 57A gan adran 133 o Ddeddf Iechyd Meddwl (Gofal a Thriniaeth) (Yr Alban) 2003. Diwygiwyd adran 57A gan O.S.A. 2005/465. Diwygiwyd Atodlen 4 gan baragraff 21 o Atodlen 1 i Ddeddf Trosedd a Chosb (Yr Alban) 1997 a chan O.S.A. 2005/465.

(4) 2003 dsa 13. Diwygiwyd adrannau 127 a 179 gan O.S.A. 2005/465.

(5) 2003 p.44. Diwygiwyd adran 207 gan O.S. 2009/1182.

(6) *Gweler* y troednodyn ar baragraff (ch) o Atodlen 1.

(1) 1964 c.84.

(2) 1983 c.20 ("the 1983 Act" is defined in regulation 2). Section 8 was amended by paragraph 2(b) of Schedule 2 to the Mental Health Act 2007 (c.12) ("the 2007 Act"). Section 17 was amended by section 3(3) of the Mental Health (Patients in the Community) Act 1995 (c.52) and by sections 9(3) and 33(2) of the 2007 Act. Section 17B was inserted by section 33(2) of the 2007 Act.

(3) 1995 c.46. Section 57A was inserted by section 133 of the Mental Health (Care and Treatment) Scotland Act 2003. Section 57A was amended by S.S.I. 2005/465. Schedule 4 was amended by paragraph 21 of Schedule 1 to the Crime and Punishment (Scotland) Act 1997 and by S.S.I. 2005/465.

(4) 2003 asp 13. Sections 127 and 179 were amended by S.S.I. 2005/465.

(5) 2003 c.44. Section 207 was amended by S.I. 2009/1182.

(6) *See* footnote to paragraph (d) of Schedule 1.

- (e) adrannau 228 i 230 o Ddeddf Gweithdrefn Droseddol (Yr Alban) 1995 i'r graddau y mae'r adrannau hynny'n ymwneud â pherson sydd o dan ofyniad i dderbyn triniaeth ar gyfer ei gyflwr meddyliol(1);
- (f) adran 22 neu 26 o Ddeddf Carchardai (Yr Alban) 1989 i'r graddau y mae'r adrannau hynny'n ymwneud â pherson sy'n ddarostyngedig i amod ei fod yn derbyn triniaeth ar gyfer ei gyflwr meddyliol(2);
- (ff) adran 12 Ddeddf Carcharorion a Gweithdrefnau Troseddol (Yr Alban) 1993(3);
- (g) adran 37(4) o Ddeddf Cyfiawnder Troseddol 1991 i'r graddau y mae'n ymwneud â pherson sy'n ddarostyngedig i amod ei fod yn derbyn triniaeth ar gyfer ei gyflwr meddyliol(4).
- (g) sections 228 to 230 of the Criminal Procedure (Scotland) Act 1995 insofar as those conditions relate to a person who is required to submit to treatment for his or her mental condition(1);
- (h) section 22 or 26 of the Prisons (Scotland) Act 1989 insofar as those sections relate to a person who is subject to a condition that he or she submits to treatment for his or her mental condition(2);
- (i) section 12 of the Prisoners and Criminal Proceedings (Scotland) Act 1993(3);
- (j) section 37(4) of the Criminal Justice Act 1991 insofar as it relates to a person who is subject to a condition that he or she submits to treatment for his or her mental condition(4).

(1) *Gweler* y troednodyn ar baragraff (dd) o Atodlen 1.

(2) *Gweler* y troednodyn ar baragraff (e) o Atodlen 1.

(3) 1993 p.9. Diddymwyd adran 12 gan Atodlen 5 i Ddeddf Dedfrydau o Garchar ac Arfau (Yr Alban) 2007 (dsa 17) o ddyddiad sydd i'w bennu.

(4) 1991 p.53. Diddymwyd adran 37 gydag arbedion gan Atodlen 37 i Ddeddf Cyfiawnder Troseddol 2003 (p.44).

(1) *See* footnote to paragraph (f) of Schedule 1.

(2) *See* footnote to paragraph (g) of Schedule 1.

(3) 1993 c.9. Section 12 was repealed by Schedule 5 to the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17) from a date to be appointed.

(4) 1991 c.53. Section 37 was repealed with savings by Schedule 37 to the Criminal Justice Act 2003 (c.44).

Rheoliad 20

Regulation 20

DIRYMIADAU

REVOCATIONS

<i>Offeryn Statudol</i>	<i>Rhif yr Offeryn Statudol</i>	<i>Maint y dirymiad</i>	<i>Statutory Instrument</i>	<i>Statutory Instrument Number</i>	<i>Extent</i>
Rheoliadau Gofal Cymunedol, Gwasanaethau ar gyfer Gofalwyr a Gwasanaethau Plant (Taliadau Uniongyrchol) (Cymru) 2004	2004/1748 (Cy.185)	Yr holl Reoliadau	The Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2004	2004/1748 (W.185)	The whole Regulations
Gorchymyn Deddf Iechyd Meddwl (Gofal a Thriniaeth) (Yr Alban) 2003 (Darpariaethau Canlyniadol) 2005	2005/2078	Paragraff 27 o Atodlen 2	The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005	2005/2078	Paragraph 27 of Schedule 2
Gorchymyn Deddf Partneriaeth Sifil 2004 (Diwygiadau Canlyniadol i Is-ddeddfwriaeth) (Cymru) 2005	2005/3302 (Cy. 256)	Paragraff 28 o'r Atodlen	The Civil Partnership Act 2004 (Consequential Amendments to Subordinate Legislation) (Wales) Order 2005	2005/3302 (W.256)	Paragraph 28 of the Schedule
Gorchymyn Deddf Iechyd Meddwl 2007 (Diwygiadau Canlyniadol) 2008	2008/2828	Erthygl 19	The Mental Health Act 2007 (Consequential Amendments) Order 2008	2008/2828	Article 19

WELSH STATUTORY
INSTRUMENTS

2011 Rhif 831 (Cy.125)

**GWASANETHAU
CYMDEITHASOL, CYMRU**

Rheoliadau Gofal Cymunedol,
Gwasanaethau ar gyfer Gofalwyr a
Gwasanaethau Plant (Taliadau
Uniongyrchol) (Cymru) 2011

WELSH STATUTORY
INSTRUMENTS

2011 No. 831 (W.125)

SOCIAL SERVICES, WALES

The Community Care, Services for
Carers and Children's Services
(Direct Payments) (Wales)
Regulations 2011