
EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 1 of the Social Care Charges (Wales) Measure 2010 (“the Measure”) gives local authorities in Wales a discretionary power to impose a reasonable charge upon adult recipients of non-residential social care services, which are directly provided or secured by the local authority (“service users”). The Welsh Ministers have made Regulations under the Measure, the Social Care Charges (Means Assessment and Determination of Charges) (Wales) Regulations 2011 (“the Charges Regulations”), with which local authorities are required to comply when exercising this power.

Section 12 of the Measure gives the Welsh Ministers a discretionary power to make provision in regulations which correspond to the provision for a service user (made in the Measure and in the Charges Regulations) for the adult recipient of direct payments (“D”) who receives such payments to secure the provision of services for himself or herself in accordance with the Community Care, Services for Carers and Children’s Services (Direct Payments) (Wales) Regulations 2011, made under section 57 of the Health and Social Care Act 2001.

These Regulations do not require a local authority to seek any payment (whether by way of reimbursement or contribution) from D towards the cost of securing the provision of the service, or combination of services when it makes a direct payment to the D to enable that person to secure the provision of a “chargeable service”; however, in cases where a local authority does require D to make a payment towards the cost of securing such a service, the local authority must comply with the relevant provisions of these Regulations and any regulations made by the Welsh Ministers under section 16 of the Community Care (Delayed Discharges etc) Act 2003.

Regulation 4 prescribes the circumstances in which a local authority may not require any payment from D towards the cost of securing the provision of a service.

Regulation 5 prescribes that a local authority’s power to determine the “reasonable amount” that D may be required to pay towards the cost of securing a service is subject to a maximum reasonable amount of £50 per week. It also contains qualifications to this general proposition and it specifies the steps to be taken by a local authority to calculate the amount of the payment which D may be liable to pay.

Regulations 6 to 16 detail the steps in the process of assessing D’s financial means; they also specify the matters which a local authority must take into account when assessing D’s means and when making a determination as to D’s ability to pay a reasonable amount towards the cost of securing the service that he or she has been assessed as needing.

Regulation 7 requires a local authority to issue an invitation to D to request a means assessment. Subsequent regulations make provision for the time in which information or documentation must be supplied to a local authority (regulation 8), requests for an extension of time in which to provide information or documentation (regulation 9), the consequences of failing to respond to an invitation to request a means assessment in full or at all (regulations 10 and 11) and the ability of D to withdraw a request (regulation 12).

Regulation 13 imposes a duty upon a local authority to carry out an assessment of D’s financial means in prescribed circumstances and regulation 14 sets out those circumstances.

Regulation 15 sets the circumstances in which a local authority is under no duty to carry out a means assessment.

Regulation 16 contains provision to which a local authority must give effect when undertaking an assessment of D’s means.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Regulation 17 makes provision for the matters that a local authority must take into account when determining the ability of D to pay a reasonable amount towards securing the services that D has been assessed as requiring.

Regulation 18 makes provision for the date from which payment of a reimbursement or contribution may be required.

Regulation 19 contains requirements about the information that a local authority must provide in any statement it issues to D.

Regulations 20 and 21 contain savings provision for assessments of means and determinations of ability to pay towards the cost of securing a service made before the coming into force of these Regulations.

Regulations 22 and 23 contain transitional and transitory provision.