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WELSH STATUTORY
INSTRUMENTS

2011 Rhif 963 (Cy.137)

2011 No. 963 (W.137)

**GOFAL CYMDEITHASOL,
CYMRU**

SOCIAL CARE, WALES

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

The Social Care Charges (Direct
Payments) (Means Assessment and
Determination of Reimbursement
or Contribution) (Wales)
Regulations 2011

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae adran 1 o Fesur Codi Ffioedd am Wasanaethau Cymdeithasol (Cymru) 2010 ("y Mesur") yn rhoi i awdurdodau lleol yng Nghymru bŵer disgrisiynol i godi ffi resymol ar oedolion sy'n derbyn gwasanaethau gofal cymdeithasol dibreswyl, a ddarperir yn uniongyrchol neu a sicheir gan yr awdurdod lleol ("defnyddwyr gwasanaeth"). Mae Gweinidogion Cymru wedi gwneud Rheoliadau o dan y Mesur, sef Rheoliadau Ffioedd Gofal Cymdeithasol (Taliadau Uniongyrchol) (Asesu Modd a Phenderfynu ar Ad-daliad neu Gyfraniad) (Cymru) 2011 ("y Rheoliadau Ffioedd"), ac y mae'n ofynnol bod awdurdodau lleol yn cydymffurfio â hwy wrth arfer y pŵer hwn.

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.

Mae adran 12 o'r Mesur yn rhoi pŵer disgrisiynol i Weinidogion Cymru i wneud darpariaeth mewn rheoliadau, sy'n cyfateb i'r ddarpariaeth ar gyfer defnyddiwr gwasanaeth (a wneir yn y Mesur ac yn y Rheoliadau Ffioedd), sef bod oedolyn sy'n dderbynydd taliadau uniongyrchol ("D") yn cael taliadau o'r fath i sicrhau darpariaeth o wasanaethau iddo'i hunan, yn unol â Rheoliadau Gofal Cymunedol, Gwasanaethau i Ofalwyr a Gwasanaethau Plant (Taliadau Uniongyrchol) (Cymru) 2011, a wnaed o dan adran 57 o Ddeddf Iechyd a Gofal Cymdeithasol 2001.

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.

Nid yw'n ofynnol o dan y Rheoliadau hyn bod awdurdod lleol yn ceisio cael unrhyw daliad (ar ffurf ad-daliad na chyfraniad) gan D tuag at y gost o sicrhau darperir y gwasanaeth, neu'r cyfuniad o wasanaethau,

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

wrth i'r awdurdod wneud taliad uniongyrchol i D i'w alluogi i sicrhau darpariaeth o "wasanaeth y caniateir codi ffi amdano"; fodd bynnag, mewn achosion pan yw'n ofynnol gan awdurdod lleol bod D yn gwneud taliad tuag at gost sicrhau gwasanaeth o'r fath, rhaid i'r awdurdod lleol gydymffurfio â darpariaethau perthnasol y Rheoliadau hyn ac unrhyw reoliadau a wneir gan Weinidogion Cymru o dan adran 16 o Ddeddf Gofal Cymunedol (Rhyddhau Gohiriedig etc) 2003.

Mae rheoliad 4 yn rhagnodi'r amgylchiadau pan na chaniateir i awdurdod lleol ofyn am unrhyw daliad gan D tuag at y gost o sicrhau darpariaeth o wasanaeth.

Mae rheoliad 5 yn rhagnodi bod y pŵer sydd gan awdurdod lleol i benderfynu'r "swm rhesymol" y caniateir gofyn i D ei dalu tuag at y gost o sicrhau gwasanaeth yn ddarostyngedig i uchafswm rhesymol o £50 yr wythnos. Mae'r rheoliad hefyd yn cynnwys goleddfiadau i'r gosodiad cyffredinol hwnnw ac yn pennu'r camau y mae'n rhaid i awdurdod lleol eu cymryd wrth gyfrifo'r swm y gall D fod yn atebol i'w dalu.

Mae'r rheoliadau 6 i 16 yn rhoi manylion ynghylch y camau yn y broses o asesu modd ariannol D; a hefyd yn pennu pa faterion y mae'n rhaid i awdurdod lleol eu cymryd i ystyriaeth wrth asesu modd D ac wrth wneud penderfyniad ynglŷn â gallu D i dalu swm rhesymol tuag at gost y gwasanaeth yr aseswyd bod arno'i angen.

Mae rheoliad 7 yn gwneud yn ofynnol bod awdurdod lleol yn gwahodd D i ofyn am asesiad modd. Mae'r rheoliadau dilynol yn gwneud darpariaeth ynghylch y terfynau amser ar gyfer cyflenwi gwybodaeth neu ddogfennaeth i awdurdod lleol (rheoliad 8), ceisiadau am estyn yr amser a ganiateir ar gyfer darparu gwybodaeth neu ddogfennaeth (rheoliad 9), y canlyniadau os peidid ag ymateb, yn llawn neu o gwbl, i wahoddiad i ofyn am asesiad modd (rheoliadau 10 ac 11) a hawl D i dynnu'n ôl gais am asesiad (rheoliad 12).

Mae rheoliad 13 yn gosod dyletswydd ar awdurdod lleol i gynnal asesiad o fodd ariannol D mewn amgylchiadau rhagnodedig, a rheoliad 14 yn pennu'r amgylchiadau hynny.

Mae rheoliad 15 yn pennu amgylchiadau pan nad oes dyletswydd ar awdurdod lleol i gynnal asesiad modd.

Mae rheoliad 16 yn cynnwys darpariaeth y mae'n rhaid i awdurdod lleol roi effaith iddi wrth gynnal asesiad o fodd D.

Mae rheoliad 17 yn gwneud darpariaeth ynglŷn â'r materion y mae'n rhaid i awdurdod lleol eu cymryd i ystyriaeth wrth benderfynu ynglŷn â gallu D i dalu swm rhesymol tuag at gost y gwasanaethau yr aseswyd bod arno'u hangen.

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.

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.

Mae rheoliad 18 yn gwneud darpariaeth ynglŷn â'r ddyddiad y caniateir gwneud ad-daliad neu gyfraniad yn ofynnol ohono.

Mae rheoliad 19 yn cynnwys gofynion ynglŷn â'r wybodaeth y mae'n rhaid i awdurdod lleol ei darparu mewn unrhyw ddatganiad a ddyroddir ganddo i D.

Mae rheoliad 20 a 21 yn cynnwys darpariaeth arbedion ar gyfer asesiadau modd a phenderfyniadau ynglŷn â'r gallu i dalu tuag at y gost o sicrhau gwasanaeth, a wnaed cyn i'r Rheoliadau hyn ddod i rym.

Mae rheoliadau 22 ac 23 yn cynnwys darpariaethau trosiannol a darfodol.

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.

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SOCIAL CARE, WALES

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

The Social Care Charges (Direct
Payments) (Means Assessment and
Determination of Reimbursement
or Contribution) (Wales)
Regulations 2011

Gwnaed 24 Mawrth 2011
*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 29 Mawrth 2011
Yn dod i rym 11 Ebrill 2011

Made 24 March 2011
*Laid before the National
Assembly for Wales* 29 March 2011
Coming into force 11 April 2011

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 12 a 17(2) o Fesur Codi Ffioedd am Wasanaethau Cymdeithasol (Cymru) 2010(1), yn gwneud y Rheoliadau a ganlyn:

The Welsh Ministers, in exercise of the powers conferred by sections 12 and 17(2) of the Social Care Charges (Wales) Measure 2010(1), make the following Regulations:

Enwi, cychwyn a chymhwyso

1.–(1) Enw'r Rheoliadau hyn yw Rheoliadau Ffioedd Gofal Cymdeithasol (Taliadau Uniongyrchol) (Asesu Modd a Phenderfynu ar Ad-daliad neu Gyfraniad) (Cymru) 2011, a deuant i rym ar 11 Ebrill 2011.

Title, commencement and application

1.–(1) The title of these Regulations is the Social Care Charges (Direct Payments) (Means Assessment and Determination of Reimbursement or Contribution) (Wales) Regulations 2011 and they come into force on 11 April 2011.

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

(2) These Regulations apply in relation to Wales.

Dehongli

2.–(1) Yn y Rheoliadau hyn—

ystyr "asesiad anghenion" ("*assessment of needs*") yw asesiad gan awdurdod lleol o angen D am wasanaethau gofal cymunedol a ymgwymerir yn unol ag adran 47 o Ddeddf y Gwasanaeth Iechyd Gwladol a Gofal Cymunedol 1990(2) neu adran 1 o Ddeddf Gofalwyr a Phlant Anabl 2000(3) a rhaid darllen "aseswyd bod arno angen" ("*assessed as needing*") yn unol â hynny;

Interpretation

2.–(1) In these Regulations—

"the 2001 Act" ("*Deddf 2001*") means the Health and Social Care Act 2001(2);

"the Measure" ("*y Mesur*") means the Social Care Charges (Wales) Measure 2010;

"the 2011 Regulations" ("*Rheoliadau 2001*") means the Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2011;

(1) 2010 mccc 2 ("y Mesur"). *Gweler* adran 17 o'r Mesur am y diffiniad o "rheoliadau".

(2) 1990 p.19.

(3) 2000 p.16.

(1) 2010 nawm 2 ("the Measure"). *See* section 17 of the Measure for the definition of "regulations".

(2) 2001 c.15.

ystyr "asesiad modd" ("*means assessment*") yw asesiad o fodd ariannol D a ymgwymerir yn unol â rheoliadau 13 ac 16, a rhaid darllen "asesiad o fodd D" ("*assessment of D's means*") yn unol â hynny;

ystyr "budd-dal perthnasol" ("*relevant benefit*") yw—

- (a) cymhorthdal incwm; neu
- (b) lwfans cyflogaeth a chymorth; neu
- (c) credyd gwarant;

mae i "credyd cynilion" ("*savings credit*") yr ystyr a roddir i "savings credit" yn adrannau 1 a 3 o Ddeddf Credyd Pensiwn y Wladwriaeth 2002;

rhaid dehongli "credyd gwarant" ("*guarantee credit*") yn unol â'r ystyr a roddir i "guarantee credit" yn adrannau 1 a 2 o Ddeddf Credyd Pensiwn y Wladwriaeth 2002(1);

ystyr "cyfleuster ymweliadau cartref" ("*home visiting facility*") yw ymweliad (neu ymweliadau) gan swyddog priodol awdurdod lleol â chartref neu breswylfa gyfredol D, neu ba bynnag fan cyfarfod arall a fyynnir yn rhesymol gan D, at y dibenion o gasglu gwybodaeth i oleuo asesiad modd ar gyfer y person hwnnw ac o ddarparu gwybodaeth a chynnig cymorth mewn perthynas â'r broses honno;

ystyr "cymhorthdal incwm" ("*income support*") yw cymhorthdal incwm a delir yn unol ag adran 124 o Ddeddf Cyfraniadau a Budd-daliadau Nawdd Cymdeithasol 1992(2);

ystyr "D" ("*D*") yw oedolyn a ragnodir at ddibenion—

- (a) adran 57(1) o Ddeddf 2001 Act, gan reoliad 3 o Reoliadau 2011 (disgrifiadau rhagnodedig o bersonau o dan adran 57(1) o Ddeddf 2001 – gwasanaethau gofal cymunedol a gwasanaethau i ofalwyr); a
- (b) adran 57(1A) o Ddeddf 2001, gan reoliad 4 o Reoliadau 2001 (disgrifiadau rhagnodedig o bersonau o dan adran 57(1A) o Ddeddf 2001 Act – gwasanaethau gofal cymunedol), ac

yn y ddau achos, sydd wedi cael cynnig, neu sy'n cael, neu, yn achos person a ddisgrifir ym mharagraff (b), y mae person addas yn cael mewn perthynas ag ef, daliad uniongyrchol i sicrhau darpariaeth o wasanaeth;

ystyr "darpariaeth ddeuol" ("*dual provision*") yw fod anghenion asesedig D yn cael eu bodloni—

- (a) yn rhannol gan awdurdod lleol sy'n darparu neu'n sicrhau gwasanaeth neu wasanaethau i'r person hwnnw, a
- (b) yn rhannol drwy fod D yn cael taliad uniongyrchol er mwyn sicrhau darpariaeth o wasanaeth arall neu o wasanaethau eraill;

"assessable income" ("*incwm asesadwy*") means that part of D's income in respect of which a local authority may make a determination in accordance with regulation 17; it does not include the income which a local authority is required to disregard in accordance with regulation 16;

"assessment of needs" ("*asesiad anghenion*") means an assessment by a local authority of D's need for community care services undertaken in accordance with section 47 of the National Health Service and Community Care Act 1990(1) or section 1 of the Carers and Disabled Children Act 2000(2) and "assessed as needing" ("*aseswyd bod arno angen*") is to be read accordingly;

"basic entitlement" ("*hawlogaeth sylfaenol*") means, in relation to—

- (a) income support—
the personal allowance and any premiums to which D is entitled, but need not include the severe disability premium ("SDP") where it is paid, and where D is a carer, includes any carer premium that person receives,
- (b) employment and support allowance—
the personal allowance and any premiums and components to which D is entitled, but need not include the SDP where it is paid, and where D is a carer includes any carer premium that person receives,
- (c) guarantee credit—
the personal allowance and any additional amount to which D is entitled, but need not include the additional amount added for severe disability where it is paid, and where D is a carer, includes any additional amount applicable for carers that person receives;

"charge" ("*ffi*") is the amount that a local authority may require a service user to pay for a service which the authority provides or secures in accordance with section 1(1) of the Measure (general power to charge for care services);

"D" ("*D*") means an adult who is prescribed for the purposes of —

- (a) section 57(1) of the 2001 Act, by regulation 3 of the 2011 Regulations (prescribed descriptions of persons under section 57(1) of the 2001 Act – community care services and services for carers); and
- (b) section 57(1A) of the 2001 Act, by regulation 4 of the 2011 Regulations (prescribed descriptions of persons under section 57(1A) of the 2001 Act – community care services), and

(1) 2002 p.16.

(2) 1992 p.4

(1) 1990 c.19.

(2) 2000 c.16.

ystyr "Deddf 2001" ("*the 2001 Act*") yw Deddf Iechyd a Gofal Cymdeithasol 2001(1);

ystyr "defnyddiwr gwasanaeth" ("*service user*") yw oedolyn y cynigiwyd iddo, neu sy'n cael, gwasanaeth a ddarperir gan awdurdod lleol;

ystyr "diwrnod gwaith" ("*working day*") yw diwrnod ac eithrio dydd Sadwrn, dydd Sul, Dydd Nadolig, dydd Gwener y Groglith neu ŵyl Banc o fewn yr ystyr a roddir i "bank holiday" gan Ddeddf Bancio a Thrafodion Ariannol 1971(2);

ystyr "ffi" ("*charge*") yw'r swm y caiff awdurdod lleol wneud yn ofynnol bod defnyddiwr gwasanaeth yn ei dalu am wasanaeth a ddarperir neu a sicrheir gan yr awdurdod yn unol ag adran 1(1) o'r Mesur (pŵer cyffredinol i godi ffioedd am wasanaethau gofal);

ystyr "ffi unffurf" ("*flat-rate charge*") yw ffi yn ôl cyfradd sefydlog, a godir am wasanaeth y caniateir codi ffi amdano ac a dderbynnir gan ddefnyddiwr gwasanaeth, a osodir gan awdurdod lleol heb ystyried modd y defnyddiwr gwasanaeth;

ystyr "gwasanaeth" ("*service*") yw gwasanaeth y caniateir codi ffi amdano, a phan fo'r cyd-destun yn mynnu, gwasanaethau y caniateir codi ffi amdanynt neu gyfuniad o wasanaethau y caniateir codi ffi amdanynt, a rhaid dehongli "gwasanaethau" ("*services*") a "cyfuniad o wasanaethau" ("*combination of services*") yn unol â hynny;

ystyr "gwasanaeth dydd" ("*day service*") yw gwasanaeth, sy'n bodloni rhan o anghenion asesedig D, sy'n digwydd y tu allan i gartref y person hwnnw, ac y bwriedir iddo gynorthwyo'r person hwnnw i gwrdd ag eraill, mabwysiadu diddordebau newydd neu ymarfer ei ddiddordebau presennol, ac y mae'n cynnwys cyfleoedd gwaith;

ystyr "hawlogaeth sylfaenol" ("*basic entitlement*") yw—

(a) mewn perthynas â chymhorthdal incwm—

y lwfans personol ac unrhyw bremiymau y mae hawl gan D i'w cael, ond nid oes raid cynnwys y premiwm anabledl difrifol ("PAD") os telir ef, ac os yw D yn ofalwr, mae'n cynnwys unrhyw bremiwm gofalwr y mae'r person hwnnw'n ei gael,

(b) mewn perthynas â lwfans cyflogaeth a chymorth—

y lwfans personol ac unrhyw bremiymau a chydannau y mae hawl gan D i'w cael, ond nid oes raid cynnwys y PAD os telir ef, ac os yw D yn ofalwr, mae'n cynnwys unrhyw bremiwm gofal y mae'r person hwnnw'n ei gael,

(c) mewn perthynas â chredyd gwarant—

y lwfans personol ac unrhyw swm ychwanegol

in either case, who has been offered, who is receiving or, in the case of a person described in paragraph (b), in respect of whom a suitable person is receiving, a direct payment for securing the provision of a service;

"day service" ("*gwasanaeth dydd*") means a service, which meets a part of D's assessed needs, which takes place away from that person's home and which is intended to assist the person in meeting others, in taking up new or practising existing interests and includes work opportunities;

"direct payment" ("*taliad uniongyrchol*") has the meaning given in regulations 8 and 9 of the 2011 Regulations and any reference to a direct payment includes, where the context requires any part or parts of that payment;

"dual provision" ("*darpariaeth ddeuol*") means that D's assessed needs are being met—

(a) in part by a local authority providing or securing a service or services for that person, and

(b) in part by D receiving a direct payment in order to secure the provision of another or other services;

"employment and support allowance" ("*lwfans cyflogaeth a chymorth*") means either contributory employment and support allowance or income-related employment and support allowance in accordance with Part 1 of the Welfare Reform Act 2007(1);

"flat-rate charge" ("*ffi unffurf*") means a fixed rate charge for a chargeable service received by a service user which is imposed by a local authority regardless of the means of the service user;

"guarantee credit" ("*credyd gwarant*") is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002(2);

"home visiting facility" ("*cyfleuster ymweliadau cartref*") means a visit (or visits) which are undertaken by an appropriate officer of a local authority to D's current place of residence, or at such other venue as D reasonably requests, for the purposes of gathering information to inform a means assessment for that person and for providing information and offering assistance in relation to that process;

"in writing" ("*mewn ysgrif*") means any expression consisting of words or figures that can be read, reproduced and subsequently communicated and may include information transmitted and stored by electronic means;

"income support" ("*cymhorthdal incwm*") means income support paid in accordance with section

(1) 2001 p.15.

(2) 1971 p.80.

(1) 2007 c.5.

(2) 2002 c.16.

y mae hawl gan D i'w gael, ond nid oes raid cynnwys y swm a ychwanegir am anableded difrifol os telir ef, ac os yw D yn ofalwr, mae'n cynnwys unrhyw swm ychwanegol cymwys i ofalwyr y mae'r person hwnnw'n ei gael;

ystyr "incwm asesadwy" ("*assessable income*") yw'r rhan honno o incwm D y caniateir i awdurdod lleol wneud penderfyniad mewn perthynas â hi yn unol â rheoliad 17; nid yw'n cynnwys yr incwm y mae'n ofynnol bod awdurdod lleol yn ei ddiystyru yn unol â rheoliad 16;

ystyr "incwm net" ("*net income*") yw'r incwm sydd, neu a fyddai, yn weddill gan D, ar ôl didynnu o incwm asesadwy'r person hwnnw y swm safonol (neu unrhyw swm arall) sy'n ofynnol o dan y Rheoliadau hyn fel taliad tuag at y gost o sicrhau gwasanaeth y mae, neu y bydd, yn cael taliad uniongyrchol ar ei gyfer;

ystyr "lwfans cyflogaeth a chymorth" ("*employment and support allowance*") yw naill ai lwfans cyflogaeth a chymorth seiliedig ar gyfraniadau neu lwfans cyflogaeth a chymorth seiliedig ar incwm yn unol â Rhan 1 o Ddeddf Diwygio Lles 2007(1);

ystyr "mewn ysgrifen" ("*in writing*") yw unrhyw fynegiant sydd wedi ei gyfansoddi o eiriau a ffigurau y gellir eu darllen, eu hatgynhyrchu a'u cyfleu drachefn, a gall gynnwys gwybodaeth a drawsyrir ac a gedwir drwy dulliau electronig;

ystyr "y Mesur" ("*the Measure*") yw Mesur Codi Ffioedd am Wasanaethau Cymdeithasol (Cymru) 2010;

ystyr "person addas" ("*suitable person*") yw person a benodir yn unol â rheoliad 9 o Reoliadau 2011, i gydysnio i daliad uniongyrchol ac i'w gael ar ran D, yn unol â rheoliad 4 o'r Rheoliadau hynny;

ystyr "Rheoliadau 2011" ("*the 2011 Regulations*") yw Rheoliadau Gofal Cymunedol, Gwasanaethau i Ofalwyr a Gwasanaethau Plant (Taliadau Uniongyrchol) (Cymru) 2011;

ystyr "swm safonol" ("*standard amount*") yw'r swm y byddai'n ofynnol i D ei dalu tuag at sicrhau darpariaeth o wasanaeth pe na bai asesiad o fodd y person hwnnw neu benderfyniad ynghylch gallu'r defnyddiwr gwasanaeth i dalu, o dan y Rheoliadau hyn, yn cael effaith;

mae i "taliad uniongyrchol" ("*direct payment*") yr ystyr a roddir i'r term yn rheoliadau 8 a 9 o Reoliadau 2011, ac y mae unrhyw gyfeiriad at daliad uniongyrchol yn cynnwys, pan fo'r cyddestun yn mynnu felly, unrhyw ran neu rannau o'r taliad hwnnw.

124 of the Social Security Contributions and Benefits Act 1992(1);

"means assessment" ("*asesiad modd*") means an assessment of D's financial means undertaken in accordance with regulations 13 and 16 and "assessment of D's means" ("*asesiad o fodd D*") is to be read accordingly;

"net income" ("*incwm net*") means, the income that D has, or would have left after the deduction from that person's assessable income of the standard amount (or any other amount) required under these Regulations by way of a payment towards the cost of securing the service for which a direct payment is, or will be, received;

"relevant benefit" ("*budd-dal perthnasol*") means—
(a) income support; or
(b) employment and support allowance; or
(c) guarantee credit;

"savings credit" ("*credyd cynilion*") has the meaning given in sections 1 and 3 of the State Pension Credit Act 2002;

"service" ("*gwasanaeth*") means a chargeable service and, where the context requires, chargeable services or a combination of chargeable services and "services" ("*gwasanaethau*") and "combination of services" ("*cyfuniad o wasanaethau*") are to be interpreted accordingly;

"service user" ("*defnyddiwr gwasanaeth*") means an adult who has been offered, or who is receiving, a service provided or secured by a local authority;

"standard amount" ("*swm safonol*") means the amount which D would be required to pay towards securing the provision of a service if no assessment of that person's means or determination of the service user's ability to pay under these Regulations has effect;

"suitable person" ("*person addas*") means a person appointed in accordance with regulation 9 of the 2011 Regulations to consent to and to receive a direct payment on behalf of D in accordance with regulation 4 of those Regulations;

"working day" ("*diwrnod gwaith*") means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a Bank Holiday within the meaning of the Banking and Financial Dealings Act 1971(2).

(1) 2007 p.5.

(1) 1992 c.4.

(2) 1971 c.80.

(2) Yn y Rheoliadau hyn, rhaid dehongli unrhyw gyfeiriad at D "yn talu" ("paying") neu'n gwneud "taliad" ("payment") o swm (tuag at y gost o sicrhau darpariaeth o wasanaeth) fel pe bai'n cynnwys cyfeiriad at dalu neu wneud taliad fel ad-daliad neu gyfraniad(1).

Taliadau uniongyrchol – penderfyniad gan awdurdod lleol ynghylch swm ad-daliad neu gyfraniad

3. Pan fo awdurdod lleol yn gwneud penderfyniad, yn unol â rheoliad 10(4) neu 11(4) o Reoliadau 2011, ynglŷn â'r swm neu'r symiau (os oes rhai) y mae'n rhesymol ymarferol i D ei dalu neu'u talu tuag at y gost o sicrhau darpariaeth o wasanaeth, rhaid iddo roi effaith i'r canlynol–

- (a) darpariaethau'r Rheoliadau hyn; a
- (b) unrhyw reoliadau a wneir gan Weinidogion Cymru o dan adran 16 o Ddeddf Gofal Cymunedol (Oedi cyn Rhyddhau etc) 2003(2) (darparu gwasanaethau yn ddi-dâl yng Nghymru).

Personau a gwasanaethau na chaniateir gwneud ad-daliad neu gyfraniad yn ofynnol ganddynt

4.–(1) Rhaid i awdurdod lleol beidio â gwneud yn ofynnol, na cheisio cael, unrhyw daliad tuag at y gost o sicrhau darpariaeth o wasanaeth yn unol â Rheoliadau 2011 gan D sydd–

- (a) wedi cael cynnig neu sy'n cael taliad uniongyrchol i sicrhau darpariaeth o wasanaeth, ac sy'n dioddef o unrhyw ffurf o glefyd Creuzfeldt Jacob, pan fo ymarferydd meddygol cofrestredig wedi gwneud diagnosis clinigol o'r clefyd hwnnw;
- (b) wedi cael cynnig, neu sy'n cael, taliad uniongyrchol i sicrhau darpariaeth o wasanaeth, sy'n ffurfio rhan o becyn o wasanaethau ôl-ofal yn unol ag adran 117 o Ddeddf Iechyd Meddwl 1983 (ôl-ofal)(3);
- (c) wedi cael asesiad modd a gynhaliwyd gan awdurdod lleol, ac aseswyd bod ei incwm net yn llai na'r cyfanswm y cyfeirir ato yn rheoliad 17(2).

(2) Ni chaniateir i awdurdod lleol geisio cael unrhyw ad-daliad neu gyfraniad ar gyfer y rhan honno o daliad uniongyrchol y bwriedir iddi gwrdd â chost resymol cludiant ar gyfer bod yn bresennol mewn gwasanaeth dydd, a bod presenoldeb mewn gwasanaeth dydd a

(2) In these Regulations, any reference to D "paying" ("yn talu") or making a "payment" ("taliad") of an amount (towards the cost of securing the provision of a service) is to be interpreted as including a reference to the paying or the making of a payment by way of reimbursement or contribution(1).

Direct payments – local authority determination of the amount of a reimbursement or contribution

3. Where a local authority makes a determination, in accordance with regulation 10(4) or 11(4) of the 2011 Regulations as to what amount or amounts (if any) it is reasonably practicable for D to pay towards the cost of securing the provision a service, it must give effect to–

- (a) the provisions of these Regulations; and
- (b) any regulations made by the Welsh Ministers under section 16 of the Community Care (Delayed Discharges etc) Act 2003(2) (free provision of services in Wales).

Persons and services in respect of which reimbursement or contribution must not be required

4.–(1) A local authority must not require or seek any payment towards the cost of securing the provision of a service in accordance with the 2011 Regulations from D who –

- (a) has been offered or is receiving a direct payment to secure the provision of a service, and who is suffering from any form of Creuzfeldt Jacob disease where that disease has been clinically diagnosed by a registered medical practitioner;
- (b) has been offered or is receiving a direct payment to secure the provision of a service, which forms part of a package of after care services in accordance with section 117 of the Mental Health Act 1983 (after care)(3);
- (c) has had a means assessment undertaken by a local authority and been assessed as having a net income of less than the total amount referred to in regulation 17(2).

(2) A local authority may not seek any reimbursement or contribution for that part of a direct payment which is intended to meet the reasonable cost of transport to attend a day service, where attendance at the day service and the provision of transport to

(1) Diffinnir "ad-daliad" a "cyfraniad" yn adran 12(5) o'r Mesur.

(2) 2003 p.5.

(3) 1983 p.20.

(1) "Reimbursement" and "contribution" are defined in section 12(5) of the Measure.

(2) 2003 c.5.

(3) 1983 c.20.

darpariaeth o gludiant i alluogi'r cyfryw bresenoldeb yn gynwysedig yn asesiad anghenion D.

(3) Rhaid i awdurdod lleol beidio â cheisio adennill unrhyw swm gan D tuag at gostau darparu datganiad o wybodaeth a ddarperir yn unol â rheoliad 19.

(4) Nid oes dim yn y rheoliad hwn sy'n effeithio ar ddisgresiwn awdurdod lleol i bennu categorïau ychwanegol o D neu o wasanaethau, na chaniateir gwneud taliad o unrhyw swm yn ofynnol ganddynt neu mewn perthynas â hwy, neu geisio cael taliad o'r fath.

(5) Nid yw rheoliadau 5 i 19 yn gymwys i'r personau y cyfeirir atynt yn is-baragraffau (a) neu (b) o baragraff (1).

Yr uchafswm rhesymol o ad-daliad neu gyfraniad sy'n daladwy

5.–(1) Yn ddarostyngedig i baragraffau (3) a (4), yr uchafswm y caiff awdurdod lleol benderfynu sy'n swm rhesymol i D ei dalu tuag at y gost o sicrhau darpariaeth o wasanaeth ("uchafswm rhesymol") ("*maximum reasonable amount*") yw £50 yr wythnos.

(2) Yn ddarostyngedig i baragraffau (3) a (4), pan fo gan D anghenion asesedig a fodlonir gan ddarpariaeth ddeuol, £50 yr wythnos yw uchafswm cyfanredol y symiau y caiff awdurdod lleol wneud yn ofynnol bod D yn eu talu mewn perthynas â'r ddarpariaeth honno, fel—

- (a) ffi, a
- (b) taliad.

(3) Pan fo awdurdod lleol yn cyfrifo'r uchafswm rhesymol y caniateir gwneud yn ofynnol bod D yn ei dalu—

- (a) rhaid iddo ddiystyru cost sicrhau unrhyw wasanaeth y mae'n codi ffi unffurf amdano, a
- (b) caiff osod y ffioedd mewn perthynas â gwasanaeth o'r fath yn ychwanegol at yr uchafswm rhesymol.

(4) Pan fo D yn cael taliad uniongyrchol i'w alluogi i brynu cyfarpar y byddai awdurdod lleol, fel arall, yn ei ddarparu—

- (a) rhaid i'r awdurdod lleol ddiystyru cost prynu'r cyfarpar wrth gyfrifo'r uchafswm rhesymol y caniateir gwneud yn ofynnol bod D yn ei dalu, a
- (b) caiff wneud yn ofynnol bod D yn talu swm dros ben ac yn ychwanegol at yr uchafswm rhesymol, tuag at y gost o sicrhau'r cyfarpar.

Y weithdrefn ar gyfer penderfynu taliad

6.–(1) Wrth benderfynu swm unrhyw daliad a wneir gan D, neu swm y gellir gwneud yn ofynnol bod D yn

enable such attendance is included in D's needs assessment.

(3) A local authority must not seek to recover any amount from D towards the costs of the provision of a statement of information provided in accordance with regulation 19.

(4) Nothing in this regulation affects the discretion of a local authority to specify additional categories of D or services from whom or in respect of which payment of an amount may not be required or sought.

(5) Regulations 5 to 19 do not apply to the persons referred to in sub-paragraphs (a) or (b) of paragraph (1).

Maximum reasonable amount of a reimbursement or contribution payable

5.–(1) Subject to paragraphs (3) and (4), the maximum amount that a local authority may determine to be a reasonable amount for D to pay towards the cost of securing the provision of a service ("*maximum reasonable amount*") ("*uchafswm rhesymol*") is £50 per week.

(2) Subject to paragraphs (3) and (4), where D has assessed needs which are met by way of dual provision £50 per week is the maximum of the aggregate of the amounts that a local authority may require D to pay in respect of that provision by way of—

- (a) a charge, and
- (b) a payment.

(3) When calculating the maximum reasonable amount that D may be required to pay, a local authority—

- (a) must disregard the cost of securing any service for which it imposes a flat-rate charge, and
- (b) may impose the charges in respect of such a service in addition to the maximum reasonable amount.

(4) Where D receives a direct payment to enable the purchase of equipment, which would otherwise be provided by a local authority, the local authority—

- (a) must disregard the cost of the purchase of the equipment when calculating the maximum reasonable amount that D may be required to pay, and
- (b) may require D to pay an amount in excess of and in addition to the maximum reasonable amount towards the cost of securing the equipment.

Procedure for determining a payment

6.–(1) When determining the amount of any payment that D pays, or may be required to pay,

ei dalu, rhaid i awdurdod lleol fabwysiadu'r weithdrefn a ganlyn—

- (a) cyfrifo swm y gost resymol i'r awdurdod o sicrhau darpariaeth o'r gwasanaeth y mae, neu y bydd, D yn cael taliad uniongyrchol ar ei gyfer;
- (b) o'r cyfanswm hwnnw, diystyru swm unrhyw ffi neu daliad y cyfeirir ati neu ato yn rheoliad 5(3) a (4);
- (c) diystyru costau rhesymol sicrhau ddarpariaeth o gludiant i fod yn bresennol mewn gwasanaeth dydd, pan fo'r gofyniad i fod yn bresennol mewn gwasanaeth dydd yn gynwysedig yn asesiad anghenion D;
- (ch) ar y swm canlyniadol gweithredu'r uchafswm rhesymol; ac os byddai'r swm canlyniadol, fel arall, yn fwy na'r uchafswm, yr uchafswm hwnnw, yn ddarostyngedig i is-baragraff (d), yw'r swm y caiff yr awdurdod lleol wneud yn ofynnol bod D yn ei dalu;
- (d) gwneud y swm a gyfrifir yn unol ag is-baragraff (ch) yn destun penderfyniad yn unol â rheoliad 17, ynghylch gallu D i wneud taliad.

(2) Ni chymerir y cam y cyfeirir ato ym mharagraff (1)(d) ac eithrio pan fo—

- (a) D wedi gofyn am asesiad modd; a
- (b) yr awdurdod lleol wedi cynnal asesiad modd,

yn unol â'r Rheoliadau hyn.

Gwahoddiad i ofyn am asesiad modd

7.—(1) Rhaid i awdurdod lleol wahodd D i ofyn am asesiad o'i fodd yn unol â rheoliad 13—

- (a) os yw'n rhesymol ymarferol gwneud hynny, ar yr adeg y mae'r awdurdod yn cynnig gwneud taliad uniongyrchol i D neu, os yw'n berthnasol, i berson addas;
- (b) os nad oedd yn rhesymol ymarferol rhoi gwahoddiad fel a grybwyllir yn is-baragraff (a), cyn gynted ag y bo'n rhesymol ymarferol ar ôl gwneud y cynnig;
- (c) os na roddwyd gwahoddiad o dan is-baragraff (a) neu (b) cyn gwneud y taliad uniongyrchol cyntaf i D neu, os yw'n berthnasol, i berson addas, cyn gynted ag y bo'n rhesymol ymarferol ar ôl gwneud y taliad uniongyrchol cyntaf.

(2) Os yw awdurdod lleol o'r farn, yn rhesymol, bod un neu ragor o'r amodau a bennir ym mharagraff (3) yn gymwys, rhaid iddo wahodd D i ofyn am asesiad newydd o'i fodd yn unol â rheoliadau 13 ac 16, gyda golwg ar i'r awdurdod wneud penderfyniad pellach yn unol â rheoliad 17, ynghylch gallu D i wneud taliad.

towards the cost of securing a service, a local authority must adopt the following procedure—

- (a) calculate the amount of its reasonable cost of securing the provision of the service for which D is or will receive a direct payment;
- (b) disregard from that total the amount of any charge or payment referred to in regulation 5(3) and (4);
- (c) disregard the reasonable costs of securing the provision of transport to attend a day service, where the requirement to attend such a service is included in D's needs assessment;
- (d) apply the maximum reasonable amount to this resulting amount where the resulting amount would otherwise exceed it and this, subject to sub-paragraph (e), is the amount that the local authority may require D to pay;
- (e) subject the amount calculated in accordance with sub-paragraph (d) to a determination of D's ability to make a payment in accordance with regulation 17.

(2) The step referred to in paragraph (1)(e) will only be applied where—

- (a) D has requested a means assessment; and
- (b) a means assessment has been undertaken by the local authority,

in accordance with these Regulations.

Invitation to request a means assessment

7.—(1) A local authority must issue an invitation to D to request an assessment of his or her means in accordance with regulation 13—

- (a) if it is reasonably practicable to do so, when the authority offers to make a direct payment to D, or where relevant, to a suitable person;
- (b) if it has not been reasonably practicable to give an invitation as mentioned in sub-paragraph (a), as soon as reasonably practicable after the offer was made;
- (c) if an invitation has not been given under sub-paragraph (a) or (b) prior to the making of the first direct payment to D, or where relevant, to a suitable person, as soon as reasonably practicable after the first direct payment is made.

(2) If a local authority reasonably considers that one or more of the conditions set out in paragraph (3) applies, it must invite D to request a new assessment of his or her means in accordance with regulations 13 and 16 with a view to its making a further determination of D's ability to make a payment in accordance with regulation 17.

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

- (a) bod cynnydd, neu gynnydd arfaethedig, yn swm y taliad y mae'n ofynnol i D ei wneud, o ganlyniad i newid ym mholisi'r awdurdod lleol ar godi ffioedd;
- (b) bod newid yn amgylchiadau ariannol D;
- (c) bod newid wedi digwydd yn y gost o ddarparu gwasanaeth, yr aseswyd bod ei angen ar D; neu
- (ch) bod camgymeriad wedi ei wneud pan wnaed penderfyniad yn unol â rheoliad 17.

(4) Pan yw'n ofynnol, yn unol â pharagraff (1), bod awdurdod lleol yn rhoi gwahoddiad i D neu, os yw'n berthnasol, i berson addas, ofyn am asesiad o fodd D yn unol â rheoliadau 13 ac 16, neu pan fo awdurdod lleol yn penderfynu gwneud hynny yn unol â pharagraff (2), rhaid i'r awdurdod lleol sicrhau bod y gwahoddiad yn cynnwys manylion llawn ynglŷn â'r canlynol—

- (a) y gwasanaethau yr aseswyd bod eu hangen ar D ac y mae taliad uniongyrchol dan ystyriaeth ar eu cyfer;
- (b) polisi'r awdurdod lleol ar godi ffioedd, gan gynnwys y canlynol—
 - (i) ei bolisi ynglŷn â pha rai, os oes rhai, o'r gwasanaethau y caniateir darparu taliad uniongyrchol ar eu cyfer, y gellir gwneud yn ofynnol bod D yn talu swm tuag at y gost o sicrhau'r gwasanaethau hynny,
 - (ii) manylion ynghylch y swm safonol y gellir gwneud yn ofynnol bod D yn ei dalu tuag at y gost o sicrhau unrhyw wasanaeth o'r fath,
 - (iii) manylion ynghylch unrhyw wasanaeth y mae'r awdurdod lleol yn ei sicrhau neu'n ei ddarparu, ac y gall wneud yn ofynnol bod defnyddiwr gwasanaeth yn talu ffi amdano yn unol ag adran 1(1) o'r Mesur (pŵer cyffredinol i godi ffioedd am wasanaethau gofal),
 - (iv) manylion ynghylch unrhyw wasanaeth y mae'r awdurdod lleol yn gwneud yn ofynnol bod defnyddiwr gwasanaeth yn talu ffi unffurf amdano, a
 - (v) manylion ynghylch yr uchafswm rhesymol y caniateir ei wneud yn ofynnol neu geisio'i gael yn unol â rheoliad 5, neu'r uchafswm rhesymol a bennir gan yr awdurdod lleol, os yw'r swm hwnnw'n llai;
- (c) proses yr awdurdod lleol ar gyfer asesu modd;
- (ch) yr wybodaeth a'r ddogfennaeth y mae'n ofynnol bod D neu, os yw'n berthnasol, berson addas, yn eu darparu er mwyn cynnal asesiad o

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

- (a) there is an increase, or proposed increase, in the amount of the payment which D is required to make as a result of a change to the local authority's charging policy;
- (b) there is a change in D's financial circumstances;
- (c) there has been a change in the cost of providing a service for which D has been assessed as needing; or
- (d) a mistake was made when a determination was made in accordance with regulation 17.

(4) Where a local authority is required by paragraph (1), or determines in accordance with paragraph (2), to issue an invitation to D or, where relevant, to a suitable person, to request an assessment of D's means in accordance with regulations 13 and 16, it must ensure that the invitation contains full details of—

- (a) the services which D has been assessed as requiring and for which a direct payment is being considered;
- (b) its charging policy, which must include the following—
 - (i) its policy in relation to which, if any, of the services for which a direct payment may be provided D may be required to make a payment of an amount towards the cost of securing those services,
 - (ii) details of the standard amount which D may be required to pay towards the cost of securing any such service,
 - (iii) details of any service which the local authority secures or provides and for which it may require a service user to pay a charge in accordance with section 1(1) of the Measure (general power to charge for care services),
 - (iv) details of any service for which the local authority requires a service user to pay a flat-rate charge, and
 - (v) details of the maximum reasonable amount which may be required or sought in accordance with regulation 5, or the maximum reasonable amount that the local authority applies, where that amount is lower;
- (c) its means assessment process;
- (d) the information and documentation that D or, where relevant, a suitable person, is required to provide in order that an assessment of D's

fodd D;

- (d) y cyfnod o amser, fel a bennir yn rheoliad 8, pan yw'n ofynnol bod D neu, os yw'n berthnasol, berson addas, yn cyflenwi'r wybodaeth a'r ddogfennaeth y cyfeirir atynt yn is-baragraff (dd);
- (dd) ym mha fformat y bydd yr awdurdod lleol yn fodlon derbyn y wybodaeth a'r ddogfennaeth y cyfeirir atynt yn is-baragraff (ch);
- (e) unrhyw gyfleuster ymweliadau cartref a ddarperir gan yr awdurdod lleol o fewn ei ardal;
- (f) y canlyniadau os methir ag ymateb i'r gwahoddiad yn unol ag is-baragraff (d);
- (ff) enw'r unigolion o fewn yr awdurdod, y dylai D neu, os yw'n berthnasol, berson addas, gysylltu ag ef pe bai angen gwybodaeth neu gymorth ychwanegol ar y person hwnnw ynglŷn ag unrhyw rai o'r prosesau sy'n gysylltiedig â rhoi'r gwahoddiad;
- (g) hawl D neu, os yw'n berthnasol, berson addas, i benodi trydydd parti i'w gynorthwyo neu weithredu ar ei ran, mewn perthynas â'r cyfan neu ran o'r broses asesu modd; ac
- (ng) manylion cyswllt unrhyw sefydliad o fewn ei ardal sy'n darparu cefnogaeth neu gymorth o'r math y cyfeirir ati neu ato yn is-baragraff (g).

(5) Rhaid i awdurdod lleol ddarparu i D neu, os yw'n berthnasol, i berson addas, yr wybodaeth y cyfeirir ati ym mharagraff (1) mewn ysgrifen, neu mewn unrhyw fformat arall sy'n briodol ar gyfer anghenion cyfathrebu'r person hwnnw(1).

Yr ymateb i wahoddiad i ofyn am asesiad modd

8.–(1) Rhaid i D neu, yn ddarostyngedig i baragraff (3) neu (4), gynrychiolydd D, ddarparu ymateb i'r awdurdod lleol o fewn 15 diwrnod gwaith (neu ba bynnag gyfnod hwy y caiff awdurdod lleol, yn rhesymol, ei ganiatáu yn unol â rheoliad 9) ar ôl y dyddiad y rhoddyd y gwahoddiad.

(2) Mae D yn cydymffurfio â'r gofyniad a bennir ym mharagraff (1) os yw'r person hwnnw neu gynrychiolydd y person hwnnw–

- (a) yn gofyn am i'r awdurdod lleol gynnal asesiad modd yn unol â rheoliadau 13 ac 16;
- (b) yn gofyn am gymorth gan unrhyw gyfleuster ymweliadau cartref a ddarperir gan yr awdurdod lleol, pan fo angen cymorth o'r fath;

(1) Am esboniad o ystyr "unrhyw fformat sy'n briodol ar gyfer anghenion cyfathrebu'r person hwnnw", gweler y canllawiau a gyhoeddwyd gan Weinidogion Cymru, sy'n dwyn yr enw *Introducing More Consistency in Local Authority Charging for Non-Residential Social Services*.

means can be undertaken;

- (e) the time, as specified in regulation 8, within which D or, where relevant, a suitable person, is required to supply the information and documentation referred to in sub-paragraph (d);
- (f) the format in which it will accept the information and documentation referred to in sub-paragraph (d);
- (g) any home visiting facility that it provides within its area;
- (h) the consequences of failing to respond to the invitation in accordance with sub-paragraph (e);
- (i) the named individuals within the authority whom D or, where relevant, a suitable person, should contact should that person require additional information or assistance in respect of any of the processes attendant upon the issue of the invitation;
- (j) the right of D or, where relevant, a suitable person, right to appoint a third party to assist, or to act on his or her behalf, in respect of all or part of the means assessment process; and
- (k) the contact details of any organisation in its area which provides support or assistance of the type referred to in sub-paragraph (j).

(5) A local authority must provide D or, where appropriate, a suitable person with the information referred to in paragraph (1) in writing, or in any other format that is appropriate to the communication needs of that person(1).

Response to an invitation to request a means assessment

8.–(1) D, or subject to paragraph (3) or (4), D's representative, must provide a response to the local authority within 15 working days (or such longer period as a local authority may reasonably allow in accordance with regulation 9) of the date the invitation was issued.

(2) D complies with the requirement set out in paragraph (1) if that person or that person's representative–

- (a) requests that the local authority carries out a means assessment in accordance with regulations 13 and 16;
- (b) requests assistance from any home visiting facility that is provided by the local authority, where such assistance is required;

(1) For an explanation of the meaning of "any format appropriate to the communication needs of that person", please refer to the guidance published by the Welsh Ministers, entitled *Introducing More Consistency in Local Authority Charging for Non-Residential Social Services*.

- (c) yn darparu'r wybodaeth y gofynnwyd amdani gan yr awdurdod lleol, yn y fformat y cytunodd yr awdurdod lleol i'w derbyn ynddo;
- (ch) yn darparu'r ddogfennaeth y gofynnwyd amdani gan yr awdurdod lleol;
- (d) yn gofyn am estyniad amser, pan fo angen un, er mwyn darparu'r wybodaeth neu'r dogfennaeth (neu'r ddwy) y gofynnwyd amdani neu amdanynt yn unol â rheoliad 7(4)(ch), gan roi rheswm neu resymau pam y mae angen estyniad amser.

(3) Pan fo D wedi penodi cynrychiolydd i weithredu ar ei ran, rhaid i D ddarparu'r canlynol i'r awdurdod lleol—

- (a) enw a chyfeiriad y cynrychiolydd,
- (b) cadarnhad bod y cynrychiolydd yn fodlon gweithredu ar ei ran,
- (c) manylion ynghylch natur a maint cyfranogiad y cynrychiolydd yn y broses o asesu modd, ac
- (ch) manylion ynghylch natur a maint yr wybodaeth y caiff yr awdurdod lleol ei rhannu gyda chynrychiolydd D.

(4) Pan fo person addas wedi ei benodi yn unol â rheoliad 9 o Reoliadau 2011 (taliadau uniongyrchol o dan adran 57(1A) o Ddeddf 2001), rhaid i'r person hwnnw ddarparu cadarnhad i'r awdurdod lleol o'i enw a'i gyfeiriad.

(5) Onid yw'r cyd-destun yn mynnu fel arall, pan fo cynrychiolydd wedi ei benodi yn unol â pharagraff (3) neu (4), mae unrhyw gyfeiriad at D yn y rheoliad hwn neu yn rheoliadau 9 i 15 yn cynnwys cynrychiolydd y person hwnnw.

(6) Caniateir i unrhyw gais a wneir yn unol â pharagraff (2), neu benodiad a wneir yn unol â pharagraff (3), gael ei wneud neu'i gyfleu mewn ysgrifen neu ar lafar gan D, ond rhaid iddo gael ei gadarnhau gan awdurdod lleol mewn ysgrifen neu mewn unrhyw fformat arall sy'n briodol ar gyfer anghenion cyfathrebu'r defnyddiwr gwasanaeth.

Cais am estyniad amser er mwyn darparu gwybodaeth neu ddogfennaeth

9.—(1) Rhaid i awdurdod lleol gydsynio ag unrhyw gais rhesymol am estyniad amser, a wneir yn unol â rheoliad 8(d).

(2) Os yw D yn gofyn am estyniad amser ar lafar, caiff awdurdod lleol roi ei ymateb i'r cais hwnnw ar lafar, ond rhaid iddo hefyd gadarnhau'r ymateb mewn ysgrifen, neu mewn unrhyw fformat arall sy'n briodol ar gyfer anghenion cyfathrebu D.

(3) Wrth ymateb i gais am estyniad amser, rhaid i awdurdod lleol gadarnhau a yw'n caniatáu'r cais ai peidio, ac os yw'n ei ganiatáu, rhaid iddo ddatgan

- (c) provides the information that has been requested by the local authority in the format that the local authority has agreed to accept it;
- (d) provides the documentation that has been requested by the local authority;
- (e) requests an extension of time, where one is required, in which to provide the information or documentation (or both) that has been requested in accordance with regulation 7(4)(d), giving the reason or reasons why an extension of time is required.

(3) Where D has appointed a representative to act on his or her behalf, D must provide the local authority with the following—

- (a) the name and address of the representative,
- (b) confirmation that the representative is willing to act on his or her behalf,
- (c) details of the nature and extent of the representative's involvement in the means assessment process, and
- (d) details of the nature and extent of the information the local authority may share with his or her representative.

(4) Where a suitable person has been appointed in accordance with regulation 9 of the 2011 Regulations (direct payments under section 57(1A) of the 2001 Act), that person must provide confirmation of his or her name and address to the local authority.

(5) Unless the context otherwise requires, where a representative has been appointed in accordance with paragraph (3) or (4), any reference in this regulation or in regulations 9 to 15 to D, includes that person's representative.

(6) Any request made in accordance with paragraph (2) or appointment made in accordance with paragraph (3) may be made or communicated orally or in writing by D but must be confirmed by a local authority in writing or in any other format that is appropriate to the communication needs of the service user.

Request for extension of time in which to provide information or documentation

9.—(1) A local authority must agree to any reasonable request for an extension of time made in accordance with regulation 8(2)(e).

(2) If D requests an extension of time orally, a local authority may give its response to that request orally, but it must also confirm the response in writing, or in any other format that is appropriate to D's communication needs.

(3) When responding to a request for an extension of time a local authority must confirm whether or not the request is granted and if granted, must state the period

cyfnod yr estyniad.

(4) Pan fo awdurdod lleol yn gwrthod cais am estyniad amser, rhaid iddo roi ei resymau dros wrthod y cais.

Methiant i ymateb i wahoddiad i ofyn am asesiad modd

10.–(1) Pan fo D yn peidio ag ymateb i wahoddiad yn unol â rheoliad 8, caiff awdurdod lleol benderfynu ei bod yn ofynnol i D dalu'r swm safonol tuag at y gost o sicrhau'r gwasanaeth a oedd yn destun y gwahoddiad.

(2) Mae pŵer awdurdod lleol i wneud yn ofynnol bod D yn talu'r swm safonol yn unol â pharagraff (1) yn ddarostyngedig i'r uchafswm rhesymol a ragnodir yn rheoliad 5.

(3) Pan fo paragraff (1) yn gymwys, bydd yn ofynnol bod D yn talu'r swm safonol a osodir gan yr awdurdod lleol o'r dyddiad y darperir datganiad gan yr awdurdod lleol yn unol â rheoliad 19.

(4) Os yw D yn ymateb i wahoddiad i ofyn am asesiad modd yn unol â pharagraff (1) ar ôl i'r awdurdod lleol, benderfynu gwneud yn ofynnol bod D i dalu'r swm safonol neu, os yw'n berthnasol, yr uchafswm rhesymol—

- (a) rhaid i'r awdurdod lleol fynd ymlaen i gynnal asesiad o fodd D yn unol â rheoliadau 13 ac 16 ac i wneud penderfyniad ynghylch gallu D i dalu, yn unol â rheoliad 17;
- (b) ni fydd y camau a gymerir gan yr awdurdod lleol o dan is-baragraff (a) yn effeithio ar rwymedigaeth D i dalu unrhyw swm neu symiau y gwnaed yn ofynnol iddo'i dalu neu'u talu tuag at y gost o sicrhau gwasanaeth o'r dyddiad y darparwyd y datganiad y cyfeirir ato ym mharagraff (3); ac
- (c) bydd y datganiad a ddarperir yn unol â rheoliad 19, o ganlyniad i'r asesiad a'r penderfyniad y cyfeirir atynt yn is-baragraff (a) ("yr ail ddatganiad") ("the second statement") yn disodli'r datganiad a ddarparwyd yn unol â pharagraff (3), a bydd yr ail ddatganiad yn cael effaith o'r dyddiad y'i darperir.

Methiant i gyflenwi'r holl wybodaeth a dogfennaeth perthnasol

11.–(1) Pan fo D wedi methu—

- (a) cyflenwi, neu
- (b) ceisio estyniad amser ar gyfer cyflenwi,

yr holl wybodaeth a dogfennaeth y gofynnwyd amdanynt yn rhesymol gan awdurdod lleol o dan reoliad 7, caiff yr awdurdod lleol wneud asesiad o fodd

of the extension.

(4) Where a local authority refuses a request for an extension of time, it must give reasons for its refusal of the request.

Failure to respond to an invitation to request a means assessment

10.–(1) Where D fails to respond to an invitation in accordance with regulation 8, a local authority may determine that D is required to pay the standard amount towards the cost of securing the service which was the subject of the invitation.

(2) A local authority's power to require D to pay the standard amount in accordance with paragraph (1) is subject to the maximum reasonable amount prescribed in regulation 5.

(3) Where paragraph (1) applies, D will be required to pay the standard amount imposed by the local authority from the date that a statement is provided by the local authority in accordance with regulation 19.

(4) If D responds to an invitation to request a means assessment after a local authority has determined, in accordance with paragraph (1), to require D to pay the standard amount or, where relevant, the maximum reasonable amount—

- (a) the local authority must proceed to undertake an assessment of D's means in accordance with regulations 13 and 16 and to make a determination of D's ability to pay in accordance with regulation 17;
- (b) the actions taken by the local authority under sub-paragraph (a) will not affect the liability of D to pay any amount or amounts which he or she has been required to pay towards the cost of securing a service from the date that the statement referred to in paragraph (3) was provided; and
- (c) the statement provided in accordance with regulation 19 as a result of the assessment and determination referred to in sub-paragraph (a) ("the second statement") ("yr ail ddatganiad") will replace the statement provided in accordance with paragraph (3) and the second statement will take effect from the date that it is provided.

Failure to supply all relevant information and documentation

11.–(1) Where D has failed to—

- (a) supply, or
- (b) seek an extension of time in which to supply,

all the information and documentation reasonably requested by a local authority under regulation 7, the local authority may make an assessment of D's means

D ar sail yr wybodaeth rannol neu'r ddogfennaeth rhannol (neu'r ddwy) a gyflenwyd.

(2) Pan fo paragraff (1) yn gymwys, caiff yr awdurdod lleol—

- (a) gwneud penderfyniad yn unol â rheoliad 17;
- (b) yn ddarostyngedig i'r uchafswm rhesymol a ragnodir yn rheoliad 5, gwneud yn ofynnol bod D yn talu swm ar sail ei benderfyniad; ac
- (c) mynd ymlaen i ddarparu datganiad yn unol â rheoliad 19.

(3) Pan fo awdurdod lleol yn penderfynu ei bod yn ofynnol i D dalu swm tuag at y gost o sicrhau darpariaeth o wasanaeth yn unol â pharagraff (2), bydd yn ofynnol i D dalu'r swm hwnnw o'r dyddiad y bydd yr awdurdod lleol yn darparu'r datganiad y cyfeirir ato ym mharagraff (2)(c).

Tynnu cais am asesiad modd yn ôl

12.—(1) Caiff D dynnu cais am asesiad modd yn ôl drwy hysbysu awdurdod lleol, ar unrhyw adeg cyn bo'r asesiad modd wedi ei gwblhau.

(2) Caiff D hysbysu'r awdurdod lleol o'r penderfyniad i dynnu cais am asesiad modd yn ôl ar lafar, mewn ysgrifen, neu mewn unrhyw fformat arall sy'n briodol ar gyfer anghenion cyfathrebu D.

(3) Pan dynnir cais yn ôl yn unol â'r rheoliad hwn, caiff awdurdod lleol, yn ddarostyngedig i'r uchafswm rhesymol a ragnodir gan reoliad 5, wneud yn ofynnol bod D yn talu'r swm safonol tuag at y gost o sicrhau'r gwasanaeth a oedd yn destun y gwahoddiad i ofyn am asesiad modd.

(4) Mewn unrhyw achos pan fo D yn hysbysu awdurdod lleol ynghylch tynnu cais am asesiad modd yn ôl, rhaid i'r awdurdod lleol—

- (a) cydnabod cael yr hysbysiad, mewn ysgrifen ac mewn unrhyw fformat arall sy'n briodol ar gyfer anghenion cyfathrebu D;
- (b) rhoi gwybod i D nad yw tynnu'r cais hwnnw yn ôl yn rhwystro cyflwyno cais pellach am asesiad modd, mewn perthynas â'r un gwasanaeth neu wasanaeth gwahanol; ac
- (c) rhoi gwybod i D pa un a fydd yn ofynnol iddo dalu'r swm safonol ynteu'r uchafswm rhesymol a ragnodir gan reoliad 5, tuag at y gost o sicrhau'r gwasanaeth y gwneir, neu y gellir gwneud, y taliad uniongyrchol ar ei gyfer.

(5) Pan wneir yn ofynnol i D dalu swm tuag at y gost o sicrhau gwasanaeth yn unol â pharagraff (3), bydd yn ofynnol i D dalu'r swm hwnnw o'r dyddiad y bydd yr awdurdod lleol yn darparu datganiad yn unol â rheoliad 19.

on the basis of the partial information or partial documentation (or both) that has been supplied.

(2) Where paragraph (1) applies, the local authority may—

- (a) make a determination in accordance with regulation 17;
- (b) subject to the maximum reasonable amount prescribed in regulation 5, require D to pay an amount on the basis of its determination; and
- (c) proceed to provide a statement in accordance with regulation 19.

(3) Where a local authority determines that D is required to pay an amount towards the cost of securing the provision of a service in accordance with paragraph (2), D will be required to pay that amount from the date that the local authority provides the statement referred to in paragraph (2)(c).

Withdrawal of a request for a means assessment

12.—(1) D may withdraw a request for a means assessment by notifying a local authority at any time before the means assessment has been completed.

(2) D may notify the local authority of the decision to withdraw a request for a means assessment orally, in writing, or in any other format that is appropriate to D's communication needs.

(3) Where a request is withdrawn in accordance with this regulation, a local authority may, subject to the maximum reasonable amount prescribed by regulation 5, require D to pay the standard amount towards the cost of securing the service that was the subject of the invitation to request a means assessment.

(4) In any case where D notifies a local authority of the withdrawal of a request for a means assessment, the local authority must—

- (a) acknowledge receipt of the notification in writing and in any other format that is appropriate to D's communication needs;
- (b) advise D that the withdrawal of this request does not preclude the submission of a further request for a means assessment in respect of the same or a different service; and
- (c) advise D whether it will require payment of the standard amount, or the maximum reasonable amount prescribed by regulation 5, towards the cost of securing the service for which the direct payment is, or may be made.

(5) Where D is required to pay an amount towards the cost of securing a service in accordance with paragraph (3), D will be required to pay the amount from the date that the local authority provides a statement in accordance with regulation 19.

Dyletswydd i gynnal asesiad modd

13.–(1) Os bodlonir pob un o'r amodau yn rheoliad 14, rhaid i awdurdod lleol gynnal asesiad o fodd D, pan fo D yn gofyn am asesiad o'r fath.

(2) Ond nid oes dyletswydd ar awdurdod lleol i gynnal asesiad modd o dan y Rheoliadau hyn yn yr amgylchiadau a ragnodir gan reoliad 15.

Amodau sy'n arwain at y ddyletswydd i gynnal asesiad modd

14.–(1) Pennir yr amodau y cyfeirir atynt yn rheoliad 13(1) yn y paragraffau canlynol o'r rheoliad hwn.

(2) Amod 1 yw fod D–

- (a) yn cael cynnig o daliad uniongyrchol; neu
- (b) yn cael taliad uniongyrchol,

er mwyn sicrhau darpariaeth o wasanaeth.

(3) Amod 2 yw fod D yn gofyn am gynnal asesiad modd yn unol â'r Rheoliadau hyn gan yr awdurdod lleol a wnaeth y cynnig i wneud, neu sy'n gwneud, taliad uniongyrchol.

(4) Amod 3 yw fod D yn darparu i'r awdurdod unrhyw wybodaeth neu ddogfennau sydd ym meddiant D, neu sydd o dan ei reolaeth, ac y gofynnir amdanynt yn rhesymol gan yr awdurdod er mwyn cynnal asesiad modd.

Dim dyletswydd i gynnal asesiad modd

15. Nid oes dyletswydd ar awdurdod lleol i gynnal asesiad o fodd D–

- (a) pan fo'r amgylchiadau canlynol yn gymwys mewn perthynas â D–
 - (i) bod penderfyniad a wnaed gan yr awdurdod yn unol â rheoliad 17 yn cael effaith,
 - (ii) bod D, sy'n destun y penderfyniad, yn gofyn am i'r awdurdod gynnal asesiad modd yn unol â rheoliadau 13 ac 16,
 - (iii) bod y cais yn ymwneud â gwasanaeth y mae'r penderfyniad yn berthynol iddo, a
 - (iv) bod yr awdurdod o'r farn, yn rhesymol, na fu unrhyw newid perthnasol mewn amgylchiad er pan wnaed y penderfyniad; neu
- (b) yr aseswyd bod ar D angen, neu ei fod yn cael, gwasanaeth neu gyfuniad o wasanaethau y mae'r awdurdod lleol yn codi ffi unffurf amdano; neu
- (c) ei fod yn peidio ag ymateb i wahoddiad i ofyn am asesiad modd yn unol â rheoliad 8; neu

Duty to carry out a means assessment

13.–(1) Where each of the conditions in regulation 14 is met, a local authority must carry out an assessment of D's means if D requests such an assessment.

(2) But a local authority is under no duty to carry out a means assessment under these Regulations in the circumstances prescribed by regulation 15.

Conditions giving rise to the duty to carry out a means assessment

14.–(1) The conditions referred to in regulation 13(1) are set out in the following paragraphs of this regulation.

(2) Condition 1 is that D is–

- (a) offered a direct payment; or
- (b) receiving a direct payment,

to secure the provision of a service.

(3) Condition 2 is that D requests that the local authority which made the offer to pay, or is making the direct payment, carries out a means assessment in accordance with these Regulations.

(4) Condition 3 is that D provides the authority with any information or documents in D's possession or under his or her control, which the authority reasonably requires in order to carry out a means assessment.

No duty to carry out a means assessment

15. A local authority is under no duty to carry out an assessment of the means of D–

- (a) in respect of whom the following circumstances apply–
 - (i) a determination made by the authority in accordance with regulation 17 has effect,
 - (ii) D, who is the subject of the determination, requests that the authority carries out a means assessment in accordance with regulations 13 and 16,
 - (iii) the request relates to a service to which the determination relates, and
 - (iv) the authority reasonably considers that there has been no relevant change of circumstance since the determination was made; or
- (b) who has been assessed as needing, or who is receiving a service or combination of services for which the local authority applies a flat-rate charge; or
- (c) who fails to respond to an invitation to request a means assessment in accordance with regulation 8; or

- (d) ei fod yn tynnu'n ôl ei gais am asesiad modd yn unol â rheoliad 12.

Proses yr asesiad modd

16.–(1) Pan fo awdurdod lleol yn cynnal asesiad o fodd D yn unol â rheoliad 13, rhaid iddo sicrhau bod unrhyw broses asesu a ddefnyddir ganddo'n rhoi effaith i ofynion y rheoliad hwn.

(2) Wrth gynnal asesiad modd, os yw awdurdod lleol yn cymryd i ystyriaeth gynilion neu gyfalaf D, rhaid i'r awdurdod lleol–

- (a) yn ddarostyngedig i is-baragraff (b) ac i baragraff (3), gyfrifo cyfalaf D yn unol â darpariaethau Rhan 3 o Reoliadau 1992 (trin cyfalaf);
- (b) diystyru gwerth prif breswylfa'r D wrth gyfrifo cyfalaf y person hwnnw.

(3) Nid oes dim ym mharagraff (2) sy'n effeithio ar ddisgresiwn awdurdod lleol, wrth gyfrifo cyfalaf D, i gymhwyso unrhyw grïteria sy'n fwy hael wrth D na'r grïteria a gymhwysir o bryd i'w gilydd yn y darpariaethau y cyfeirir atynt ym mharagraff (2)(a).

(4) Wrth gynnal asesiad modd, os yw awdurdod lleol yn cymryd i ystyriaeth incwm D, rhaid i'r awdurdod lleol–

- (a) asesu pa ran o incwm D sy'n cyfansoddi'n briodol "enillion" ("*earnings*") yn unol â'r diffiniad o "earnings" yn rheoliadau 35 a 37 o Reoliadau Budd-dal Tai 2006(1) neu, yn ôl fel y digwydd, yn rheoliadau 35 a 37 o Reoliadau Budd-dal Tai (Personau sydd wedi cyrraedd oedran sy'n eu gwneud yn gymwys i gredyd pensiwn y wladwriaeth) 2006(2);
- (b) diystyru'r enillion hynny yn llawn;
- (c) diystyru yn llawn unrhyw swm a gaiff D mewn perthynas â chredyd cynilion; a
- (ch) diystyru yn llawn unrhyw daliad a gaiff D ac y cyfeirir ato ym mharagraff 24 o Atodlen 3 i Reoliadau 1992 (symiau sydd i'w diystyru wrth gyfrifo incwm ac eithrio enillion)(3).

(1) O.S. 2006/213.

(2) O.S. 2006/214.

(3) Disgrifir y taliadau, y cyfeirir atynt ym mharagraff 24 o Atodlen 3 i Reoliadau Cymorth Gwladol (Asesu Adnoddau) 1992, ym mharagraff 39 o Atodlen 9 i Reoliadau Cymhorthdal Incwm (Cyffredinol) 1987 (O.S. 1987/1967) (symiau sydd i'w diystyru wrth gyfrifo incwm ac eithrio enillion) fel "any payment made under or by the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust...the Fund, the Eileen Trust, MFET Limited or the Independent Living Fund (2006).".

- (d) who withdraws his or her request for a means assessment in accordance with regulation 12.

Means assessment process

16.–(1) Where a local authority carries out an assessment of D's means in accordance with regulation 13, it must ensure that any process of assessment that it employs gives effect to the requirements of this regulation.

(2) When undertaking a means assessment, if a local authority takes into account D's savings or capital the local authority must–

- (a) subject to sub-paragraph (b) and to paragraph (3), calculate D's capital in accordance with the provisions of Part 3 of the 1992 Regulations (treatment of capital);
- (b) disregard the value of D's main residence from its calculation of the capital of that person.

(3) Nothing in paragraph (2) affects the discretion of a local authority, when calculating D's capital, to apply any criteria that are more generous to D than those from time to time applied in the provisions referred to in paragraph (2)(a).

(4) When undertaking a means assessment, if a local authority takes into account D's income, the local authority must–

- (a) assess what part of the D's income properly constitutes "earnings" ("*enillion*") in accordance with the definition "earnings" in regulations 35 and 37 of the of the Housing Benefit Regulations 2006(1), or as the case may be, in regulations 35 and 37 of the of the Housing Benefit (Persons who have attained qualifying age for state pension credit) Regulations 2006(2);
- (b) disregard in full those earnings;
- (c) disregard in full any amount received by D in respect of savings credit; and
- (d) disregard in full any payment received by D which is referred to in paragraph 24 of Schedule 3 to the 1992 Regulations (sums to be disregarded in the calculation of income other than earnings)(3).

(1) S.I. 2006/213.

(2) S.I. 2006/214.

(3) Payments referred to in paragraph 24 of Schedule 3 to the National Assistance (Assessment of Resources) Regulation 1992 are described in paragraph 39 of Schedule 9 to the Income Support (General) Regulations 1987 (S.I. 1987/1967) (sums to be disregarded in the calculation of income other than earnings) as "any payment made under or by the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust...the Fund, the Eileen Trust, MFET Limited or the Independent Living Fund (2006).".

(5) Nid oes dim ym mharagraff (4) sy'n effeithio ar ddisgresiwn awdurdod lleol, wrth gyfrifo incwm D, i gymhwyso unrhyw griteria sy'n fwy hael wrth D na'r darpariaethau ym mharagraff (4).

(6) Yn y rheoliad hwn—

ystyr "Rheoliadau 1992" ("*the 1992 Regulations*") yw Rheoliadau Cymorth Gwladol (Asesu Adnoddau) 1992(1).

Penderfynu ynghylch gallu D i dalu

17.—(1) Pan fo awdurdod lleol wedi cynnal asesiad o fodd D yn unol â rheoliadau 13 ac 16, rhaid i'r awdurdod lleol, yng ngoleuni'r asesiad hwnnw—

- (a) penderfynu a yw'n rhesymol ymarferol i D dalu'r swm safonol tuag at y gost o sicrhau darpariaeth o'r gwasanaeth; a
- (b) os yw'r awdurdod yn penderfynu nad yw'n rhesymol ymarferol i D dalu'r swm safonol, penderfynu, yn ddarostyngedig i'r uchafswm rhesymol a bennir gan reoliad 5, y swm (os oes un) y mae'n rhesymol ymarferol i'r person hwnnw ei dalu tuag at y gost o sicrhau darpariaeth o'r gwasanaeth.

(2) Rhaid i awdurdod lleol sicrhau nad yw unrhyw swm, y gwneir yn ofynnol ganddo bod D yn ei dalu tuag at y gost o sicrhau darpariaeth o wasanaeth, yn lleihau incwm net D—

- (a) pan fo D yn cael budd-dal perthnasol, i swm sy'n llai na chyfanswm y canlynol—
 - (i) swm hawlogaeth sylfaenol D i'r budd-dal perthnasol y mae'r person hwnnw'n ei gael,
 - (ii) swm o ddim llai na 35% o'r hawlogaeth y cyfeirir ati ym mharagraff (i) ("*clustog*") ("*a buffer*"), a
 - (iii) swm i ddigolledu D am ei wariant perthynol i'w anabledd, sef dim llai na 10% o'r hawlogaeth y cyfeirir ati ym mharagraff (i); neu
- (b) pan nad yw D yn cael budd-dal perthnasol, i swm sy'n llai na chyfanswm y canlynol—
 - (i) swm a asesir yn rhesymol gan yr awdurdod lleol, o ystyried oedran, lefel anabledd ac amgylchiadau personol D, a fyddai'n hafal i hawlogaeth sylfaenol y person hwnnw i fudd-dal perthnasol,
 - (ii) clustog o ddim llai na 35% o'r swm a amcangyfrifwyd ym mharagraff (i), a
 - (iii) swm i ddigolledu D am ei wariant perthynol i'w anabledd, sef dim llai na 10% o'r swm a amcangyfrifwyd ym mharagraff (i).

(5) Nothing in paragraph (4) affects the discretion of a local authority when calculating D's income to apply any criteria that are more generous to D than the provisions of paragraph (4).

(6) In this regulation—

"the 1992 Regulations" ("*Rheoliadau 1992*") means the National Assistance (Assessment of Resources) Regulations 1992(1).

Determination as to D's ability to pay

17.—(1) Where a local authority has carried out an assessment of D's means in accordance with regulations 13 and 16, the authority must, in the light of that assessment—

- (a) determine whether it is reasonably practicable for D to pay the standard amount towards the cost of securing the provision of the service; and
- (b) if the authority determines that it is not reasonably practicable for D to pay the standard amount, subject to the maximum reasonable amount prescribed by regulation 5, determine the amount (if any) which it is reasonably practicable for that person to pay towards the cost of securing the provision of the service.

(2) A local authority must ensure that any amount that it requires D to pay towards the cost of securing the provision of a service does not reduce D's net income—

- (a) where D is in receipt of a relevant benefit, to an amount below the total of—
 - (i) the amount of D's basic entitlement to the relevant benefit that is being received by that person,
 - (ii) an amount of not less than 35% of the entitlement referred to in paragraph (i) ("*a buffer*") ("*clustog*"), and
 - (iii) an amount to compensate for D's disability-related expenditure of not less than 10% of the entitlement referred to in paragraph (i); or
- (b) where D is not in receipt of a relevant benefit, an amount below the total of—
 - (i) the amount the local authority reasonably assesses, having regard to D's age, circumstances and level of disability, would be equal to that person's basic entitlement to a relevant benefit,
 - (ii) a buffer of not less than 35% of that amount estimated in paragraph (i), and
 - (iii) an amount to compensate for D's disability-related expenditure of not less than 10% of the amount estimated in paragraph (i).

(1) O.S. 1992/2977.

(1) S.I. 1992/2977.

(3) Nid oes dim yn y rheoliad hwn sy'n effeithio ar ddisgresiwn awdurdod lleol i gynyddu canran y glustog neu'r swm i ddigolledu am unrhyw wariant perthynol i anabledd, wrth wneud penderfyniad yn unol â pharagraff (1).

Effaith penderfyniad ynghylch gallu D i dalu

18.–(1) Pan fo awdurdod lleol yn gwneud penderfyniad yn unol â rheoliad 17 yn yr amgylchiadau a ddisgrifir ym mharagraff (2), ni chaiff wneud yn ofynnol bod unrhyw daliad yn cael ei wneud cyn y dyddiad y darperir datganiad yn unol â rheoliad 19.

(2) Yr amgylchiadau y cyfeirir atynt ym mharagraff (1) yw amgylchiadau pan fo defnyddiwr gwasanaeth–

- (a) wedi ei asesu am y tro cyntaf yn rhywun sydd arno angen gwasanaeth; neu
- (b) yn sicrhau darpariaeth o wasanaeth ar y pryd, ond y gwneir yn ofynnol am y tro cyntaf ei fod yn talu tuag at y gost o ddarparu'r gwasanaeth hwnnw.

(3) Pan fo awdurdod lleol yn gwneud penderfyniad pellach ynghylch gallu D i dalu yn unol â rheoliad 7(2), ni chaiff wneud yn ofynnol bod unrhyw daliad yn cael ei wneud, nac ychwaith newid unrhyw daliad sy'n cael ei wneud, cyn y dyddiad y darperir datganiad yn unol â rheoliad 19.

(4) Pan fo'r datganiad, y cyfeirir ato ym mharagraffau (1) neu (3), yn disodli datganiad a wnaed yn gynharach yn unol â rheoliad 19 ("y datganiad cynharach") ("*the earlier statement*"), bydd y datganiad cynharach yn parhau i gael effaith tan y dyddiad y darperir y datganiad dilynol.

Datganiad o wybodaeth ynghylch ffioedd

19.–(1) Pan fo awdurdod lleol wedi gwneud yn ofynnol bod D yn talu swm (neu wedi newid swm y taliad) tuag at gost sicrhau darpariaeth o wasanaeth, rhaid iddo ddarparu datganiad i D mewn ysgrifed, ac mewn unrhyw fformat hygyrch arall y gofynnir amdano yn rhesymol gan D.

(2) Rhaid i unrhyw ddatganiad a ddarperir gan awdurdod lleol yn unol â'r rheoliad hwn gynnwys y canlynol–

- (a) disgrifiad o'r gwasanaeth y gwneir yn ofynnol bod D yn talu tuag at sicrhau darpariaeth ohono;
- (b) manylion ynghylch y swm safonol y mae awdurdod lleol yn gwneud yn ofynnol bod D yn ei dalu tuag at y gost o sicrhau'r gwasanaeth;
- (c) os nad y swm safonol yw'r swm y gwneir yn ofynnol bod D yn ei dalu, manylion ynghylch swm y taliad gofynnol;
- (ch) esboniad o'r modd y cyfrifwyd y swm y gwneir yn ofynnol bod D yn ei dalu (gan gynnwys

(3) Nothing in this regulation affects the discretion of a local authority to increase the percentage of the buffer or the amount to compensate for any disability-related expenditure when making a determination in accordance with paragraph (1).

Effect of a determination as to D's ability to pay

18.–(1) Where a local authority makes a determination in accordance with regulation 17 in the circumstances described in paragraph (2), it may not require any payment to be made until the date that a statement is provided in accordance with regulation 19.

(2) The circumstances referred to in paragraph (1) are where a service user–

- (a) has been assessed as requiring a service for the first time; or
- (b) is currently securing the provision of a service, but in respect of which service D is being required to pay towards the cost of its provision for the first time.

(3) Where a local authority makes a further determination as to D's ability to pay in accordance with regulation 7(2), it may not require any payment to be made or alter the amount of any payment that is being made until the date that a statement is provided in accordance with regulation 19.

(4) Where the statement referred to in paragraphs (1) or (3) replaces a statement that has previously been provided in accordance with regulation 19 ("the earlier statement") ("*y datganiad cynharach*"), the earlier statement will continue to have effect until the date the subsequent statement is provided.

Statement of information about charges

19.–(1) Where a local authority has required D to make a payment of an amount (or altered the amount of the payment) towards the cost of securing the provision of a service, it must provide D with a statement in writing, and in any other accessible format that D reasonably requests.

(2) Any statement provided by a local authority in accordance with this regulation must contain–

- (a) a description of the service in respect of which D is being required to pay towards securing the provision;
- (b) details of the standard amount which a local authority requires D to pay towards the cost of securing the service;
- (c) if the amount of the payment that D is being required to pay is not the standard amount, details of the amount of the payment required;
- (d) an explanation of how the amount that D is being required to pay has been calculated

manyllion ynghylch unrhyw asesiad modd a ymgwymerwyd yn unol â'r Rheoliadau hyn); a

- (d) manyllion ynghylch hawl D i herio neu gwyno ynghylch swm y taliad, neu eglurder y modd y mynegwyd y datganiad.

(3) Rhaid darparu datganiad i D yn unol â'r rheoliad hwn—

- (a) yn ddi-dâl; a
- (b) o fewn un diwrnod ar hugain ar ôl y diwrnod y gwnaed y penderfyniad i wneud taliad yn ofynnol (neu i'w newid).

(4) Yn y Rheoliadau hyn, bydd datganiad, wedi ei "ddarparu" ("*provided*") ar y dyddiad y'i dyroddir gan awdurdod lleol.

Arbediad

20. Yn union cyn i'r Rheoliadau hyn ddod i rym, os yw—

- (a) asesiad o fodd D, neu
- (b) penderfyniad ynglŷn â'r swm y mae'n rhesymol ymarferol i D ei dalu tuag at y gost o sicrhau gwasanaeth,

yn cael effaith, bydd y cyfryw asesiad neu benderfyniad yn parhau i gael effaith, er nad yw wedi ei wneud yn unol â'r Rheoliadau hyn.

21. Bydd unrhyw asesiad neu benderfyniad y cyfeirir ato yn rheoliad 20 yn parhau i gael effaith hyd nes disodlir gan asesiad neu benderfyniad a wneir yn unol â'r Rheoliadau hyn.

Darpariaeth drosiannol

22. Os yw awdurdod lleol, yn union cyn i'r Rheoliadau hyn ddod i rym, wedi cael gwybodaeth a dogfennaeth gan D i'w alluogi i—

- (a) cynnal asesiad o fodd D, neu
- (b) penderfynu ar y swm y mae'n rhesymol ymarferol i D ei dalu tuag at y gost o sicrhau gwasanaeth,

ond nad yw'r asesiad wedi ei gynnal, neu nad yw'r penderfyniad wedi ei wneud pan ddaw'r Rheoliadau hyn i rym, rhaid i'r awdurdod lleol gynnal y cyfryw asesiad yn unol â darpariaethau rheoliad 16 neu wneud y cyfryw benderfyniad yn unol â darpariaethau rheoliad 17.

Darpariaeth ddarfodol

23.—(1) Pan fo asesiad yn cael effaith yn unol â rheoliad 21—

- (a) rhaid i'r awdurdod lleol gymhwyso darpariaethau rheoliadau 4, 5, 6 ac 16 i'r

(including details of any means assessment undertaken in accordance with these Regulations); and

- (e) details of D's right to challenge or complain about the amount of the payment, or the clarity with which the statement is expressed.

(3) A statement provided in accordance with this regulation must be provided to D—

- (a) free of charge; and
- (b) within twenty-one days of the date on which the decision to require (or alter) the amount of the payment was made.

(4) In these Regulations a statement is "provided" ("*ddarparu*") on the date that it is issued by a local authority.

Saving

20. Where immediately before the coming into force of these Regulations—

- (a) an assessment of D's means, or
- (b) a determination of the amount it is reasonably practicable for D to pay towards the cost of securing a service,

has effect, such assessment or determination will continue to have effect notwithstanding that it was not made in accordance with these Regulations.

21. Any assessment or determination referred to in regulation 20 will continue to have effect until replaced by an assessment or determination made in accordance with these Regulations.

Transitional provision

22. Where before the coming into force of these Regulations a local authority has obtained information and documentation from D to enable it to—

- (a) undertake an assessment of D's means, or
- (b) make a determination of the amount it is reasonably practicable for D to pay towards the cost of securing the provision of a service,

but the assessment has not been undertaken or the determination has not been made upon the coming into force of these Regulations, the local authority must undertake such an assessment in accordance with the provisions of regulation 16 or make such a determination in accordance with the provisions of regulation 17.

Transitory provision

23.—(1) Where an assessment has effect in accordance with regulation 21, a local authority—

- (a) must apply the provisions of regulations 4, 5, 6 and 16 to such an assessment, notwithstanding

cyfryw asesiad er na chynhaliwyd yr asesiad yn unol â'r Rheoliadau hyn, ac eithrio na fydd rheoliad 6(2) yn cael effaith,

- (b) ni fydd yn ofynnol i'r awdurdod lleol weithredu yn unol â rheoliad 7, ac eithrio y bydd rheoliad 7(2) yn cael effaith,
- (c) rhaid i'r awdurdod lleol gynnal asesiad o fodd D yn unol â rheoliadau 13 ac 16 os bodlonir pob un o'r amodau yn rheoliad 14 ac os yw D wedi gofyn am asesiad o'r fath, ac
- (ch) rhaid i'r awdurdod lleol benderfynu ar y swm ynghylch gallu D ei dalu tuag at y gost o sicrhau gwasanaeth yn unol â rheoliad 17, fel pe bai'r asesiad o fodd D wedi ei gynnal yn unol â rheoliadau 13 ac 16.

(2) Mae rheoliad 18(4) yn cael effaith mewn perthynas ag unrhyw benderfyniad a wneir yn unol â pharagraff (1)(ch), fe pe bai'r datganiad cynharach y cyfeirir ato yn y rheoliad hwnnw yn benderfyniad sy'n cael effaith yn unol â rheoliad 21.

that it was not undertaken in accordance with these Regulations, save that regulation 6(2) does not have effect,

- (b) is not required to act in accordance with regulation 7 save that regulation 7(2) has effect,
- (c) must carry out an assessment of D's means in accordance with regulations 13 and 16 where each of the conditions in regulation 14 are met and D has requested such an assessment, and
- (d) must make a determination as to the amount that D is able to pay towards the cost of securing the provision of a service, in accordance with regulation 17, as though the assessment of D's means had been undertaken in accordance with regulations 13 and 16.

(2) Regulation 18(4) has effect in respect of any determination made in accordance with paragraph (1)(d) as though the earlier statement referred to in that regulation is a determination which has effect in accordance with regulation 21.

Gwenda Thomas

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

24 Mawrth 2011

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

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CYMRU**

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Cymdeithasol (Taliadau
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Phenderfynu ar Ad-daliad neu
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WELSH STATUTORY
INSTRUMENTS

2011 No. 963 (W.137)

SOCIAL CARE, WALES

The Social Care Charges (Direct
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or Contribution) (Wales)
Regulations 2011