
WELSH STATUTORY INSTRUMENTS

2011 No. 963

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

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).

(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).