



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2015 Rhif 1842 (Cy. 270)

2015 No. 1842 (W. 270)

**GOFAL CYMDEITHASOL,
CYMRU**

SOCIAL CARE, WALES

**Rheoliadau Gofal a Chymorth
(Adolygu Penderfyniadau a
Dyfarniadau Gosod Ffi) (Cymru)
2015**

**The Care and Support (Review of
Charging Decisions and
Determinations) (Wales)
Regulations 2015**

NODYN ESBONIADOL

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

Mae adran 59 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 ("y Ddeddf") yn rhoi pŵer disgrisiynol i awdurdodau lleol yng Nghymru osod ffi resymol pan ddarperir gofal a chymorth o dan y Ddeddf.

Mae adran 60 o'r Ddeddf yn nodi'r categorïau o bersonau y caniateir gosod ffi arnynt. Pan fo awdurdod lleol wedi penderfynu arfer y pŵer i osod ffi, mae adran 63 o'r Ddeddf yn gosod dyletswydd ar yr awdurdod lleol i gynnal asesiad ariannol o'r person y bwriedir gosod ffi arno.

Mae adran 66 o'r Ddeddf yn gosod dyletswydd ar yr awdurdod lleol i wneud dyfarniad ynghylch gallu person, y bwriedir gosod ffi arno o dan adran 59, i dalu'r ffi safonol neu gyfran ohoni mewn perthynas â'r gofal a chymorth a ddarperir.

Mae adran 72 o'r Ddeddf yn creu rhwymedigaeth i dalu ffi am ofal a chymorth ar berson y mae ased wedi ei drosglwyddo iddo gan y person y diwellir ei anghenion o dan y Ddeddf, os gwnaed y trosglwyddiad gyda'r diben o osgoi gosod y ffi.

Mae adran 73 o'r Ddeddf yn ei gwneud yn ofynnol i wneud rheoliadau sy'n darparu ar gyfer adolygu penderfyniadau a dyfarniadau gosod ffi a wneir gan yr awdurdod lleol o dan adrannau 59, 66 a 72 o'r Ddeddf.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 59 of the Social Services and Well-being (Wales) Act 2014 ("the Act") gives local authorities in Wales a discretionary power to impose a reasonable charge where care and support are being provided under the Act.

Section 60 of the Act sets out the categories of persons upon whom a charge may be imposed. Where a local authority has decided to exercise the power to impose a charge, section 63 of the Act imposes a duty upon the local authority to carry out a financial assessment of the person upon whom the charge will be imposed.

Section 66 of the Act places a duty upon the local authority to make a determination in relation to the ability of a person, upon whom a charge will be imposed under section 59, to pay the standard charge or a proportion of it in relation to the care and support provided.

Section 72 of the Act creates a liability to pay a charge for care and support upon a person to whom an asset has been transferred by the person whose needs are being met under the Act where the purpose of that transfer was to avoid the charge being imposed.

Section 73 of the Act requires regulations to be made to provide for review of charging decisions and determinations made by the local authority under sections 59, 66 and 72 of the Act.

Mae adrannau 50 i 53 o'r Ddeddf yn caniatáu gwneud rheoliadau sy'n rhoi pŵer i awdurdodau lleol wneud taliadau uniongyrchol i ddiwallu anghenion person am ofal a chymorth o dan y Ddeddf. Mae adran 53(3) yn darparu y caiff rheoliadau o dan adrannau 50 i 52 wneud darpariaeth mewn perthynas â thaliadau uniongyrchol sy'n cyfateb i ddarpariaethau a wneir o dan adrannau 59, 67 a 73.

Mae rheoliad 3 yn nodi'r categorïau o bobl ("ceiswyr") y caniateir iddynt ofyn am adolygiad o'r penderfyniadau hynny ac mae rheoliad 4 yn nodi'r amgylchiadau pan ganiateir gofyn am adolygiad.

Mae rheoliadau 5 a 6 yn nodi manylion y broses ar gyfer gofyn am adolygiad a phenodi cynrychiolydd i ymddrin â'r adolygiad ar ran y ceisydd. Mae rheoliad 7 yn darparu bod rhaid i'r awdurdod lleol benodi person, sy'n aelod o staff yr awdurdod lleol, i ymddrin â'r cais. Mae rheoliad 8 yn caniatáu tynnu cais am adolygiad yn ôl.

Mae rheoliad 9 yn nodi'r amgylchiadau pan fo rhaid caniatáu cais am adolygiad, ac amgylchiadau pan gaiff yr awdurdod lleol wrthod y cais.

Mae rheoliad 10 yn ei gwneud yn ofynnol bod awdurdod lleol, mewn ysgrifen, yn cydnabod cais o fewn pum diwrnod gwaith ar ôl ei gael. Mae'r rheoliad hwn hefyd yn rhagnodi'r hyn y mae'n rhaid ei gynnwys yn y gydnabyddiaeth.

Os digwydd y bydd angen rhagor o wybodaeth neu ddogfennaeth ar yr awdurdod lleol er mwyn cynnal yr adolygiad, mae rheoliadau 11, 12 a 13 yn nodi gan bwy y ceir gofyn am yr wybodaeth, a sut a pha bryd y bydd rhaid darparu'r wybodaeth honno.

Mae rheoliad 14 yn ei gwneud yn ofynnol bod yr awdurdod lleol yn darparu penderfyniad, ynghyd â rhesymau, i'r ceisydd o fewn 10 diwrnod gwaith ar ôl cael gwybodaeth a dogfennaeth ddigonol i gynnal yr adolygiad. Mae'r rheoliad hwn hefyd yn nodi'r hyn y mae'n rhaid i'r awdurdod lleol roi sylw iddo cyn gwneud ei benderfyniad.

Mae rheoliad 15 yn ymddrin â'r hyn sy'n digwydd ynglŷn â'r ffi, o'r dyddiad pan fo'r awdurdod lleol yn cael y cais hyd nes tynnir y cais yn ôl neu yr anfonir penderfyniad at y ceisydd gan yr awdurdod lleol (y "cyfnod adolygu"). Nid oes rhwymedigaeth ar y ceisydd i dalu'r ffi sy'n destun yr adolygiad yn ystod y cyfnod adolygu, ond gall unrhyw swm dyledus barhau i gronni. Caiff yr awdurdod lleol adennill y swm cronedig sy'n ddyledus ar ôl y cyfnod adolygu.

Mewn perthynas â thaliadau uniongyrchol, os bydd y ceisydd yn hysbysu'r awdurdod lleol na fydd yn talu'r cyfraniad yn ystod y cyfnod adolygu, rhaid i'r awdurdod lleol wneud taliadau gros yn ystod y cyfnod hwnnw.

Sections 50 to 53 of the Act permit regulations to be made to give local authorities a power to make direct payments to meet a person's needs for care and support under the Act. Section 53(3) provides that regulations under sections 50 to 52 may make provision in relation to direct payments which correspond with provisions made under sections 59, 67 and 73.

Regulation 3 sets out the categories of people who are permitted to request a review ("requester") of those decisions and regulation 4 sets out the circumstances in which a review may be requested.

Regulations 5 and 6 set out details of the process for requesting a review and appointing a representative to deal with the review on behalf of the requester. Regulation 7 provides that the local authority must appoint a person, who is a member of staff of the local authority, to deal with the request. Regulation 8 permits a withdrawal of a request for review.

Regulation 9 sets out the circumstances in which a request for review must be accepted and circumstances in which the local authority may reject the request.

Regulation 10 requires a local authority to provide the requester with a written acknowledgement within 5 working days of receiving the request. This regulation also prescribes what the acknowledgement must contain.

In the event that the local authority requires further information or documentation to carry out the review, regulations 11, 12 and 13 provide for, whom the information can be requested from and how and when that information must be provided.

Regulation 14 requires the local authority to provide the requester with a decision, with reasons, within 10 working days of having sufficient information and documentation to carry out the review. This regulation also sets out what the local authority must have regard to before making its decision.

Regulation 15 deals with what happens to the charge from the date the request is received by a local authority until its withdrawal or until the local authority sends a decision to the requester ("review period"). A requester is not obliged to pay the charge that is the subject of the review during the review period but the liability continues to accrue. The local authority may recover the accrued amount after the review period.

In relation to direct payments, if the requester notifies the local authority that they will not pay the contribution during the review period, the local authority must make gross payments during the review period.

Os digwydd i'r awdurdod lleol benderfynu bod y ffi a osodwyd yn rhy uchel, rhaid iddo ddychwelyd unrhyw ordaliad i'r ceisydd o fewn 10 diwrnod gwaith. Os yw awdurdod lleol yn penderfynu bod y ffi a osodwyd yn rhy isel, caiff adennill unrhyw dandaliad oddi ar y ceisydd.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth y Grŵp Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

In the event that the local authority decides that the charge was too high it must return any over payment to the requester within 10 working days. If a local authority decides that the charge was too low, it may recover any underpayment from the requester.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Health and Social Services Group, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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**GOFAL CYMDEITHASOL,
CYMRU**

**Rheoliadau Gofal a Chymorth
(Adolygu Penderfyniadau a
Dyfarniadau Gosod Ffi) (Cymru)
2015**

Gwnaed 27 Hydref 2015

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 3 Tachwedd 2015

Yn dod i rym 6 Ebrill 2016

2015 No. 1842 (W. 270)

SOCIAL CARE, WALES

**The Care and Support (Review of
Charging Decisions and
Determinations) (Wales)
Regulations 2015**

Made 27 October 2015

*Laid before the National Assembly
for Wales* 3 November 2015

Coming into force 6 April 2016

Mae Gweinidogion Cymru drwy arfer y pwerau a roddir iddynt gan adrannau 50, 51, 52, 53(3), 67(2), 70(8)(a), 73 a 196(2) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(1), yn gwneud y Rheoliadau a ganlyn:

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Gofal a Chymorth (Adolygu Penderfyniadau a Dyfarniadau Gosod Ffi) (Cymru) 2015 a deuant i rym ar 6 Ebrill 2016.

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

Dehongli

2. Yn y Rheoliadau hyn—

ystyr “ad-daliad” (“*reimbursement*”) yw swm y dyfernir sydd i'w ad-dalu fel y crybwyllir yn adran 53(1)(c)(ii) o'r Ddeddf mewn perthynas â thaliadau uniongyrchol;

ystyr “asesiad ariannol” (“*financial assessment*”) yw asesiad ariannol o dan adran 63 o'r Ddeddf;

ystyr “ceisydd” (“*requester*”) yw—

The Welsh Ministers in exercise of the powers conferred on them by sections 50, 51, 52, 53(3), 67(2), 70(8)(a), 73 and 196(2) of the Social Services and Well-being (Wales) Act 2014(1), make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Care and Support (Review of Charging Decisions and Determinations) (Wales) Regulations 2015 and they come into force on 6 April 2016.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Social Services and Well-being (Wales) Act 2014;

“the Regulations” (“*y Rheoliadau*”) mean the Care and Support (Charging) (Wales) Regulations 2015;

“appointed person” (“*person penodedig*”) means a person appointed to deal with the review in accordance with regulation 7 of these Regulations;

(1) 2014 dccc 4.

(1) 2014 anaw 4.

- (a) person a restrir ym mharagraffau (a) to (c) o reoliad 3; a
- (b) a ofynnodd am adolygiad o unrhyw benderfyniad sy'n ymwneud â chodi ffi, y cyfeirir ato yn adran 73(1) o'r Ddeddf neu ddyfarniad ynghylch ad-daliad neu gyfraniad a wnaed yn unol â rheoliadau a wnaed o dan adrannau 50 i 53 o'r Ddeddf;

ystyr "cyfnod adolygu" ("*review period*") yw cyfnod sy'n cychwyn gyda'r dyddiad y mae'r awdurdod lleol yn cael cais am adolygiad, ac yn diweddu ar y cynharaf o naill ai'r dyddiad y mae'r awdurdod lleol yn anfon ei benderfyniad ar yr adolygiad at y ceisydd, neu'r dyddiad yr hysbysir yr awdurdod lleol o dynnu'n ôl y cais;

ystyr "cyfraniad" ("*contribution*") yw swm y dyfernir fel cyfraniad, fel y crybwyllir yn adran 53(1)(c)(ii) o'r Ddeddf mewn perthynas â thaliadau uniongyrchol;

ystyr "datganiad" ("*statement*") yw datganiad mewn ffurf sy'n briodol ar gyfer anghenion cyfathrebu pob un o'r canlynol—

- (a) y ceisydd;
- (b) unrhyw gynrychiolydd penodedig; neu
- (c) person y mae'r awdurdod lleol yn gofyn am wybodaeth neu ddogfennaeth ganddo o dan reoliad 13;

ystyr "diwrnod gwaith" ("*working day*") yw diwrnod ac eithrio dydd Sadwrn, dydd Sul, Dydd Nadolig, dydd Gwener y Groglith neu wyl banc yn yr ystyr a roddir i "bank holiday" yn Neddf Bancio a Thrafodion Ariannol 1971 (1);

ystyr "y Ddeddf" ("*the Act*") yw Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014;

ystyr "ffi" ("*charge*") yw—

- (a) unrhyw ffi a osodir yn unol ag adran 59 o'r Ddeddf;
- (b) unrhyw ad-daliad neu gyfraniad y dyfernir yn unol â rheoliadau a wneir o dan adrannau 50 i 53 o'r Ddeddf; neu
- (c) unrhyw ffi a osodir ar berson a ddaeth yn atebol, yn unol ag adran 72 o'r Ddeddf, am swm mewn cysylltiad â chostau diwallu anghenion person;

mae i "ffi safonol" ("*standard charge*") yr ystyr a roddir yn adran 63(3) o'r Ddeddf;

"care and support" ("*gofal a chymorth*") has the meaning given in section 4 of the Act;

"charge" ("*ffi*") means—

- (a) any charge imposed in accordance with section 59 of the Act;
- (b) any reimbursement or contribution determined in accordance with regulations made under sections 50 to 53 of the Act; or
- (c) any charge imposed upon a person who has become liable, in accordance with section 72 of the Act, for an amount in respect of the costs of a person's needs being met;

"contribution" ("*cyfraniad*") means an amount determined by way of contribution as mentioned in section 53(1)(c)(ii) of the Act in relation to direct payments;

"financial assessment" ("*asesiad ariannol*") means a financial assessment under section 63 of the Act;

"gross payments" ("*taliadau gros*") has the meaning given in section 53(2) of the Act;

"home visit" ("*ymweliad â'r cartref*") means a visit which is undertaken by an officer of a local authority to the current place of residence of —

- (a) a requester; or
- (b) a person from whom the local authority requests information or documentation under regulation 13,

or such other venue as is reasonably requested by the persons referred to in (a) or (b);

"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;

"liable transferee" ("*trosoglwyddai atebol*") means a transferee within the meaning of section 72 of the Act against whom liability arises under that section;

"reimbursement" ("*ad-daliad*") means an amount determined by way of reimbursement as mentioned in section 53(1)(c)(ii) of the Act in relation to direct payments;

"requester" ("*ceisydd*") means—

- (a) a person listed in paragraphs (a) to (c) of regulation 3; and
- (b) who has requested a review of any decision relating to charging referred to in section 73(1) of the Act or a determination of a reimbursement or contribution made in accordance with

(1) 1971 p. 80.

mae i “gofal a chymorth” (“*care and support*”) yr ystyr a roddir yn adran 4 o’r Ddeddf;

ystyr “mewn ysgriflen” (“*in writing*”) yw unrhyw fynegiant a gyfansoddir o eiriau neu ffigurau y gellir ei ddarllen, ei atgynhyrchu a’i gyfathrebu yn ddiweddarach, a gall gynnwys gwybodaeth a drawsyrrir ac a gedwir gan ddefnyddio dulliau electronig;

ystyr “person penodedig” (“*appointed person*”) yw person a benodwyd i ymdrin â’r adolygiad yn unol â rheoliad 7 o’r Rheoliadau hyn;

ystyr “y Rheoliadau” (“*the Regulations*”) yw Rheoliadau Gofal a Chymorth (Gosod Ffioedd) (Cymru) 2015;

mae i “taliadau gros” (“*gross payments*”) yr ystyr a roddir yn adran 53(2) o’r Ddeddf;

ystyr “trosglwyddai atebol” (“*liable transferee*”) yw trosglwyddai o fewn yr ystyr yn adran 72 o’r Ddeddf, y codir atebolrwydd yn ei erbyn o dan yr adran honno;

ystyr “ymweliad â’r cartref” (“*home visit*”) yw ymweliad a wneir gan swyddog awdurdod lleol â phreswylfa gyfredol—

- (a) ceisydd; neu
- (b) person y mae’r awdurdod lleol yn gofyn am wybodaeth neu ddogfennaeth ganddo o dan reoliad 13

neu â pha bynnag fan cyfarfod arall y gofynnir amdano yn rhesymol gan y personau y cyfeirir atynt yn (a) neu (b).

Personau a gaiff wneud cais am adolygiad

3. Caiff y personau canlynol wneud cais am adolygiad o unrhyw un o’r penderfyniadau sy’n ymwneud â chodi ffi yn adran 73(1) o’r Ddeddf neu ddyfarniad ynghylch ad-daliad neu gyfraniad a wnaed yn unol â rheoliadau a wnaed o dan adrannau 50 i 53 o’r Ddeddf—

- (a) personau y caniateir gosod ffi arnynt yn unol ag adran 60 o’r Ddeddf;
- (b) person y gwnaed yn ofynnol ei fod yn talu ad-daliad neu gyfraniad mewn perthynas â thaliad uniongyrchol, a ddyfarnwyd yn unol â rheoliadau a wnaed o dan adrannau 50 i 53 o’r Ddeddf;
- (c) trosglwyddai atebol; neu
- (d) yn ddarostyngedig i reoliad 6, unrhyw gynrychiolydd a benodwyd i wneud y cais ar ran personau sy’n dod o fewn paragraffau (a) i (c) uchod.

regulations made under sections 50 to 53 of the Act;

“review period” (“*cyfnod adolygu*”) means a period commencing on the date the local authority receives a request for a review and ending on the earlier of the date the local authority sends its decision on the review to the requester or the date the local authority receives a withdrawal of the request;

“standard charge” (“*ffi safonol*”) has the meaning given in section 63(3) of the Act;

“statement” (“*datganiad*”) means a statement that is in a form that is appropriate to the communication needs of each of—

- (a) the requester;
- (b) any appointed representative; or
- (c) a person from whom the local authority requests information or documentation under regulation 13;

“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(1).

Persons who may request a review

3. The following persons may request a review of any of the decisions relating to charging set out in section 73(1) of the Act or a determination of a reimbursement or contribution made in accordance with regulations made under sections 50 to 53 of the Act—

- (a) persons upon whom a charge may be imposed in accordance with section 60 of the Act;
- (b) a person who is required to pay a reimbursement or contribution in respect of a direct payment determined in accordance with regulations made under sections 50 to 53 of the Act;
- (c) a liable transferee; or
- (d) subject to regulation 6, any representative appointed to make the request on behalf of persons falling within paragraphs (a) to (c) above.

(1) 1971 c. 80.

Yr amgylchiadau pan ganiateir gwneud cais am adolygiad

4. Caiff cais ymwneud ag amgylchiadau a honnir gan y ceisydd fel a ganlyn—

- (a) nad yw awdurdod lleol wedi cydymffurfio, pan fo'n briodol, ag unrhyw un o'r dyletswyddau a osodir arno gan—
 - (i) Rhan 5 o'r Ddeddf neu gan reoliadau a wnaed oddi tani;
 - (ii) unrhyw reoliadau a wnaed o dan adrannau 50 i 53 o'r Ddeddf; neu
 - (iii) y cod ymarfer ar asesu ariannol a chodi ffioedd a ddyroddwyd o dan adran 145 o'r Ddeddf;
- (b) nad yw awdurdod lleol wedi cymhwyso'n gywir ei bolisi ei hunan ar godi ffioedd, wrth osod unrhyw ffi;
- (c) y gwnaed camgymeriad wrth gyfrifo'r ffi;
- (d) y gosodwyd ffi am ofal a chymorth nas darparwyd erioed i'r ceisydd;
- (e) bod y ceisydd o'r farn nad oes ganddo'r modd ariannol i dalu'r ffi gan y byddai talu'r ffi yn achosi caledi ariannol;
- (f) bod ceisydd sy'n drosglwyddai atebol yn honni nad yw'r trosglwyddiad asedau perthnasol yn bodloni'r amodau yn adran 72(1) o'r Ddeddf, oherwydd bod un neu'r ddau o'r canlynol yn gymwys—
 - (i) na wnaed y trosglwyddiad gyda'r bwriad o osgoi ffioedd am ddiwallu anghenion person; neu
 - (ii) mai'r gydnabyddiaeth a dalwyd am drosglwyddo'r ased oedd y swm y byddid wedi ei gael pe bai'r ased wedi ei werthu ar y farchnad agored gan werthwr parod ar yr adeg y gwnaed y trosglwyddiad.

Y broses ar gyfer gofyn am adolygiad

5.—(1) Caniateir gwneud cais am adolygiad ar unrhyw adeg wedi i awdurdod lleol wneud ei benderfyniad i osod ffi ac wedi iddo hysbysu'r ceisydd o'r penderfyniad hwnnw.

(2) Rhaid i'r cais ddatgan pa un neu pa rai o'r amgylchiadau yn rheoliad 4 yw'r rheswm dros ofyn am adolygiad.

(3) Caniateir gwneud cais naill ai ar lafar neu mewn ysgrifen.

Circumstances in which a review may be requested

4. A request may relate to the following circumstances asserted by the requester—

- (a) a local authority not having complied, where appropriate, with any of the duties imposed upon it, by—
 - (i) Part 5 of the Act or by regulations made under it;
 - (ii) any regulations made under sections 50 to 53 of the Act; or
 - (iii) the code of practice on financial assessment and charging issued under section 145 of the Act;
- (b) a local authority having not correctly applied its own charging policy in imposing any charge;
- (c) an error having been made in the calculation of the charge;
- (d) a charge having been imposed for care and support that has not at any time been provided to the requester;
- (e) a requester considering that they do not have the financial means to pay the charge as to do so would cause them financial hardship;
- (f) a requester who is a liable transferee asserts that the relevant transfer of assets does not satisfy the conditions in section 72(1) of the Act because either or both of the following apply—
 - (i) the transfer was not undertaken with the intention of avoiding charges for having a person's needs met; or
 - (ii) the consideration for the transfer of the asset was the amount that would have been realised if it had been sold on the open market by a willing seller at the time of the transfer.

Process for requesting a review

5.—(1) A request for review may be made at any time after a local authority has made its decision to impose a charge and has communicated that decision to the requester.

(2) A request must state which one or more of the circumstances listed in regulation 4, are the reason for the review being requested.

(3) A request may be made either orally or in writing.

Cynrychiolwyr

6.—(1) Yn ddarostyngedig i baragraff (2), caniateir i berson (“cynrychiolydd”) ofyn am adolygiad ar ran y ceisydd a rhaid dehongli unrhyw gyfeiriad yn y Rheoliadau hyn at “gynrychiolydd” yn unol â hynny.

(2) Os yw ceisydd yn dymuno penodi cynrychiolydd i ofyn am adolygiad ar ei ran, rhaid i'r ceisydd hysbysu'r awdurdod lleol, naill ai ar lafar neu mewn ysgrifen, ei fod wedi awdurdodi'r penodiad.

(3) Os yw'r awdurdod lleol yn cael awdurdodiad y ceisydd ar lafar, rhaid i'r awdurdod lleol ddarparu datganiad i'r ceisydd ac i'w gynrychiolydd, sy'n cadarnhau bod y ceisydd wedi awdurdodi'r penodiad ar lafar.

(4) Pan fo cynrychiolydd wedi ei benodi yn unol â'r rheoliad hwn, caiff y cynrychiolydd weithredu ar ran y ceisydd drwy gydol y cyfnod adolygu oni fydd awdurdodiad y ceisydd yn datgan yn wahanol, neu'r ceisydd wedi tynnu'n ôl ei awdurdodiad o dan baragraff (5).

(5) Caiff ceisydd dynnu'n ôl ei awdurdodiad drwy roi hysbysiad, naill ai ar lafar neu mewn ysgrifen i'r person penodedig.

(6) Pan fo cynrychiolydd wedi ei benodi yn unol â'r rheoliad hwn, mae unrhyw gyfeiriad at geisydd yn rheoliadau 8(1) a (2), 10(1)(m) ac (n), 11(1), 12(1), (2) a (4) a 14(3) yn gyfeiriad at gynrychiolydd y person hwnnw, i'r graddau y mae hynny'n gyson ag awdurdodiad y ceisydd.

Y person penodedig

7.—(1) Ar ôl cael cais am adolygiad, rhaid i'r awdurdod benodi person, y cyfeirir ato yn y Rheoliadau hyn fel y person penodedig.

(2) Swyddogaeth y person penodedig yw rheoli'r broses adolygu hyd at, ond heb gynnwys, gwneud y penderfyniad yn unol â rheoliad 14.

(3) Rhaid i'r person penodedig fod yn aelod o staff yr awdurdod lleol.

Tynnu cais yn ôl

8.—(1) Caiff ceisydd dynnu cais am adolygiad yn ôl ar unrhyw adeg yn ystod y cyfnod adolygu.

(2) Caiff ceisydd dynnu cais yn ôl drwy hysbysu'r person penodedig naill ai ar lafar neu mewn ysgrifen.

(3) Pan dynnir cais yn ôl, rhaid i'r awdurdod lleol ddarparu datganiad i'r ceisydd ac i unrhyw gynrychiolydd, i gadarnhau bod y cais wedi ei dynnu'n ôl, ac o ganlyniad, na chymerir unrhyw gamau pellach ynglŷn ag ef.

Representatives

6.—(1) Subject to paragraph (2), a review may be requested by a person (a “representative”) acting on behalf of a requester and reference to a “representative” in these Regulations is to be construed accordingly.

(2) If a requester wishes to appoint a representative to request a review on the requester's behalf, the requester must provide the local authority with their authorisation, either orally or in writing, of the appointment.

(3) If the local authority receives the requester's oral authorisation, the local authority must provide the requester and their representative with a statement confirming that the requester has given their oral authorisation of the appointment.

(4) Where a representative has been appointed in accordance with this regulation, the representative may act on the requester's behalf for the whole of the review period unless the requester's authorisation states otherwise or the requester has withdrawn their authorisation under paragraph (5).

(5) A requester may withdraw their authorisation by giving notice, either orally or in writing, to the appointed person.

(6) Where a representative has been appointed in accordance with this regulation, any reference in regulations 8(1) and (2), 10(1)(m) and (n), 11(1), 12(1), (2) and (4) and 14(3) to a requester means that person's representative to the extent that it is consistent with the requester's authorisation.

The appointed person

7.—(1) Upon receipt of a request for review the local authority must appoint a person, in these Regulations referred to as the appointed person.

(2) The function of the appointed person is to manage the review process up to but not including the making of the decision in accordance with regulation 14.

(3) The appointed person must be a member of staff of the local authority.

Withdrawal of request

8.—(1) A requester may withdraw a request for review at any time during the review period.

(2) A requester may withdraw a request by informing the appointed person orally or in writing.

(3) Where a request is withdrawn, the local authority must provide the requester and any representative with a statement to confirm that the request has been withdrawn and that no further action upon it will be taken as a result.

Derbyn y cais

9.—(1) Pan fo cais am adolygiad yn cydymffurfio â rheoliadau 3, 4 a 5, mae rheoliadau 10 i 17 yn gymwys.

(2) Nid yw rheoliadau 10 i 17 yn gymwys pan fo awdurdod lleol yn credu nad oes newid perthnasol wedi digwydd mewn unrhyw un o'r amgylchiadau a restrir yn rheoliad 4 ac a oedd wedi arwain at gais blaenorol am adolygiad gan, neu ar ran, yr un person, ac nad yw'r ceisydd wedi dibynnu ar unrhyw amgylchiadau ychwanegol eraill.

(3) Pan fo paragraff (2) yn gymwys, rhaid i'r awdurdod lleol anfon datganiad at y ceisydd ac unrhyw gynrychiolydd, yn datgan na chaiff y cais am adolygiad ei ystyried gan yr awdurdod oherwydd bod yr awdurdod yn credu—

- (a) nad oes newid perthnasol wedi digwydd mewn unrhyw un o'r amgylchiadau a restrir yn rheoliad 4 ac a oedd wedi arwain at gais blaenorol am adolygiad gan, neu ar ran, yr un person; a
- (b) nad yw'r ceisydd wedi dibynnu ar unrhyw amgylchiadau ychwanegol eraill.

Cydnabod y cais

10.—(1) Yn ddarostyngedig i baragraff (2) rhaid i awdurdod lleol, o fewn pum diwrnod gwaith ar ôl cael unrhyw gais a dderbynnir fel un dilys o dan reoliad 9, anfon at y ceisydd ac unrhyw gynrychiolydd ddatganiad sy'n nodi—

- (a) y dyddiad y cafwyd y cais;
- (b) natur y cais;
- (c) os nad yw'r ceisydd eisoes wedi penodi cynrychiolydd, y caiff y ceisydd benodi cynrychiolydd i'w gynorthwyo ac i weithredu ar ei ran yn ystod y cyfan neu ran o'r cyfnod adolygu;
- (d) y modd y bydd yr awdurdod lleol yn cynnal yr adolygiad;
- (e) nad oes raid i'r ceisydd dalu'r ffi, neu'r rhan o'r ffi, sy'n destun yr adolygiad, yn ystod y cyfnod adolygu;
- (f) os yw'r ceisydd yn penderfynu peidio â thalu'r ffi, neu'r rhan o'r ffi, sy'n destun yr adolygiad, yn ystod y cyfnod adolygu, bod rhaid i'r ceisydd neu unrhyw gynrychiolydd hysbysu'r awdurdod lleol o'r penderfyniad hwnnw, naill ai ar lafar neu mewn ysgrifen;
- (g) pa un a fydd yr awdurdod lleol, os digwydd i'r ceisydd beidio â thalu'r ffi yn ystod y cyfnod adolygu, yn ceisio adennill, ar ôl y cyfnod adolygu, unrhyw swm a fydd wedi cronni a heb ei dalu yn ystod y cyfnod adolygu;

Acceptance of the request

9.—(1) Where a request for review complies with regulations 3, 4 and 5, regulations 10 to 17 apply.

(2) Regulations 10 to 17 do not apply where a local authority believes that there has been no material change in any of the circumstances listed in regulation 4 that gave rise to a previous request for a review by or on behalf of the same person and the requester has not relied upon any other additional circumstances.

(3) Where paragraph (2) applies, the local authority must send a statement to the requester and any representative stating that the request for a review will not be considered by the authority because the authority believes that—

- (a) there has been no material change in any of the circumstances listed in regulation 4 that gave rise to a previous request for a review by or on behalf of the same person; and
- (b) the requester has not relied upon any other additional circumstances.

Acknowledgement of the Request

10.—(1) Subject to paragraph (2) a local authority must, within five working days of receipt of any request that is accepted as valid under regulation 9, send the requester and any representative a statement stating—

- (a) the date on which the request was received;
- (b) the nature of the request;
- (c) if the requester has not already appointed a representative, that the requester may appoint a representative to assist them and act on their behalf during the whole or part of the review period;
- (d) how the local authority will carry out the review;
- (e) that the requester need not pay the charge, or the part of the charge which is the subject of the review, during the review period;
- (f) if the requester decides not to pay the charge, or the part of the charge that is the subject of the review, during the review period, that the requester, or any representative must notify the local authority, either orally or in writing, of that decision;
- (g) whether, in the event that the requester does not pay the charge during the review period, the local authority will seek to recover, after the review period, any amount that has accrued and not been paid during the review period;

- (h) os yw'r ceisydd—
- (i) wedi gofyn am adolygu dyfarniad a wnaed yn unol â rheoliadau a wnaed o dan adran 53(1) o'r Ddeddf, y dylai'r ceisydd dalu cyfraniad tuag at daliadau uniongyrchol, a
 - (ii) wedi hysbysu'r awdurdod lleol na fydd yn talu'r cyfraniad yn ystod y cyfnod adolygu,
- y bydd yr awdurdod lleol yn gwneud taliadau uniongyrchol gros;
- (i) pa wybodaeth neu ddogfennaeth bellach, os oes rhai, y mae'r awdurdod lleol yn gofyn amdanynt yn rhesymol gan y ceisydd er mwyn cynnal yr adolygiad, a'r terfyn amser ar gyfer cyflenwi'r cyfryw wybodaeth neu ddogfennaeth, a bennir yn rheoliad 12;
- (j) os yw'r ceisydd yn drosglwyddai atebol—
- (i) pa un a yw'r awdurdod lleol yn bwriadu gofyn ai peidio am wybodaeth neu ddogfennaeth gan berson ac eithrio'r ceisydd yn unol â rheoliad 13, a
 - (ii) pa wybodaeth neu ddogfennaeth sy'n ofynnol gan y person hwnnw ;
- (k) y bydd swyddog priodol o'r awdurdod lleol ar gael i wneud ymweliad â'r cartref at y diben o gasglu'r wybodaeth neu ddogfennaeth ychwanegol;
- (l) y weithdrefn ar gyfer gofyn am ymweliad â'r cartref;
- (m) enw a manylion cyswllt y person penodedig a fydd yn gyfrifol am ymateb i unrhyw ymholiadau a wneir gan y ceisydd ynglŷn â'r adolygiad;
- (n) manylion cyswllt unrhyw sefydliad a allai fod o gymorth i'r ceisydd yn ystod y cyfnod adolygu.

(2) Nid yw paragraff (1) yn gymwys pan fo awdurdod lleol yn anfon ei benderfyniad ar yr adolygiad at y ceisydd ac unrhyw gynrychiolydd o fewn 5 diwrnod gwaith ar ôl cael y cais.

(3) Pan fo'r datganiad o dan baragraff (1) yn cynnwys cais am wybodaeth a dogfennaeth o dan baragraff (1)(j), rhaid i'r awdurdod lleol anfon datganiad at y person ("P") y gofynnir am yr wybodaeth a dogfennaeth ganddo, sy'n nodi—

- (i) natur y cais, i'r graddau y mae'n ymwneud â throsglwyddo ased gan P sy'n bodloni'r amodau yn adran 72(1) o'r Ddeddf;
- (ii) pa wybodaeth a dogfennaeth y gofynnir amdanynt gan P er mwyn cynnal yr

- (h) that if the requester has—
- (i) requested a review of a determination made in accordance with regulations made under section 53(1) of the Act that the requester should pay a contribution towards direct payments, and
 - (ii) notified the local authority that they will not pay the contribution during the review period,
- the local authority will make gross direct payments;
- (i) what, if any, further information or documentation the local authority reasonably requires from the requester in order to carry out a review and the time limit for the provision of such information or documentation, which is specified in regulation 12;
- (j) where the requester is a liable transferee—
- (i) whether the local authority intends to request information or documentation from a person other than the requester in accordance with regulation 13; and
 - (ii) what information or documentation is required from that person;
- (k) that an appropriate officer of the local authority would be available to carry out a home visit for the purpose of collecting the further information or documentation;
- (l) the procedure for requesting a home visit;
- (m) the identity and contact details of the appointed person who will be responsible for providing a response to any enquiries the requester may have about the review;
- (n) the contact details of any organisation that might be able to assist the requester during the review period.

(2) Paragraph (1) does not apply where a local authority sends its decision on the review to the requester and any representative within 5 working days of receipt of the request.

(3) Where the statement under paragraph (1) includes a request for information and documentation under paragraph (1)(j), the local authority must send a statement to the person ("P") from whom the information and documentation is requested stating—

- (i) the nature of the request in so far as it relates to the transfer of an asset by P that meets the conditions in section 72(1) of the Act;
- (ii) what information and documentation is required from P in order to carry out the

adolygiad, a'r terfyn amser ar gyfer cyflenwi'r cyfryw wybodaeth neu ddogfennaeth, a bennir yn rheoliad 12;

- (iii) y byddai swyddog o'r awdurdod lleol ar gael i wneud ymweliad â'r cartref at y diben o gasglu'r wybodaeth neu'r ddogfennaeth ychwanegol;
- (iv) y weithdrefn ar gyfer gofyn am ymweliad â'r cartref; a
- (v) enw a manylion cyswllt y person penodedig.

Ymweliad â'r cartref

11.—(1) Caiff y ceisydd, neu berson y gofynnir am wybodaeth neu ddogfennaeth ganddo yn unol â rheoliad 13, hysbysu'r person penodedig, ar lafar neu mewn ysgrifen, o'i fwriad i gydymffurfio â'r cais am wybodaeth neu ddogfennaeth ychwanegol yn ystod ymweliad â'r cartref.

(2) Os rhoddir hysbysiad o dan baragraff (1), rhaid i'r awdurdod lleol ymweld â'r cartref.

Y terfyn amser ar gyfer darparu gwybodaeth neu ddogfennaeth ychwanegol

12.—(1) Yn ddarostyngedig i baragraff (2), os yw'r awdurdod lleol yn gofyn am wybodaeth neu ddogfennaeth ychwanegol, rhaid i'r ceisydd ddarparu'r wybodaeth honno neu'r ddogfennaeth hynny i'r awdurdod lleol o fewn 15 diwrnod gwaith ar ôl y dyddiad y gwnaed y cais am wybodaeth neu ddogfennaeth ychwanegol.

(2) O fewn y cyfnod a bennir ym mharagraff (1), caiff y ceisydd ofyn i'r awdurdod lleol, naill ai ar lafar neu mewn ysgrifen, am estyn yr amser ar gyfer darparu gwybodaeth neu ddogfennaeth ychwanegol, gan roi rhesymau pam y mae angen yr estyniad.

(3) Rhaid i'r awdurdod lleol ganiatáu unrhyw gais rhesymol am estyniad.

(4) Os caniateir estyniad gan yr awdurdod lleol, rhaid i'r awdurdod lleol gadarnhau mewn datganiad a anfonir at y ceisydd—

- (a) bod y terfyn amser ar gyfer darparu gwybodaeth neu ddogfennaeth ychwanegol wedi ei estyn; a
- (b) hyd yr estyniad hwnnw.

(5) Os digwydd i'r awdurdod lleol beidio â chael yr wybodaeth a'r ddogfennaeth ychwanegol nac ychwaith gais am estyniad, o fewn yr amser a bennir ym mharagraff (1), caiff drin y cais fel pe bai wedi ei dynnu'n ôl

review and the time limit for the provision of such information or documentation which is specified in regulation 12;

- (iii) that an officer of the local authority would be available to carry out a home visit for the purpose of collecting the further information and documentation;
- (iv) the procedure for requesting a home visit; and
- (v) the identity and contact details of the appointed person.

Home visit

11.—(1) The requester or a person from whom information or documentation is requested in accordance with regulation 13 may notify the appointed person, orally or in writing, that they intend to comply with the request for further information and documentation during a home visit.

(2) If notification is given under paragraph (1), the local authority must carry out a home visit.

Time limit for the provision of further information or documentation

12.—(1) Subject to paragraph (2), if further information or documentation is required by the local authority, the requester must provide the local authority with that information or documentation within 15 working days of the date of the request for further information or documentation being made.

(2) Within the period specified in paragraph (1), the requester may ask the local authority, either orally or in writing, for an extension of time to provide the further information or documentation, giving reasons as to why an extension is necessary.

(3) A local authority must grant any reasonable request for an extension.

(4) If an extension is granted by the local authority, the local authority must confirm in a statement sent to the requester that—

- (a) the time limit for the provision of further information or documentation has been extended; and
- (b) the length of that extension.

(5) In the event that the local authority does not receive the further information or documentation or a request for an extension of time within the time specified in paragraph (1), it may treat the request as if it has been withdrawn.

(6) Os yw paragraff (5) yn gymwys, rhaid i'r awdurdod lleol anfon datganiad at y ceisydd ac at unrhyw gynrychiolydd, sy'n nodi—

- (a) bod yr awdurdod lleol bellach yn trin y cais fel pe bai wedi ei dynnu'n ôl;
- (b) bod y ffi bellach yn daladwy;
- (c) y swm (os oes un) sydd wedi cronni a heb ei dalu gan y ceisydd yn ystod y cyfnod adolygu; a
- (d) os yw'r awdurdod lleol yn bwriadu adennill unrhyw swm cronedig, y swm hwnnw ac erbyn pa ddyddiad y bydd rhaid ei dalu.

Darparu gwybodaeth neu ddogfennaeth gan berson ac eithrio'r ceisydd

13.—(1) Pan fo'r ceisydd yn drosglwyddai atebol, caiff yr awdurdod lleol ofyn am wybodaeth neu ddogfennaeth gan y person ("P") y diwellir ei anghenion o dan y Ddeddf ac a drosglwyddodd yr ased i'r ceisydd, pan fo'r wybodaeth honno'n berthnasol i'r materion sydd i'w hystyried yn yr adolygiad.

(2) Mae paragraffau (1) i (4) o reoliad 12 yn gymwys i unrhyw gais gan yr awdurdod lleol yn unol â pharagraff (1) o'r rheoliad hwn, ac eithrio bod rhaid i'r datganiad y mae'n ofynnol i'r awdurdod lleol ei anfon yn unol â pharagraff (4) o reoliad 12 gael ei anfon hefyd at P.

(3) Os digwydd i'r awdurdod lleol beidio â chael yr wybodaeth a'r ddogfennaeth oddi wrth P nac ychwaith gais am estyniad, o fewn yr amser a bennir ym mharagraff (1) o reoliad 12, rhaid i'r awdurdod lleol anfon datganiad at P, at y ceisydd ac at unrhyw gynrychiolydd—

- (a) yn datgan bod P wedi methu â darparu'r wybodaeth neu'r ddogfennaeth y gofynnwyd amdanynt gan yr awdurdod lleol;
- (b) yn rhoi gwybod y bydd yr awdurdod lleol yn parhau i gynnal yr adolygiad ac yn gwneud y penderfyniad ar sail yr wybodaeth a'r ddogfennaeth sydd ar gael iddynt; ac
- (c) yn esbonio y gall methiant P i ddarparu'r wybodaeth a'r ddogfennaeth ychwanegol gael effaith anffafriol ar y penderfyniad ar yr adolygiad.

(4) Os darperir yr wybodaeth a'r ddogfennaeth y gofynnwyd amdanynt ar ôl y terfyn amser ar gyfer eu darparu, ond cyn bo penderfyniad ar yr adolygiad wedi ei wneud, caniateir i'r wybodaeth honno gael ei chymryd i ystyriaeth yn y broses o benderfynu.

(6) If paragraph (5) applies, the local authority must send a statement to the requester and any representative stating—

- (a) that the local authority is now treating the request as if it has been withdrawn;
- (b) that the charge is now payable;
- (c) the amount (if any) that has accrued and not been paid by the requester during the review period; and
- (d) if the local authority seeks to recover any accrued amount, the amount and the date by which the amount must be paid.

Provision of information or documentation by a person other than the requester

13.—(1) Where the requester is a liable transferee, the local authority may request information or documentation from the person ("P") whose needs are being met under the Act and who transferred the asset to the requester, where such information is relevant to the issues to be considered in the review.

(2) Paragraphs (1) to (4) of regulation 12 apply to any request made by the local authority in accordance with paragraph (1) of this regulation save that the statement the local authority is required to send in accordance with paragraph (4) of regulation 12 must also be sent to P.

(3) In the event that the local authority does not receive the information or documentation from P or a request for an extension of time within the time specified in paragraph (1) of regulation 12, the local authority must send a statement to P, the requester and any representative—

- (a) stating that P has failed to provide the information or documentation requested by the local authority;
- (b) advising that the local authority will continue with the review and will make the decision on the information and documentation that is available to them; and
- (c) advising that the failure by P to provide the further information and documentation may have an adverse impact upon the decision upon the review.

(4) If the information and documentation requested is provided after the time limit for providing it has expired, but before a decision upon the review is made, that information may be taken into account in the decision making process.

Y penderfyniad

14.—(1) Yn ddarostyngedig i baragraffau (2) a (3), cyn gynted ag y bo modd ar ôl cael gwybodaeth a dogfennaeth ddigonol ar gyfer cynnal yr adolygiad, a beth bynnag o fewn deg diwrnod gwaith ar ôl yr adeg honno, rhaid i'r awdurdod lleol—

- (a) gwneud penderfyniad ar yr adolygiad a'r camau y bydd angen eu cymryd i'w weithredu;
- (b) anfon datganiad at y ceisydd ac unrhyw gynrychiolydd, sy'n nodi—
 - (i) y penderfyniad;
 - (ii) y rhesymau am y penderfyniad hwnnw;
 - (iii) bod hawl gan y ceisydd i wneud cwyn o dan Reoliadau Gweithdrefn Gwynion y Gwasanaethau Cymdeithasol (Cymru) 2014(1) os yw'n anfodlon ar y penderfyniad;
 - (iv) os yw ffi'r ceisydd wedi ei diwygio o ganlyniad i'r adolygiad, dylid cynnwys yn y datganiad yr wybodaeth ganlynol—
 - (aa) gwybodaeth am y gofal a'r cymorth y mae'r ffi yn ymwneud â hwy;
 - (bb) y ffi safonol am y gofal a'r cymorth;
 - (cc) os nad y ffi safonol yw'r ffi a osodwyd yn dilyn yr adolygiad, swm y ffi a osodwyd;
 - (dd) gwybodaeth am y modd y cyfrifwyd y ffi (gan gynnwys manylion unrhyw asesiad ariannol);

(2) Pan fo rheoliad 13(3) yn gymwys a'r wybodaeth a'r ddogfennaeth ychwanegol heb eu darparu, rhaid i'r awdurdod lleol wneud penderfyniad o dan baragraff (1)(a) cyn gynted ag y bo modd, neu beth bynnag o fewn 10 diwrnod gwaith ar ôl cael gwybodaeth a dogfennaeth ddigonol, ond heb gynnwys yr wybodaeth a'r ddogfennaeth y gofynnwyd amdanynt o dan reoliad 13 ond nas darparwyd.

(3) Os daw'r awdurdod lleol i'r casgliad na all gadw at y terfynau amser a bennir ym mharagraffau (1) neu (2), rhaid iddo, cyn gynted ag y bo modd a beth bynnag o fewn y cyfnodau a bennir ym mharagraffau (1) neu (2), ddarparu datganiad i'r ceisydd sy'n nodi—

- (a) na fydd yn gallu darparu penderfyniad o fewn y terfyn amser a bennir ym mharagraff (1) neu (2);

Decision

14.—(1) Subject to paragraphs (2) and (3), as soon as possible after receipt of sufficient information and documentation to carry out the review and in any event within 10 working days of that time, the local authority must—

- (a) make a decision on the review and the action that is necessary to implement it;
- (b) send a statement to the requester and any representative stating—
 - (i) the decision;
 - (ii) the reasons for that decision;
 - (iii) that the requester has a right to make a complaint under the Social Services Complaints Procedure (Wales) Regulations 2014(1) if they are dissatisfied with the decision;
 - (iv) if the requester's charge has been amended as a result of the review, include in the statement the following information—
 - (aa) information about the care and support, to which the charge relates;
 - (bb) the standard charge for the care and support;
 - (cc) if the charge imposed following the review is not the standard charge, the amount of the charge imposed;
 - (dd) information about how the charge was calculated (including details of any financial assessment).

(2) Where regulation 13(3) applies and the further information and documentation has not been provided, the local authority must make a decision under paragraph (1)(a) as soon as possible, or in any event within 10 working days of receiving sufficient information and documentation but excluding the information and documentation requested under regulation 13 but not provided.

(3) If the local authority concludes that it is unable to meet the deadline specified in paragraphs (1) or (2), it must as soon as possible and in any event within the periods specified in paragraphs (1) or (2) provide the requester with a statement stating—

- (a) that it will not be able to provide a decision within the deadline specified in paragraph (1) or (2);

(1) O.S. 2014/1794.

(1) S.I. 2014/1794.

- (b) y rheswm pam y mae'n analluog i gydymffurfio â'r terfyn amser hwnnw;
- (c) erbyn pa ddyddiad y bydd yn darparu penderfyniad; a
- (d) y caiff y ceisydd wneud dewisiad i beidio â thalu'r ffi am weddill y cyfnod adolygu drwy hysbysu'r awdurdod lleol naill ai ar lafar neu mewn ysgrifen.

(4) Cyn gwneud penderfyniad o dan adran (1)(a), rhaid i'r awdurdod lleol ystyried—

- (a) manylion y cais;
- (b) polisi codi ffioedd cyfredol yr awdurdod lleol;
- (c) Rhan 5 o'r Ddeddf neu, pan fo'n briodol, unrhyw reoliadau a wnaed o dan adrannau 50 i 53 o'r Ddeddf;
- (d) y Rheoliadau;
- (e) unrhyw Reoliadau eraill a wnaed o dan Ran 5 o'r Ddeddf a ystyrir yn berthnasol gan yr awdurdod lleol;
- (f) unrhyw God neu ganllawiau perthnasol a gyhoeddwyd gan Weinidogion Cymru o dan adran 145 o'r Ddeddf;
- (g) incwm a threuliau'r ceisydd;
- (h) os cynhaliwyd un, asesiad ariannol y ceisydd, a wnaed at y diben o wneud dyfarniad o dan adran 66 o'r Ddeddf neu at y diben o ddyfarnu ad-daliad neu gyfraniad yn unol â rheoliadau a wnaed o dan adrannau 50 i 53 o'r Ddeddf, sydd wedi arwain at y ffi sy'n destun yr adolygiad; ac
- (i) unrhyw amgylchiadau, cyfredol a rhagweladwy, a allai effeithio ar allu'r ceisydd i dalu'r ffi.

(5) Rhagdybir y bydd datganiad wedi ei ddarparu o dan baragraff (1) ar y dyddiad y'i dyroddir gan yr awdurdod lleol.

Talu'r ffi yn ystod ac ar ôl yr adolygiad

15.—(1) Os gwneir cais, caiff y ceisydd wneud dewisiad i beidio â thalu'r ffi neu'r rhan o'r ffi sy'n destun yr adolygiad, drwy gydol y cyfnod adolygu, ond bydd y swm nas telir yn cronni.

(2) Os gwneir dewisiad o dan baragraff (1), rhaid i'r ceisydd hysbysu'r awdurdod lleol ynghylch ei ddewisiad, naill ai ar lafar neu mewn ysgrifen, o fewn 5 diwrnod gwaith ar ôl cael datganiad o dan reoliad 10(1).

(3) Os yw awdurdod lleol yn anfon datganiad at y ceisydd o dan reoliad 14(3) caiff y ceisydd wneud dewisiad i beidio â thalu'r ffi neu'r rhan o'r ffi sy'n destun yr adolygiad yn ystod gweddill y cyfnod

- (b) the reason for not being able to comply with that deadline;
- (c) the date by which it will provide a decision; and
- (d) that the requester may elect not to pay the charge for the remainder of the review period by notifying the local authority either orally or in writing.

(4) Before making a decision under paragraph (1)(a), the local authority must consider—

- (a) the details of the request;
- (b) the local authority's current charging policy;
- (c) Part 5 of the Act or, where appropriate, any regulations made under sections 50 to 53 of the Act;
- (d) the Regulations;
- (e) any other Regulations made under Part 5 of the Act which the local authority considers relevant;
- (f) any relevant Code or guidance published by the Welsh Ministers under section 145 of the Act;
- (g) the requestor's income and expenses;
- (h) where one has been carried out, the requestor's financial assessment carried out for the purpose of a determination under section 66 of the Act or for the purpose of determining a reimbursement or contribution in accordance with regulations made under sections 50 to 53 of the Act which has led to the charge which is the subject of the review; and
- (i) any circumstances both current and foreseeable that may affect the requester's ability to pay the charge.

(5) A statement will be deemed to have been provided under paragraph (1) on the date it is issued by the local authority.

Payment of the charge during and after the review

15.—(1) If a request is made, the requester may elect not to pay their charge, or the part of the charge which is the subject of the review, during the whole of the review period but the unpaid amount will accrue.

(2) If an election is made under paragraph (1), the requester must notify the local authority of their election, either orally or in writing, within 5 working days of receiving a statement under regulation 10(1).

(3) If a local authority sends a statement to the requester under regulation 14(3), the requester may elect not to pay their charge or the part of the charge which is the subject of the review, during the

adolygu, ac ni fydd unrhyw swm nas telir yn ystod gweddill y cyfnod adolygu yn cronni.

(4) Os gwneir dewisiad o dan baragraff (3), rhaid i'r ceisydd hysbysu'r awdurdod lleol ynghylch ei ddewisiad, naill ai ar lafar neu mewn ysgrifen, o fewn 5 diwrnod gwaith ar ôl cael datganiad o dan reoliad 14(3).

(5) Pan hysbysir yr awdurdod lleol na fydd y ceisydd yn talu ei gyfraniad tuag at daliadau uniongyrchol yn ystod y cyfan neu'r gweddill o'r cyfnod adolygu, rhaid i'r awdurdod lleol wneud taliadau uniongyrchol gros yn ystod—

- (a) y cyfan o'r cyfnod adolygu pan wneir dewisiad o dan baragraff (1); neu
- (b) gweddill y cyfnod adolygu pan wneir dewisiad o dan baragraff (3).

(6) Yn ddarostyngedig i baragraffau (7) ac (8), caiff awdurdod lleol, ar ôl diwedd y cyfnod adolygu, adennill unrhyw swm nas talwyd sydd wedi cronni yn ystod y cyfnod adolygu o dan baragraff (1).

(7) Y swm cronedig y caniateir ei adennill o dan baragraff (6) yw swm y ffi y penderfynodd yr awdurdod lleol sy'n gywir o dan reoliad 14(1)(a).

(8) Ni chaiff awdurdod lleol adennill unrhyw ffi, neu'r rhan o'r ffi sy'n destun yr adolygiad, nas talwyd yn ystod y cyfnod rhwng anfon datganiad o dan reoliad 14(3) a diwedd y cyfnod adolygu.

(9) Os yw awdurdod lleol yn penderfynu bod y ffi a ddylai fod yn daladwy gan y ceisydd yn llai na'r ffi flaenorol a osodwyd ar y ceisydd, rhaid i'r awdurdod lleol, o fewn 10 diwrnod gwaith ar ôl anfon ei benderfyniad at y ceisydd, dalu i'r ceisydd y gwahaniaeth rhwng y swm a ddylai fod yn daladwy a'r swm, os oes un, a dalwyd eisoes gan y ceisydd.

(10) Os yw awdurdod lleol yn penderfynu bod y ffi a ddylai fod yn daladwy gan y ceisydd yn fwy na'r ffi flaenorol a osodwyd ar y ceisydd, caiff yr awdurdod lleol, yn ddarostyngedig i baragraff (8), adennill y gwahaniaeth rhwng swm y ffi a ddylai fod yn daladwy a'r swm, os oes un, a dalwyd eisoes gan y ceisydd.

(11) Ni chaiff swm y mae'n rhaid i awdurdod lleol ei dalu o dan baragraff (9) neu y caiff ei adennill o dan baragraff (10), pan fo'r ffi wedi ei diwygio oherwydd newid yn amgylchiadau ariannol y ceisydd, ymwneud ag unrhyw gyfnod o amser cyn y newid hwnnw mewn amgylchiadau ariannol.

remainder of the review period and any amount that is not paid during the remainder of the review period will not accrue.

(4) If an election is made under paragraph (3), the requester must notify the local authority of the election, either orally or in writing, within 5 working days of receiving a statement under regulation 14(3).

(5) Where the local authority is notified that the requester will not pay their contribution towards direct payments during the whole or the remainder of the review period, the local authority must make gross direct payments during—

- (a) the whole of the review period where an election under paragraph (1) is made; or
- (b) the remainder of the review period where an election under paragraph (3) is made.

(6) Subject to paragraphs (7) and (8), a local authority may recover any unpaid amount that has accrued during the review period under paragraph (1) after the end of the review period.

(7) The accrued amount that may be recovered under paragraph (6) is the amount of the charge that the local authority has decided is correct under regulation 14 (1)(a).

(8) A local authority may not recover any charge, or the part of the charge which is the subject of the review, that has not been paid between the sending of a statement under regulation 14(3) and the end of the review period.

(9) If a local authority decides that the charge that should be payable by the requester is less than that previously imposed on the requester, the local authority must within 10 working days of sending its decision to the requester, pay the requester the difference between the amount that should be payable and the amount, if any, that has already been paid by the requester.

(10) If a local authority decides that the amount that should be payable by the requester is more than that previously imposed on the requester, the local authority may, subject to paragraph (8), recover the difference between the amount of the charge that should be payable and the amount, if any, that has already been paid by the requester.

(11) The amount that a local authority must pay under paragraph (9) or may recover under paragraph (10), where the amount of the charge has been amended due to a change in the requester's financial circumstances, cannot relate to any period of time before that change in financial circumstances.

(12) Wrth adennill swm oddi ar y ceisydd o dan baragraff (6) neu (10), rhaid i'r awdurdod lleol—

- (a) rhoi sylw i amgylchiadau ariannol personol y ceisydd; a
- (b) bodloni ei hunan na fydd adennill y swm yn peri bod y ceisydd yn dioddef caledi ariannol; neu
- (c) os yw'r awdurdod lleol o'r farn y byddai adennill y swm hwnnw yn peri i'r ceisydd ddiodeff caledi ariannol, cynnig i'r ceisydd yr opsiwn o ad-dalu'r swm mewn rhandaliadau cyfnodol.

(13) Pan fo'r awdurdod lleol yn ceisio adennill unrhyw swm oddi ar drosgrwyddai atebol, nid yw paragraff 12 yn gymwys.

Dirymu

16. Mae Rheoliadau Codi Ffioedd am Wasanaethau Gofal Cymdeithasol (Adolygu Penderfyniadau ar Godi Ffioedd) (Cymru) 2011 (1) wedi eu dirymu.

Darpariaeth drosiannol

17. Pan fo cais wedi ei wneud am adolygu ffi, ad-daliad neu gyfraniad yn union cyn i'r Rheoliadau hyn ddod i rym, ond y cais hwnnw heb ei benderfynu eto gan yr awdurdod lleol, caiff yr awdurdod lleol barhau i gynnal yr adolygiad ac ni fydd y Rheoliadau hyn yn gymwys mewn perthynas â'r adolygiad hwnnw, ac eithrio y bydd rhaid i'r awdurdod lleol anfon penderfyniad at y ceisydd o fewn 3 mis wedi i'r Rheoliadau hyn ddod i rym.

(12) If recovering an amount from the requester under paragraph (6) or (10) the local authority must—

- (a) have regard to the requester's personal financial circumstances; and
- (b) be satisfied that the recovery of the amount will not cause the requester to suffer financial hardship; or
- (c) if the local authority believes that the recovery of that amount would cause the requester to suffer financial hardship, offer the requester the option of repaying the amount in periodic instalments.

(13) Where the local authority is seeking to recover any amount from a liable transferee, paragraph (12) does not apply.

Revocation

16. The Social Care Charges (Review of Charging Decisions) (Wales) Regulations 2011(1) are revoked.

Transitional provision

17. Where, immediately before the coming into force of these Regulations, a review of a charge, reimbursement or contribution has been requested but not yet been decided by the local authority, the local authority may continue with the review and these Regulations do not apply in relation to that review except that the local authority must send a decision to the requester within 3 months of the coming into force of these Regulations.

Mark Drakeford

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol,
un o Weinidogion Cymru
27 Hydref 2015

(1) O.S. 2011/964.

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Minister for Health and Social Services, one of the
Welsh Ministers
27 October 2015

(1) S.I. 2011/964.

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