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Y Gweinidog dros Fusnes a'r Gyllideb
Minister for Business and Budget



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Lord Dafydd Elis-Thomas AM
Presiding Officer
National Assembly for Wales

29 March 2011

Dear Dafydd,

THE SOCIAL CARE CHARGES (MEANS ASSESSMENT AND DETERMINATION OF CHARGES) (WALES) REGULATIONS 2011

THE SOCIAL CARE CHARGES (DIRECT PAYMENTS) (MEANS ASSESSMENT AND DETERMINATION OF CHARGES) (WALES) REGULATIONS 2011

THE SOCIAL CARE CHARGES (REVIEW OF CHARGING DECISIONS) (WALES) REGULATIONS 2011

I am writing to inform you that in order to bring into force in Wales the above Regulations, all being made under provisions in the Social Care Charges (Wales) Measure 2010, it has become necessary to breach the 21 day rule. These Regulations were all made on 24 March and laid in Table Office on 29 March. They will come into force on 11 April 2011 to coincide with the changes to welfare benefits that the Department for Work and Pensions will make on that day, given the link between these and charging for social care.

These Regulations, when taken with the provisions on the face of the Measure, introduce a new regime in Wales in relation to the charging that local authorities undertake for providing non-residential social services. They introduce more consistency in this charging so as to fulfil the Assembly Government's "One Wales" commitment to make charging for these services "a more level playing field".

The Regulations and Measure make considerable changes to how local authorities may charge those who receive non-residential social services. Currently authorities have wide discretion regarding the services for which a charge may be made, the allowances and disregards of capital and income they operate in means assessments of service users to determine charges, and in the level of charges they set. This has led to differing charging policies operated by authorities in Wales, with wide variations between the services for which a charge is made, in the means assessments they undertake and in the charges they make. The Measure, while maintaining authorities' discretion to charge, allows Welsh Ministers by Regulation to set out a new framework where charging occurs to introduce more consistency. Therefore, the Regulations cover:

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The Social Care Charges (Means Assessment and Determination of Charges) (Wales) Regulations 2011

- The classes of persons who may not be charged and the services for which a charge may not be made;
- That an authority's power to set a reasonable charge is subject to a maximum charge of £50 per week;
- The content and format of an invitation, and the responses to these, to request a means assessment to be issued to a service user where a charge is planned;
- Where a means assessment is requested, the process to be used including the financial safeguards to be afforded service users;
- The procedure an authority should use in determining a charge;

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

- For those in receipt of direct payments to obtain the non-residential social services they require, corresponding provision to that outlined above;

The Social Care Charges (Review of Charging Decisions) (Wales) Regulations 2011

- Introduces a right to request a review of any decision to impose a charge and in the case of those receiving direct payments, to impose a contribution or reimbursement for the direct payments they receive;
- The situations in which a request for a review may be made, the content and format of that request and the acknowledgement an authority must issue;
- The process an authority must use in considering such requests, the timescales for this and the factors an authority must take into account in determining them;
- The actions an authority must take once a decision has been made and the arrangements for the payment of any charge, contribution or reimbursement in dispute during the period of the review and subsequently.

Given the level of detail that these Regulations have of necessity needed to cover to achieve our aim of more consistency, their development has required extensive and prolonged engagement with stakeholders; both those representing local authorities and those representing service users. This was to ensure that they afforded service users the consistency of approach and financial safeguards required in such a new regime, while at the same time introducing arrangements which were practical for authorities to administer. This process has, therefore, been highly technical involving charging, financial and complaint officers from local government, as well as a range of individuals from the organisations representing older and disabled people.

Draft Regulations were subject to a public consultation which concluded on 4 February this year. Since then officials have been considering the responses in liaison with the stakeholder representatives mentioned above. This has included ensuring that, in relation to direct payments, the changes account for all of the categories of individuals who are eligible to receive direct payments. That category is being extended and has recently been the subject of separate Regulations laid in relation to direct payments which will also come into force on 11 April. As a result it has not been possible to lay these Regulations relating to local authority charging for non-residential social services before now.

A copy of this letter goes to Janet Ryder, Chair of the Constitutional Affairs Committee and to Stephen George, Clerk to the Constitutional Affairs Committee.

Jane Hutt