

Constitutional Affairs Committee Draft Report

CA582

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

Procedure: Negative

Section 1 of the Social Care Charges (Wales) Measure 2010 gives local authorities in Wales a discretionary power to impose a reasonable charge upon adult recipients of non-residential social care services (a “service user”). These Regulations do not require a local authority to impose a charge when it provides or makes arrangements for the provision of a chargeable service; however, in cases where a local authority does determine to impose a charge upon the service user, the charging policy of that local authority must comply with the relevant provisions of these Regulations (and with any regulations made by the Welsh Ministers under section 16 of the Community Care (Delayed Discharges etc.) Act 2003).

Technical Scrutiny

Under Standing Orders 21.2 the Assembly is invited to pay special attention to the following instrument:-

There is a discrepancy between regulation 7 (1) (b) (iv) of the English and Welsh versions of the text. In regulation 7 (1) (b) (iv) the English version makes reference to the words “for services” in respect of the “details of the maximum reasonable charge,” in accordance with regulation 5, whereas the Welsh version at regulation 7 (1) (b) (iv) omits to include the words “for services,” and so it is not clear in respect of what the maximum reasonable charge should be imposed in accordance with regulation 5 of the Welsh version.

(Standing Order 21.2 (vi) that its drafting appears to be defective or it fails to fulfil statutory requirements; and Standing Order 21.2 (vii) that there appear to be inconsistencies between the meaning of its English and Welsh texts).

Merits Scrutiny

For points identified for reporting under Standing Order 21.3 in respect of this instrument see CLA(4)-01-11(p1).

Legal Advisers

Constitutional Affairs Committee

April 2011

The Government has responded as follows:

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

The reporting point is accepted. The Government intends to bring forward amending legislation at the earliest opportunity and in any event within 3 months from the coming into force of the Regulations.