

(CSI(4)-01-11

CA583

Constitutional Affairs Committee Draft Report

Title: The Social Care Charges (Direct Payments) (Means Assessment and Determination of Reimbursement or Contribution) (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. The Regulations set out a number of provisions with which local authorities are required to comply when exercising this power.

Technical Scrutiny

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

1. Regulation 2 (1) (Page 5) – “basic entitlement” – as a result of paragraphs (a) and (b) severe disability premium may be disallowed where it is paid, the text incorrectly refers in both paragraphs to “where is it paid” which creates ambiguity. (Standing Order 21.2 (vi) –that its drafting appears to be defective or it fails to fulfil statutory requirements)
2. Regulation 2 (1) (Page 7) – “home visiting facility” means a visit or visits which are undertaken by an appropriate officer of a local authority to D’s current **place of residence**. The Welsh text translates to**home or place of residence**. (Standing Order 21.2 (vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts)
3. Regulation 2 (1) (page 7) – “in writing”. The English text refers to ‘words or figures’ however the welsh text refers to ‘words and figures’.
4. Regulation 2 (1) (page 8) – “service user” means an adult who has been offered, or who is receiving, a service provided **or secured** by a local authority. The Welsh text omits the words **or secured**. (Standing Order 21.2 (vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts)

5. Regulation 7 (4) (b) (page 11) – The English text provides that when issuing an invitation to request a means assessment, the invitation must contain full details of its charging policy which **must** include the information in sub-paragraph (1) – (v). The Welsh translation does not **require** such information to be included. (Standing Order 21.2 (vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts)
6. Regulation 7 (4)(e) (page 12) – the English text refers to sub-paragraph (d), but the Welsh text refers to (dd) instead of (ch). (Standing Order 21.2 (vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts)
7. Regulation 7 (4) (i) – the English text refers to individuals in the plural. The Welsh text initially refers to individuals, but goes on to refer to single individual “gysylltu ag ef”. (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 (Direct Payments) (Means Assessment and Determination of Reimbursement or Contribution) (Wales) Regulations 2011

The reporting points are 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.