

Government Response: Code of Practice on the exercise of social services functions in relation to Part 4 (direct payments and choice of accommodation) and Part 5 (charging and financial assessment) of the Social Services and Well-being (Wales) Act 2014

The Government acknowledges the matters raised. While some points require correction or clarification, the majority are minor drafting points that do not change the operation or legal effect of the Code.

In light of this, the Government proposes to the Committee that the identified corrections, detailed below, be made prior to issuing the Code of Practice. The Government considers this approach pragmatic and proportionate, ensuring the Code of Practice is published accurately without unnecessary delay.

Scrutiny point 3: Paragraph 5.22 of the Welsh text will be revised so that “*o’r dyddiad y rhoddwyd y datganiad yn gynta*” is replaced with “*o’r dyddiad y rhoddwyd y gofal a chymorth yn gynta*” to correspond with the English text.

Scrutiny point 4: In Annex D, in paragraph 4.3, in the final bullet points, the term “*berthynas cymhwysol*” in the Welsh text will be replaced with “*berthynas cymwys*” to ensure consistency with the defined term in Schedule 2 to the Care and Support (Financial Assessment) (Wales) Regulations 2015.

Scrutiny point 5: The view of the Welsh Government remains as expressed in response to the reporting point raised in relation to the withdrawn Code.

Scrutiny point 6: In the context where “*DPA*”, “*deferred payment agreement*” and “*agreement*” appear in both the English and Welsh texts of the Code, the Welsh Government considers there to be no ambiguity as to which agreement is being referred to. For clarity and to maintain consistency between the two language texts, the following revisions will be made before the Code is issued.

- a) In the English text, at the end of paragraph 2.16 in Annex B, and in paragraph 8.13 of Annex C of the Code, references to the full term “*Deferred Payment Agreement*” will be replaced with the defined term “*DPA*”. This corresponds with the Welsh text where the full phrase meaning “*deferred payment agreement*” will be used throughout the Code.
- b) In Annex D, in paragraph 5.3, revisions will be made prior to issuing the Code as follows.
 - i) in the first, second, eleventh and twelfth bullet points, “*agreement*” in the English text will be replaced with the defined term “*DPA*” to

correspond to the Welsh text where the full phrase meaning “*deferred payment agreement*” is used;

- ii) in the eighth bullet point, the Welsh text will be revised to replace the text meaning “*deferred payments*” with text meaning “*a deferred payment agreement*” to correspond with use of the defined term “*a DPA*” in the English text;
- c) In Annex D, the Welsh text meaning “*the agreement*” will be replaced with text meaning “*the deferred payment agreement*” in paragraphs 9.2, 9.3, 9.5, 9.8, 10.1 (including the heading), 10.2, 10.3, 10.4, 10.5 and 11.9 to correspond to the use of “*DPA*” in the English text;
- d) in Annex F, in paragraph 5.1, in the English text, where the phrase “*deferred payment agreement*” is defined again, this will be corrected and “*deferred payment agreement (DPA)*” will be replaced with “*DPA*”. In paragraph 6.1 of the Welsh text the phrase meaning “*such an agreement*” will be replaced with text meaning “*deferred payment agreement*”.

Scrutiny point 7: Where “*the agreement*” appears instead of “*DPA*” in the English text, and instead of the full phrase meaning “*deferred payment agreement*” in the Welsh text, this will be replaced with “*DPA*” or words meaning “*deferred payment agreement*” as required in paragraphs 4.3 (in the first bullet point), 5.1, 10.3, 10.4 (in the opening words), 10.5, and 11.1(a) of Annex D. In addition, the defined term “*DPA*” will be used in paragraph 3.2 of Annex D in place of “*deferred payment*” in the English text, and the Welsh text will be revised to correspond with this change.

Although the Welsh Government considers it clear that the written agreements referred to in paragraphs 8.5, 8.6, 8.12 and 8.16 of Annex C are distinct from the deferred payment agreements referred to elsewhere, the revisions outlined above will confirm that distinction.

Scrutiny point 8: In Annex D, in paragraph 6.4, the English text will be revised to read “*as part of the administrative costs local authorities can charge for putting a DPA **in place**, should they wish to do so.*” This will correspond with the Welsh text.

Scrutiny point 9: Upon review of the Code prior to its relaying, it was decided to remove the example timeframe for debt accrual from paragraph 3.1 of Annex F.

The current Code provides that: “*The point at which a debt becomes due continues to be the date at which the amount imposed becomes due to the local authority. This means that, for example, if an invoice was issued giving 30 days to pay, the payment becomes due on day 30 and a debt accrues if this is not met.*”

The draft revised Code provides that: *“The point at which a debt becomes due remains the date on which the amount is payable, in accordance with the terms set out by the local authority.”*

This change was made because the example could create confusion where local authorities apply different invoicing terms from those illustrated. The Welsh Government considers the revised wording sufficiently clear without an example. This revision was highlighted during consultation with local authorities, and no comments or observations were received in response.

Minor issues such as formatting and correcting typographical errors will also be corrected prior to issuing the Code of Practice.