

# **SL(6)723 – The National Health Service (Direct Payments) (Wales) Regulations 2026**

## **Background and Purpose**

These Regulations make provision for the making of direct payments for health care by the Welsh Ministers for the purposes of the provision of certain health services under the National Health Service (Wales) Act 2006.

Regulations 3 to 5 specify the patients to, or in respect of whom, direct payments may be made, and the Schedule specifies the persons to or in respect of whom direct payments cannot be made (excluded persons). Regulation 6 contains provision about patients who had but no longer have mental capacity to consent to the making of direct payments and regulation 7 contains provision about patients who gain or regain mental capacity.

Regulation 8 provides for the nomination of a person (a nominee) to receive and administer direct payments on behalf of a patient.

Regulations 9 to 12 set steps that enable the Welsh Ministers to gather the information they need in order to make a decision (in accordance with regulation 13) on whether to make direct payments to or in respect of a patient.

Regulation 9 contains provision about the relevant persons whom the Welsh Ministers may consult before deciding whether or not to make a direct payment.

Regulation 10 specifies the information the Welsh Ministers require in order to assess the ability of a patient, their representative or nominee to manage direct payments, and regulation 11 specifies the requirements for a care plan and sets out the role of the care co-ordinator.

Regulation 12 details the information, advice or other support that the Welsh Ministers must provide before a decision is made in respect of direct payment. It also sets out the requirements for the provision of information, advice or other support in cases where the Welsh Ministers decide to make direct payments.

The Welsh Ministers must make a decision on whether to make direct payments in accordance with regulation 13.

Regulations 14 and 15 make provision about the conditions that may be imposed on the person who receives and manages the direct payment (the payee); this may be the patient, or their representative or nominee.

Regulation 16 makes provision about the supply of information required by the Welsh Ministers and regulation 17 makes provision about the amount of direct payments.

Regulation 18 makes provision about the monitoring and review of direct payments and regulations 19 to 21 provide for the repayment, recovery and stopping of direct payments.



## Procedure

Senedd approval procedure.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

## Technical Scrutiny

The following five points are identified for reporting under Standing Order 21.2 in respect of this instrument.

### **1. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**

In the preamble, in the second paragraph, there is a difference between the English and Welsh text. In the English text, it notes “section 203(6) of the National Health Service (Wales) Act 2006” but the meaning given by the Welsh text is “section 203(6) of that Act”.

### **2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

In regulation 9(2)(b) and (c), there are references to “the 2005 Act”. However, this term has not been defined with a meaning for the purposes of regulation 9 or these Regulations.

### **3. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

In regulation 10(6), in the opening words before sub-paragraph (a), it refers to “paragraph (4)(c)(ii)”. However, there is no paragraph (4)(c)(ii) in regulation 10 of these Regulations.

### **4. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**

In the Schedule, in paragraph 2(b), there is a difference between the English and Welsh text. In the English text, it notes “alcohol treatment requirement” but the meaning given by the Welsh text is “alcohol dependence treatment requirement”. It is also inconsistent with the same term where it is used in the Welsh text of paragraph 2(g)(ii) and (h)(i) of the Schedule to these Regulations.

### **5. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**

In the Schedule, in paragraph 2(f)(ii), there is a difference between the English and Welsh text. In the English text, it notes “drug treatment requirement” but the meaning given by the Welsh text is “drug users rehabilitation treatment requirement”. It is also inconsistent with the same term where it used in the Welsh text of paragraph 2(g)(i) and (h)(ii) of the Schedule to these Regulations.



## Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Welsh Government response

A Welsh Government response is required.

## Committee Consideration

The Committee considered the instrument at its meeting on 2 February 2026 and reports to the Senedd in line with the reporting points above



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

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Welsh Parliament

**Legislation, Justice and Constitution Committee**