
WELSH STATUTORY INSTRUMENTS

2011 No. 962

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

Determination as to a service user's ability to pay a charge

15.—(1) Where a local authority makes a determination as to a service user's ability to pay a charge in accordance with section 7 (determinations as to ability to pay) or section 9 of the Measure (replacement by authority of determinations as to ability to pay) it must give effect to the requirements of this regulation.

(2) A local authority must ensure when determining the charge to be imposed for a service offered to or being received by a service user, that it does not reduce the service user's net income—

- (a) where the service user is in receipt of a relevant benefit, to an amount below the total of—
 - (i) the basic entitlement to the relevant benefit that is being received by that person, and
 - (ii) an amount of not less than 35% of that entitlement (“a buffer”) (“*clustog*”), and
 - (iii) an amount to compensate the service user for disability-related expenditure of not less than 10% of the amount referred to in paragraph (i); or
- (b) where the service user is not in receipt of a relevant benefit, to an amount below the total of—
 - (i) the amount the local authority reasonably assesses, having regard to the person's age, circumstances and level of disability, would be equal to the service user's basic entitlement to a relevant benefit, and
 - (ii) a buffer of not less than 35% of the amount estimated in paragraph (i), and
 - (iii) an amount to compensate the service user for disability-related expenditure of not less than 10% of the amount referred to in paragraph (i).

(3) Nothing in this regulation affects the discretion of a local authority to increase the percentage of the buffer or the amount to compensate for any disability-related expenditure when making a determination in accordance with paragraph (1).