



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2015 Rhif 1815 (Cy. 260)

2015 No. 1815 (W. 260)

**GOFAL CYMDEITHASOL,
CYMRU**

SOCIAL CARE, WALES

Rheoliadau Gofal a Chymorth
(Taliadau Uniongyrchol) (Cymru)
2015

The Care and Support (Direct
Payments) (Wales) Regulations
2015

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

EXPLANATORY NOTE

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn nodi'r amgylchiadau pan fo'n ofynnol neu pan ganiateir i awdurdodau lleol wneud taliadau uniongyrchol o dan Ran 4 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant 2014 ("y Ddeddf") fel ffordd o ddiwallu anghenion person am ofal a chymorth.

These Regulations set out the circumstances when local authorities are either required or allowed to make direct payments under Part 4 of the Social Services and Well-being Act 2014 ("the Act") as a way of meeting a person's needs for care and support.

Mae rheoliad 2 yn nodi'r amgylchiadau pan fydd awdurdodau lleol o dan ddyletswydd i wneud taliadau uniongyrchol. Bydd y ddyletswydd yn gymwys ym mhob achos pan fydd yr amodau sydd wedi eu cynnwys yn adrannau 50, 51 neu 52 o'r Ddeddf wedi eu bodloni ac eithrio mewn achosion y mae rheoliad 14 yn gymwys iddynt. Mae rheoliad 3 yn darparu bod gwneud taliadau uniongyrchol yn cyflawni swyddogaeth awdurdod lleol (pa un a yw'n ddyletswydd neu'n ddisgresiwn) i ddiwallu anghenion gofal a chymorth.

Regulation 2 sets out the circumstances when local authorities will be under a duty to make direct payments. The duty will apply in all cases when the conditions contained in sections 50, 51 or 52 of the Act are met except in cases to which regulation 14 applies. Regulation 3 provides that making direct payments discharges a local authority's function (whether a duty or a discretion) to meet care and support needs.

Mae rheoliad 4 yn cyflawni'r gofyniad yn adran 53(5) o'r Ddeddf bod y Rheoliadau'n cynnwys darpariaeth ynglŷn â'r camau y mae'n rhaid i awdurdod lleol eu cymryd i alluogi pobl i wneud dewisiadau deallus ynghylch taliadau uniongyrchol.

Regulation 4 fulfils the requirement in section 53(5) of the Act that the Regulations include provision about steps a local authority must take to enable people to make informed choices about direct payments.

Mae rheoliad 5 yn nodi rhai camau ychwanegol y mae'n rhaid i awdurdod lleol eu cymryd os nad oes galluedd gan y person y mae'r taliadau i'w gwneud er ei les.

Regulation 5 sets out certain additional steps which must be taken by a local authority if the person for whose benefit the payments are to be made lacks capacity.

Mae rheoliad 6 yn nodi yr amgylchiadau pan ganiateir i daliadau uniongyrchol gael eu defnyddio i dalu person sy'n berthynas ac sy'n byw ar yr un aelwyd â'r person y maent yn cael eu gwneud er ei les. Mae rheoliad 7 yn gosod gofyniad sy'n ei gwneud yn ofynnol i daliadau uniongyrchol fod yn ddarostyngedig i amodau pan na fo galluedd gan y person y maent yn cael eu gwneud er ei les.

Mae rheoliad 8 yn rhoi disgresiwn i awdurdodau lleol wneud taliadau uniongyrchol yn ddarostyngedig i amodau. Mae rheoliad 9 yn ei gwneud yn ofynnol i awdurdodau lleol benderfynu pa un ai i wneud taliadau fel taliadau gros neu daliadau net ac ystyried amgylchiadau ariannol person wrth wneud y penderfyniad hwnnw. Mae rheoliad 10 yn nodi pryd y caiff awdurdod lleol derfynu'r trefniadau ar gyfer taliadau uniongyrchol a'i gwneud yn ofynnol iddynt gael eu had-dalu.

Mae rheoliad 11 yn creu gofynion ynghylch amllder adolygiadau a'r bobl y mae'n rhaid i'r awdurdod lleol eu cynnwys yn yr adolygiad.

Mae rheoliad 12 yn gwneud darpariaeth i gydymffurfio â'r gofyniad yn adran 53(7) o'r Ddeddf bod rhaid i'r Rheoliadau bennu'r budd-daliadau y byddai eu cael yn cymhwyso person i gael taliadau uniongyrchol heb fod yn ddarostyngedig i unrhyw gyfraniad.

Mae rheoliad 13 yn cynnwys darpariaeth ynglŷn â therfynu taliadau uniongyrchol os yw oedolyn y mae taliadau uniongyrchol yn cael eu gwneud iddo yn colli ei alluedd.

Mae rheoliad 14 yn gymwys mewn perthynas ag ystod o bersonau sy'n ddarostyngedig i ofynion sy'n cael eu gwneud drwy orchmynion yn y system cyfiawnder troseddol neu ofynion trwydded ar ôl dedfryd ac sy'n ymwneud â defnydd y person o gyffuriau neu alcohol. Mae awdurdodau lleol yn cael gwneud taliadau uniongyrchol i'r personau hyn ond ni chânt wneud hynny ond ar yr amod y gwneir taliad i berson arall sy'n addas a bod y ddau berson yn cytuno â'r trefniant.

Mae rheoliad 15 yn nodi'r addasiadau sy'n gymwys i bersonau y mae hawlogaeth ganddynt i gael gwasanaethau ôl-ofal o dan adran 117 o Ddeddf Iechyd Meddwl 1983.

Regulation 6 sets out the circumstances when direct payments may be used to pay a person who is a relative and lives in the same household as the person for whose benefit they are made. Regulation 7 imposes a requirement requiring direct payments to be subject to conditions where the person for whose benefit they are made lacks capacity.

Regulation 8 gives local authorities discretion to make direct payments subject to conditions. Regulation 9 requires local authorities to decide whether to make payments as gross payments or net payments and to take a person's financial circumstances into account in making that decision. Regulation 10 sets out when a local authority can terminate the arrangements for direct payments and require repayment.

Regulation 11 creates requirements about the frequency of reviews and the people that the local authority must involve in the review.

Regulation 12 makes provision to comply with the requirement in section 53(7) of the Act that the Regulations must specify the benefits whose receipt qualifies a person to receive direct payments without being subject to any contribution.

Regulation 13 contains provision about the termination of direct payments if an adult to whom direct payments are made loses capacity.

Regulation 14 applies in relation to a range of persons who are subject to requirements made by orders in the criminal justice system or licence requirements following sentence and which relate to the person's drug or alcohol use. Local authorities are able to make direct payments to these persons but they can only do so on condition that payment is made to another person who is suitable and both persons agree to the arrangement.

Regulation 15 sets out the modifications which apply to persons whose entitlement is to after-care services under section 117 of the Mental Health Act 1983.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth yr Adran Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Department for Health and Social Services, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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SOCIAL CARE, WALES

Rheoliadau Gofal a Chymorth
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The Care and Support (Direct
Payments) (Wales) Regulations
2015

Gwnaed 21 Hydref 2015

Made 21 October 2015

Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru 3 Tachwedd 2015

Laid before the National Assembly
for Wales 3 November 2015

Yn dod i rym 6 Ebrill 2016

Coming into force 6 April 2016

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adrannau 50, 51, 52, 53 a 196(2) o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(1)(2), yn gwneud y Rheoliadau a ganlyn.

The Welsh Ministers, in exercise of the powers conferred by sections 50, 51, 52, 53 and 196(2) of the Social Services and Well-being (Wales) Act 2014(1)(2), make the following Regulations.

Enwi, cychwyn, cymhwyso a dehongli

Title, commencement, application and interpretation

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Gofal a Chymorth (Taliadau Uniongyrchol) (Cymru) 2015.

1.—(1) The title of these Regulations is the Care and Support (Direct Payments) (Wales) Regulations 2015.

(2) Daw'r Rheoliadau hyn i rym ar 6 Ebrill 2016.

(2) These Regulations come into force on 6 April 2016.

(3) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(3) These Regulations apply in relation to Wales.

(4) Yn y Rheoliadau hyn—

(4) In these Regulations—

defnyddir “A” (“A”) i gyfeirio at berson y mae neu y bydd ei anghenion gofal a chymorth neu ei anghenion cymorth yn cael eu diwallu drwy wneud taliadau uniongyrchol;

“the Act” (“*Ddeddf*”) means the Social Services and Well-being (Wales) Act 2014;

ystyr “y Ddeddf” (“*the Act*”) yw Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014;

“A” (“*A*”) is used to refer to a person whose care and support needs or support needs are being or will be met by making direct payments;

defnyddir “P” (“*P*”) i gyfeirio at berson sydd, neu y cynigir iddo fod, yn dderbynydd taliadau

“P” (“*P*”) is used to refer to a person who is, or who it is proposed, will be a recipient of direct payments and who is a “suitable person”(3) for the purposes of section 50(4) of the Act or a person

(1) 2014 dccc 4.

(2) Mae adrannau 50 i 53 o'r Ddeddf wedi eu haddasu mewn perthynas â phersonau y mae adran 117 o Ddeddf Iechyd Meddwl 1983 yn gymwys iddynt gan y darpariaethau yn Atodlen A1 i'r Ddeddf (a fewnosodwyd gan adran 75 o Ddeddf Gofal 2014 (p. 23) a Rhan 2 o Atodlen 4 iddi).

(1) 2014 anaw 4.

(2) Sections 50 to 53 of the Act are modified in relation to persons to whom section 117 of the Mental Health Act 1983 applies by the provisions in Schedule A1 to the Act (inserted by section 75 of and Part 2 of Schedule 4 to the Care Act 2014 (c. 23)).

(3) “Suitable person” is defined in section 50(5) of the Act.

uniongyrchol ac sy'n "person addas"⁽¹⁾ at ddibenion adran 50(4) o'r Ddeddf neu'n berson sydd â chyfrifoldeb rhiant⁽²⁾ dros A y caniateir i daliadau uniongyrchol gael eu gwneud iddo er lles A o dan adran 51 o'r Ddeddf;

ystyr "perthynas" ("*relative*") yw—

- (a) priod neu bartner sifil;
- (b) person sy'n byw gyda pherson fel petai'n briod neu'n bartner sifil;
- (c) rhiant, rhiant-yng-nghyfraith neu lys-riant;
- (d) mab neu ferch;
- (e) mab-yng-nghyfraith neu ferch-yng-nghyfraith;
- (f) llys-fab neu lys-ferch;
- (g) brawd neu chwaer;
- (h) modryb neu ewythr;
- (i) tad-cu/taid neu fam-gu/nain; neu
- (j) priod neu bartner sifil unrhyw berson a bennir yn is-baragraffau (c) i (i);

mae "taliad uniongyrchol" ("*direct payment*") wedi ei ddiffinio yn adrannau 50(7), 51(7) a 52(7) o'r Ddeddf.

(5) Yn y Rheoliadau hyn mae cyfeiriadau at anghenion person "am ofal a chymorth" i'w darllen fel ei "anghenion am gymorth" pan fo'r person yn ofalwr.

Dyletswydd i wneud taliadau uniongyrchol

2. Pan fo—

- (a) awdurdod lleol—
 - (i) o dan ddyletswydd i ddiwallu anghenion person am ofal a chymorth o dan adran 35, 37, 39, 40 neu 42 o'r Ddeddf; neu
 - (ii) wedi penderfynu diwallu anghenion person am ofal a chymorth o dan adran 36 neu 38 o'r Ddeddf neu gymorth mewn perthynas â gofalwr o dan adran 45 o'r Ddeddf;

a

- (b) yr amodau yn adran 50, 51 neu 52 o'r Ddeddf (yn ôl y digwydd) wedi eu bodloni,

rhaid i awdurdod lleol wneud taliadau uniongyrchol tuag at y gost o ddiwallu anghenion y person hwnnw am ofal a chymorth onid yw'r person yn berson y mae rheoliad 14 yn gymwys iddo.

with parental responsibility⁽¹⁾ for A to whom direct payments may be made for the benefit of A under section 51 of the Act;

"direct payment" ("*taliad uniongyrchol*") is defined in sections 50(7), 51(7) and 52(7) of the Act;

"relative" ("*perthynas*") means—

- (a) a spouse or civil partner;
- (b) a person who lives with a person as if a spouse or civil partner;
- (c) parent, parent-in-law or step-parent,
- (d) son or daughter;
- (e) son-in-law or daughter-in-law;
- (f) stepson or stepdaughter;
- (g) brother or sister;
- (h) aunt or uncle;
- (i) grandparent; or
- (j) the spouse or civil partner of any person specified in sub-paragraphs (c) to (i).

(5) In these Regulations references to a person's needs "for care and support" are to be read as a person's "needs for support" where the person is a carer.

Duty to make direct payments

2. Where—

- (a) a local authority—
 - (i) is under a duty to meet a person's needs for care and support under section 35, 37, 39, 40 or 42 of the Act; or
 - (ii) has decided to meet the needs of a person for care and support under section 36 or 38 of the Act or support in relation to a carer under section 45 of the Act;

and

- (b) the conditions in section 50, 51 or 52 of the Act (as the case may be) are met,

a local authority must make direct payments towards the cost of meeting that person's needs for care and support unless the person is a person to whom regulation 14 applies.

(1) Mae "person addas" wedi ei ddiffinio yn adran 50(5) o'r Ddeddf.

(2) Mae "cyfrifoldeb rhiant" wedi ei ddiffinio yn adran 197(1) o'r Ddeddf drwy gyfeirio at adran 3 o Ddeddf Plant 1989 (p. 41).

(1) "Parental responsibility" is defined in in section 197(1) of the Act by reference to section 3 of the Children Act 1989 (c. 41).

Effaith gwneud taliadau

3. Pan fo awdurdod lleol yn gwneud taliadau uniongyrchol i berson, mae gwneud y taliadau yn disodli dyletswydd neu bŵer yr awdurdod lleol i ddarparu, yn uniongyrchol neu'n anuniongyrchol, er mwyn diwallu'r anghenion, neu'r agwedd honno ar yr anghenion, y gwneir y taliadau mewn perthynas â hwy neu hi a hynny am hyd y cyfnod y gwneir y taliadau ar ei gyfer.

Camau i alluogi gwneud dewisiadau deallus ynghylch taliadau uniongyrchol

4.—(1) Pan fo awdurdod lleol—

- (a) yn penderfynu y bydd yn diwallu anghenion A am ofal a chymorth, a
- (b) yn dyfarnu bod gwneud taliadau uniongyrchol yn ffordd briodol o ddiwallu anghenion A,

rhaid iddo ddarparu gwybodaeth i A i sicrhau bod A yn gallu gwneud dewis deallus ynghylch pa un a yw'n cydsynio bod taliadau yn cael eu gwneud ai peidio.

(2) Rhaid i'r wybodaeth y mae'r awdurdod lleol yn ei darparu gynnwys—

- (a) sut y mae'n bwriadu diwallu'r anghenion hynny os na chaiff yr anghenion eu diwallu drwy wneud taliadau uniongyrchol;
- (b) cadarnhad ynghylch a yw taliadau uniongyrchol, ym marn yr awdurdod lleol, yn ffordd briodol o ddiwallu anghenion A⁽¹⁾;
- (c) gwybodaeth am natur a diben taliadau uniongyrchol;
- (d) gwybodaeth am ffyrdd gwahanol o reoli taliadau uniongyrchol;
- (e) swm unrhyw daliadau y byddai gan y person hawlogaeth iddynt os oedd dewis wedi ei wneud i gael taliad uniongyrchol a sut y câi swm y taliad ei gyfrifo;
- (f) gwybodaeth am y cymorth sydd ar gael i gynorthwyo pobl i reoli taliadau uniongyrchol pa un ai oddi wrth yr awdurdod lleol neu oddi wrth unrhyw berson arall;

Effect of making payments

3. Where a local authority makes direct payments to a person, the making of the payments displaces the local authority's duty or power to provide, directly or indirectly, to meet the needs, or that aspect of the needs, in relation to which the payments are made and for the duration of the period for which payments are made.

Steps to enable informed choices about direct payments

4.—(1) When a local authority—

- (a) decides that it will meet the needs of A for care and support, and
- (b) determines that making direct payments is an appropriate way of meeting A's needs,

it must provide information to A to ensure that A is able to make an informed choice about whether or not to consent to the making of payments.

(2) The information which a local authority provides must include—

- (a) how it proposes to meet those needs if the needs are not met by the making of direct payments;
- (b) confirmation of whether, in the local authority's view, direct payments are an appropriate way of meeting A's needs⁽¹⁾;
- (c) information about the nature and the purpose of direct payments;
- (d) information about different ways of managing direct payments;
- (e) the amount of any payments which the person would be entitled to if a choice was made to have a direct payment and how the amount of the payment would be calculated;
- (f) information about the support which is available to assist people to manage direct payments whether from the local authority or from any other person;

(1) Un o'r amodau ar gyfer sbarduno gofyniad neu ddisgresiwn i wneud taliadau uniongyrchol i ddiwallu angen person am ofal a chymorth yw bod yr awdurdod lleol wedi ei fodloni bod taliadau uniongyrchol yn ffordd briodol o ddiwallu anghenion y person — gweler adrannau 50(3)(c)(i), 50(4)(d)(i), 51(5)(a) a 52(5)(a) o'r Ddeddf.

(1) One of the conditions for triggering a requirement or a discretion to make direct payments to meet a person's need for care and support is that the local authority is satisfied that direct payments are an appropriate way of meeting the person's needs — see sections 50(3)(c)(i), 50(4)(d)(i), 51(5)(a) and 52(5)(a) of the Act.

- (g) gwybodaeth am effaith asesiad ariannol ac, yn achos yr anghenion o dan sylw, a fyddai unrhyw daliadau uniongyrchol yn debyg o gael eu gwneud fel taliadau gros neu daliadau net.

(3) Pan fo A yn oedolyn nad oes ganddo alluedd, rhaid i'r awdurdod lleol, yn lle hynny, ddarparu'r wybodaeth i unrhyw berson a awdurdodir o dan Ddeddf Galluedd Meddwl 2005(1) i wneud penderfyniadau ynghylch A.

(4) Pan fo A yn blentyn 16 neu 17 oed nad oes ganddo alluedd, neu'n blentyn o dan 16 oed nad oes ganddo ddealltwriaeth ddigonol i wneud penderfyniad deallus, rhaid i'r awdurdod lleol, yn lle hynny, ddarparu'r wybodaeth i berson sydd â chyfrifoldeb rhiant dros A.

Dyletswydd i ymgynghori a chymryd camau eraill ar gyfer personau sydd heb alluedd

5. Cyn ystyried a yw taliadau uniongyrchol yn ffordd briodol o ddiwallu anghenion A pan fo A yn oedolyn sydd heb alluedd, rhaid i awdurdod lleol—

- (a) ymgynghori â'r canlynol—
- (i) unrhyw un sydd wedi ei enwi gan A fel rhywun y dylid ymgynghori ag ef ar y mater;
 - (ii) unrhyw un sy'n ymgymryd â gofalu dros A neu y mae ganddo ddiddordeb sylweddol yn lles A;
 - (iii) P; a
 - (iv) person sydd wedi ei awdurdodi o dan Ddeddf Galluedd Meddyliol 2005 (pa un ai yn nhermau cyffredinol neu benodol) i wneud penderfyniadau ynghylch anghenion A am ofal a chymorth;
- (b) pan fo A yn oedolyn yr oedd ganddo alluedd o'r blaen, ystyried, i'r graddau y bo'n rhesymol ymarferol—
- (i) barn, dymuniadau a theimladau A yn y gorffennol a'r presennol ac, yn benodol, unrhyw ddatganiad ysgrifenedig perthnasol a wnaed gan A tra'r oedd ganddo alluedd o hyd;
 - (ii) y credoau a'r gwerthoedd a fyddai'n debyg o ddylanwadu ar benderfyniad A; a

- (g) information about the effect of financial assessment and whether, in the case of the needs in question any direct payments would be likely to be made as gross payments or net payments.

(3) Where A is an adult who does not have capacity, the local authority must instead provide the information to any person authorised under the Mental Capacity Act 2005(1) to make decisions about A.

(4) Where A is a child aged 16 or 17 who does not have capacity, or is a child below the age of 16 who does not have sufficient understanding to make an informed decision, the local authority must instead provide the information to a person with parental responsibility for A.

Duty to consult and take other steps for persons without capacity

5. Before considering whether direct payments are an appropriate way of meeting the needs of A where A is an adult without capacity, a local authority must—

- (a) consult—
- (i) anyone named by A as someone to be consulted on the issue;
 - (ii) anyone engaged in caring for A or with a significant interest in A's welfare;
 - (iii) P; and
 - (iv) a person authorised under the Mental Capacity Act 2005 (whether in general or specific terms) to make decisions about A's needs for care and support;
- (b) where A is an adult who previously had capacity, consider, so far as reasonably practicable—
- (i) A's past and present views, wishes and feelings and, in particular, any relevant written statement made by A while still with capacity;
 - (ii) the beliefs and values which would be likely to influence A's decision; and

(1) 2005 p. 9.

(1) 2005 c. 9.

- (iii) unrhyw ffactorau perthnasol eraill y byddai A, ym marn yr awdurdod lleol, yn debyg o'u hystyried, os byddai'n gallu gwneud hynny; ac
- (c) cael tystysgrif cofnod troseddol fanylach a ddyroddir o dan adran 113B o Ddeddf yr Heddlu 1997(1) mewn cysylltiad â P pan fo P yn unigolyn ond nad yw'n berthynas i A nac yn gyfaill i A sy'n ymwneud â gofal A.

Amodau ynghylch defnyddio taliadau uniongyrchol i dalu perthnasau

6.—(1) Caiff awdurdod lleol awdurdodi defnyddio taliadau uniongyrchol i dalu perthynas i A sy'n byw ar yr un aelwyd os yw o'r farn ei bod yn angenrheidiol i hyrwyddo llesiant A.

(2) Caniateir i daliadau gael eu hawdurdodi i dalu'r perthynas naill ai—

- (a) am ddarparu gofal a chymorth i A; neu
- (b) am gynorthwyo A i reoli'r taliadau.

(3) Wrth ystyried a yw'n angenrheidiol i hyrwyddo llesiant A yn unol â pharagraff (1), rhaid i awdurdod lleol ystyried barn A a barn y personau eraill a grybwyllir yn rheoliad 11(3).

(4) Pan na fo awdurdod lleol o'r farn ei bod yn angenrheidiol hyrwyddo llesiant A, rhaid iddo osod amod nad yw taliadau uniongyrchol i'w defnyddio i dalu perthynas i A sy'n byw ar yr un aelwyd.

Amodau sy'n gofyn am fetio

7.—(1) Pan fo awdurdod lleol yn gwneud taliadau uniongyrchol o dan adran 50 o'r Ddeddf i P am nad oes gan A alluedd, rhaid iddo osod amodau fel y'u nodir yn y rheoliad hwn.

(2) Yr amodau yw bod P—

- (a) yn gweithredu er lles pennaf A wrth sicrhau bod gofal a chymorth yn cael eu darparu; a
- (b) yn hysbysu'r awdurdod lleol os yw P yn credu nad yw A bellach heb alluedd.

(3) Pan fo'r amgylchiadau ym mharagraff (4) yn gymwys, rhaid i'r awdurdod lleol osod hefyd amod bod P yn cael—

- (iii) any other relevant factors that A would in the local authority's view be likely to consider, if able to do so; and

- (c) obtain an enhanced criminal record certificate issued under section 113B of the Police Act 1997(1) in respect of P where P is an individual but is neither a relative of A nor a friend of A who is involved in A's care.

Conditions about using direct payments to pay relatives

6.—(1) A local authority may authorise the use of direct payments to pay a relative of A who is living in the same household if it considers that it is necessary to promote the well-being of A.

(2) Payments may be authorised to pay the relative either—

- (a) for provision of care and support to A; or
- (b) for help to A in managing the payments.

(3) In considering whether it is necessary to promote the well-being of A in accordance with paragraph (1) a local authority must take into account the views of A and the other persons mentioned in regulation 11(3).

(4) Where a local authority does not consider that it is necessary to promote A's well-being, it must impose a condition that direct payments are not to be used to pay a relative of A who is living in the same household.

Conditions requiring vetting

7.—(1) Where a local authority makes direct payments under section 50 of the Act to P because A lacks capacity, it must impose conditions as set out in this regulation.

(2) The conditions are that P—

- (a) acts in the best interests of A when securing the provision of care and support; and
- (b) notifies the local authority if P believes that A no longer lacks capacity.

(3) Where the circumstances in paragraph (4) apply the local authority must also impose a condition that P obtains—

(1) 1997 p. 50.

(1) 1997 c. 50.

(a) tystysgrif cofnod troseddol fanylach a ddyroddir o dan adran 113B o Ddeddf yr Heddlu 1997 gan gynnwys gwybodaeth am addasrwydd mewn perthynas ag oedolion hygylwyf (o fewn yr ystyr a roddir i “suitability information relating to vulnerable adults” gan adran 113BB o’r Ddeddf honno) neu blant (o fewn yr ystyr a roddir i “suitability information relating to children” gan adran 113BA o’r Ddeddf honno); neu

(b) gwiriad bod tystysgrif foddhaol o’r math hwnnw wedi ei chael,

mewn cysylltiad ag unrhyw berson y sicheir gwasanaeth oddi wrtho a hwnnw’n wasanaeth y gwneir taliadau uniongyrchol amdano.

(4) Yr amgylchiadau pan fo rhaid i awdurdod lleol osod yr amod ym mharagraff (3) yw nad yw P—

(a) yn berthynas i A; na

(b) yn gyfaill i A sy’n ymwneud â darparu gofal ar gyfer A.

Amodau pellach y caiff awdurdod lleol eu cymhwyso i wneud taliadau uniongyrchol

8.—(1) Caiff awdurdod lleol wneud taliad uniongyrchol yn ddarostyngedig i amodau pellach.

(2) Caiff amodau a osodir o dan baragraff (1), er enghraifft, gynnwys gofyniad—

(a) na chaniateir i’r anghenion y mae taliad yn cael ei wneud mewn cysylltiad â hwy gael eu diwallu gan berson penodol;

(b) bod rhaid i dderbynydd y taliadau ddarparu gwybodaeth y mae ar yr awdurdod lleol angen rhesymol ei chael at ddibenion sicrhau bod taliadau uniongyrchol yn ffordd briodol o ddiwallu anghenion A.

(3) Ni chaiff amod a osodir o dan baragraff (2)(a) ei gwneud yn ofynnol mai dim ond gan berson penodol y caniateir i anghenion A gael eu diwallu.

Taliadau net neu daliadau gros

9.—(1) Pan fo awdurdod lleol yn penderfynu gwneud taliadau uniongyrchol, pa un ai o dan reoliad 2 neu reoliad 14 o’r Rheoliadau hyn(1), rhaid iddo benderfynu pa un ai i’w gwneud fel taliadau net neu daliadau gros.

(a) an enhanced criminal record certificate issued under section 113B of the Police Act 1997 including suitability information relating to vulnerable adults (within the meaning of section 113BB of that Act) or children (within the meaning of section 113BA of that Act); or

(b) verification that a satisfactory certificate of that sort has been obtained,

in respect of any person from whom a service is secured being a service for which the direct payments are made.

(4) The circumstances in which a local authority must impose the condition in paragraph (3) are that P is not—

(a) a relative of A; or

(b) a friend of A who is involved in the provision of care for A.

Further conditions which a local authority may apply to the making of direct payments

8.—(1) A local authority may make a direct payment subject to further conditions.

(2) Conditions imposed under paragraph (1) may, for example, include a requirement that—

(a) the needs in respect of which payment is being made may not be met by a particular person;

(b) the recipient of the payments must provide information reasonably required by the local authority for the purposes of ensuring that direct payments are an appropriate way of meeting A’s needs.

(3) A condition imposed under paragraph (2)(a) must not require that A’s needs may only be met by a particular person.

Net payments or gross payments

9.—(1) When a local authority decides to make direct payments, whether under regulation 2 or regulation 14 of these Regulations(1), it must decide whether to make them as net payments or gross payments.

(1) Cyn gwneud penderfyniad ynghylch pa un ai i wneud taliadau uniongyrchol bydd awdurdod lleol wedi cynnal asesiad ariannol yn unol â rheoliad 6 o Reoliadau Gofal a Chymorth (Asesiad Ariannol) (Cymru) 2015 (O.S. 2015/1844 (Cy. 272)) a bydd wedi gwneud dyfarniad yn unol â rheoliad 20 o Reoliadau Gofal a Chymorth (Gosod Ffioedd) (Cymru) 2015 (O.S. 2015/1843 (Cy. 271)).

(1) Before making a decision about whether to make direct payments a local authority will have carried out a financial assessment in accordance with regulation 6 of the Care and Support (Financial Assessment) (Wales) Regulations 2015 (S.I. 2015/1844 (W. 272)) and will have made a determination in accordance with regulation 20 of the Care and Support (Charging) (Wales) Regulations 2015 (S.I. 2015/1843 (W. 271)).

(2) Wrth benderfynu pa un ai i wneud taliadau net neu daliadau gros rhaid i awdurdod lleol ystyried yr effaith ar A gan roi sylw i amgylchiadau ariannol A.

Ad-dalu taliadau uniongyrchol

10. Caiff awdurdod lleol derfynu ei drefniadau ar gyfer gwneud taliadau uniongyrchol a chaiff ei gwneud yn ofynnol i'r cyfan neu ran o'r taliadau uniongyrchol y mae wedi eu gwneud gael ei ad-dalu neu ei had-dalu os yw wedi ei fodloni naill ai—

- (a) nad yw'r taliadau wedi eu defnyddio i ddiwallu'r angen y maent yn ymwneud ag ef; neu
- (b) nad ydys wedi cydymffurfio ag amod a osodwyd o dan reoliad 6, 7, 8 neu 14.

Adolygiadau

11.—(1) Rhaid i awdurdod lleol adolygu'r trefniadau ar gyfer gwneud taliadau uniongyrchol a'r defnydd sy'n cael ei wneud ohonynt—

- (a) fesul ysbaid y mae'r awdurdod lleol yn dyfarnu ei bod yn briodol ar ddechrau gwneud taliadau uniongyrchol i A, gan roi sylw i amgylchiadau achos A;
- (b) pan fydd A neu P yn galw am adolygiad;
- (c) pan fydd yr awdurdod lleol yn galw am adolygiad oherwydd—
 - (i) ei fod yn pryderu nad yw'r defnydd sy'n cael ei wneud o'r taliadau uniongyrchol yn diwallu anghenion A;
 - (ii) ei fod yn pryderu nad ydys yn cydymffurfio ag amod sydd wedi ei osod ar wneud y taliadau; neu
 - (iii) bod newid sylweddol yn amgylchiadau A neu P; a
- (d) sut bynnag, fesul ysbaid nad yw'n hwy na—
 - (i) 6 mis ar ôl gwneud y taliad cyntaf; a
 - (ii) 12 mis yn dilyn yr adolygiad cyntaf.

(2) Pan fo A, P neu'r awdurdod lleol yn galw am adolygiad o dan baragraff (1)(b) neu (c), estynnir yn unol â hynny y cyfnod cyn bod yr adolygiad nesaf i fod i ddigwydd.

(3) Wrth gynnal adolygiad, rhaid i'r awdurdod lleol gynnwys—

- (a) A;
- (b) P (pan fo taliadau i'w gwneud i P);
- (c) unrhyw ofalwr dros A;
- (d) (i) unrhyw berson y mae A yn gofyn i'r awdurdod lleol ei gynnwys;

(2) In deciding whether to make net payments or gross payments a local authority must take into account the effect on A having regard to A's financial circumstances.

Repayment of direct payments

10. A local authority may terminate its arrangements for making direct payments and may require repayment of all or part of the direct payments which it has made if it is satisfied either—

- (a) that the payments have not been used to meet the need to which they relate; or
- (b) that a condition imposed under regulation 6, 7, 8 or 14 has not been complied with.

Reviews

11.—(1) A local authority must review the arrangements for the making of direct payments and the use which is being made of them—

- (a) at intervals which the local authority determines appropriate at the point of starting to make direct payments to A, having regard to the circumstances in A's case;
- (b) when A or P call for a review;
- (c) when the local authority calls for a review either because—
 - (i) it is concerned that the use being made of the direct payments is not meeting the needs of A;
 - (ii) it is concerned that a condition attached to the making of the payments is not being complied with; or
 - (iii) there is a significant change in A or P's circumstances; and
- (d) in any event, at intervals not greater than—
 - (i) 6 months after the first payment is made; and
 - (ii) 12 months following the first review.

(2) Where A, P or the local authority call for a review under paragraph (1)(b) or (c), the period before the next review is due will be extended accordingly.

(3) When carrying out a review the local authority must involve—

- (a) A;
- (b) P (where payments are made to P);
- (c) any carer of A;
- (d) (i) any person whom A asks the local authority to involve;

- (ii) os yw A yn oedolyn nad oes ganddo alluedd i benderfynu pwy i'w gynnwys, unrhyw berson a awdurdodir o dan Ddeddf Galluedd Meddwl 2005 i wneud penderfyniadau ynghylch anghenion A am ofal a chymorth;
- (iii) os yw A yn blentyn 16 neu 17 oed nad oes ganddo alluedd i benderfynu pwy i'w gynnwys—
 - (aa) unrhyw berson a awdurdodir i wneud penderfyniadau ynghylch anghenion A am ofal a chymorth o dan Ddeddf Galluedd Meddwl 2005; neu
 - (bb) person sydd â chyfrifoldeb rhiant dros A;
- (iv) os yw A yn blentyn o dan 16 oed, rhiant A neu berson arall mewn rôl rhiant; ac
- (e) unrhyw berson arall y mae'r awdurdod lleol o'r farn bod ganddo ymglymiad digonol yn y trefniadau gofal neu gymorth ar gyfer A.

(4) Nid yw'r gofyniad i gynnwys rhiant neu berson arall mewn rôl rhiant mewn adolygiad o dan baragraff (3)(d)(iv) yn gymwys pan fyddai cynnwys y person hwnnw, ym marn yr awdurdod lleol, yn anghyson â llesiant y plentyn.

(5) Yn y rheoliad hwn mae "person mewn rôl rhiant" ("*person in a parental role*") yn cynnwys rhiant, person sydd â chyfrifoldeb rhiant neu berson arall sy'n gofalu am y plentyn.

Taliadau uniongyrchol ar gyfer plentyn

12.—(1) Pan fo A yn blentyn a bod awdurdod lleol yn gwneud taliadau uniongyrchol o dan adran 51 o'r Ddeddf tuag at y gost o ddiwallu anghenion gofal a chymorth y plentyn hwnnw, rhaid i'r awdurdod lleol, os yw'r amod ym mharagraff (2) wedi ei fodloni, fodloni gan hynny ofynion paragraff (3).

(2) Yr amod yn y paragraff hwn yw bod naill ai A neu P yn cael—

- (a) cymorthdal incwm o dan Ran 7 o Ddeddf Cyfraniadau a Budd-daliadau Nawdd Cymdeithasol 1992(1);
- (b) unrhyw elfen o gredyd treth plant ac eithrio'r elfen deuluol;
- (c) credyd treth gwaith;
- (d) lwfans ceisio gwaith yn seiliedig ar incwm;
- (e) lwfans cyflogaeth a chymorth yn seiliedig ar incwm; neu

- (ii) if A is an adult who lacks the capacity to decide who to involve, any person authorised under the Mental Capacity Act 2005 to make decisions about A's needs for care and support;
- (iii) if A is a child aged 16 or 17 who does not have capacity to decide who to involve—
 - (aa) any person authorised to make decisions about A's needs for care and support under the Mental Capacity Act 2005; or
 - (bb) a person with parental responsibility for A;
- (iv) if A is a child below the age of 16, A's parent or other person in a parental role; and
- (e) any other person who the local authority considers to have sufficient involvement in the care or support arrangements for A.

(4) The requirement to involve a parent or other person in a parental role in a review under paragraph (3)(d)(iv) does not apply where, in the view of the local authority, involving that person would not be consistent with the child's well-being.

(5) In this regulation "*person in a parental role*" ("*person mewn rôl rhiant*") includes a parent, a person with parental responsibility or other person who is looking after the child.

Direct payments for a child

12.—(1) Where A is a child and a local authority makes direct payments under section 51 of the Act towards the cost of meeting that child's care and support needs, if the condition in paragraph (2) is met then the local authority must meet the requirements of paragraph (3).

(2) The condition in this paragraph is that either A or P are in receipt of—

- (a) income support under Part 7 of the Social Security Contributions and Benefits Act 1992(1);
- (b) any element of child tax credit other than the family element;
- (c) working tax credit;
- (d) income-based jobseeker's allowance;
- (e) income-related employment and support allowance; or

(1) 1992 p. 4.

(1) 1992 c. 4.

(f) credyd cynhwysol.

(3) Y gofynion yn y paragraff hwn yw—

- (a) bod rhaid i'r awdurdod lleol wneud y taliadau ar y raddfa y mae'n amcangyfrif ei bod yn gost resymol darpariaeth i ddiwallu'r anghenion gofal a chymorth y gwneir y taliadau mewn cysylltiad â hwy; a
- (b) na chaniateir i'r awdurdod lleol wneud y taliadau yn ddarostyngedig i unrhyw amod sy'n ei gwneud yn ofynnol i'r plentyn A, neu dderbynydd y taliad P, dalu unrhyw swm i'r awdurdod ar ffurf ad-daliad.

(4) Yn y rheoliad hwn—

- (a) dehonglir “credyd treth plant” (“*child tax credit*”) yn unol ag adran 8 o Ddeddf Credydau Treth 2002(1) ac mae i “elfen deuluol” yr un ystyr a roddir i “family element” yn adran 9(3) o'r Ddeddf honno;
- (b) dehonglir “credyd treth gwaith” (“*working tax credit*”) yn unol ag adrannau 10 i 12 o Ddeddf Credydau Treth 2002;
- (c) mae i “lwfans ceisio gwaith yn seiliedig ar incwm” yr ystyr a roddir i “income-based jobseeker's allowance” yn adran 1(4) o Ddeddf Ceiswyr Gwaith 1995(2);
- (d) ystyr “lwfans cyflogaeth a chymorth yn seiliedig ar incwm” (“*income-related employment and support allowance*”) yw lwfans seiliedig ar incwm o dan Ran 1 o Ddeddf Diwygio Lles 2007(3) (lwfans cyflogaeth a chymorth);
- (e) dehonglir “credyd cynhwysol” (“*universal credit*”) yn unol â Rhan 1 o Ddeddf Diwygio Lles 2012(4).

Taliadau uniongyrchol ar gyfer oedolyn nad oes ganddo alluedd mwyach

13.—(1) Nid oes rhaid i awdurdod lleol derfynu'r arfer o wneud taliadau uniongyrchol o dan adran 50 o'r Ddeddf mewn perthynas ag A pan fo A yn oedolyn y mae paragraff (2) yn gymwys iddo a bod un o'r amgylchiadau ym mharagraff (3) yn gymwys.

(f) universal credit.

(3) The requirements in this paragraph are that the local authority—

- (a) must make the payments at the rate which it estimates to be the reasonable cost of provision to meet the care and support needs in respect of which the payments are made; and
- (b) must not make the payments subject to any condition requiring either the child A or, the recipient of the payment P, to pay any amount to the authority by way of reimbursement.

(4) In this regulation—

- (a) “child tax credit” (“*credyd treth plant*”) is construed in accordance with section 8 of the Tax Credits Act 2002(1) and “family element” (“*elfen deuluol*”) has the same meaning as in section 9(3) of that Act;
- (b) “working tax credit” (“*credyd treth gwaith*”) is construed in accordance with sections 10 to 12 of the Tax Credits Act 2002;
- (c) “income-based jobseeker's allowance” (“*lwfans ceisio gwaith yn seiliedig ar incwm*”) has the meaning given in section 1(4) of the Jobseeker's Act 1995(2);
- (d) “income-related employment and support allowance” (“*lwfans cyflogaeth a chymorth yn seiliedig ar incwm*”) means an income-related allowance under Part 1 of the Welfare Reform Act 2007(3) (employment and support allowance);
- (e) “universal credit” (“*credyd cynhwysol*”) is construed in accordance with Part 1 of the Welfare Reform Act 2012(4).

Direct payments for an adult who no longer has capacity

13.—(1) A local authority need not terminate the making of direct payments under section 50 of the Act in relation to A where A is an adult to whom paragraph (2) applies and one of the circumstances in paragraph (3) applies.

(1) 2002 p. 21.
(2) 1995 p. 18.
(3) 2007 p. 5.
(4) 2012 p. 5.

(1) 2002 c. 21.
(2) 1995 c. 18.
(3) 2007 c. 5.
(4) 2012 c. 5.

(2) Mae'r paragraff hwn yn gymwys pan fo A yn oedolyn y bodlonwyd amod 1 yn is-adran (3)(b) o adran 50 o'r Ddeddf mewn perthynas ag ef oherwydd yr oedd ganddo alluedd i gydsynio bod taliadau yn cael eu gwneud ar yr adeg y dechreuodd y trefniant, ond ei fod wedi colli'r galluedd wedi hynny.

(3) Mae'r paragraff hwn yn gymwys pan fo naill ai—

- (a) yr awdurdod lleol wedi ei fodloni bod colled A o'r galluedd i gydsynio bod taliadau yn cael eu gwneud yn gollod dros dro a bod naill ai—
 - (i) cyfnod neu gyfnodau colli'r galluedd yn annhebyg o effeithio ar allu A i reoli'r taliadau; neu
 - (ii) person arall y mae'n ymddangos i'r awdurdod ei fod yn gallu rheoli'r taliadau yn fodlon derbyn a rheoli'r taliadau ar ran A yn ystod cyfnodau diffyg galluedd A; neu
- (b) amod 2 yn is-adran (4) o adran 50 o'r Ddeddf wedi ei fodloni.

Personau sy'n ddarostyngedig i ofynion a osodwyd mewn perthynas â defnyddio cyffuriau neu alcohol

14.—(1) Mae'r rheoliad hwn yn gymwys i bersonau a restrir yn yr Atodlen.

(2) Caiff awdurdod lleol wneud taliad uniongyrchol i berson y mae'r rheoliad hwn yn gymwys iddo ond dim ond os yw'n gosod amodau yn y termau a nodir ym mharagraff (3) a bod yr amod pellach ym mharagraff (4) yn cael ei fodloni.

(3) Yr amodau y mae'n rhaid eu gosod yw—

- (a) bod A yn cytuno ac yn parhau i gytuno bod taliadau yn cael eu gwneud i berson ("B") er mwyn iddo eu rheoli ar ran A; a
- (b) bod B yn cytuno ac yn parhau i gytuno i gael y taliadau ac i reoli'r taliadau er mwyn diwallu anghenion A am ofal a chymorth.

(4) Yr amod pellach yw bod yr awdurdod lleol wedi ei fodloni bod B yn berson priodol i gael a rheoli taliadau ar ran A.

(2) This paragraph applies where A is an adult in relation to whom condition 1 in subsection (3)(b) of section 50 of the Act was met because A had capacity to consent to the making of payments at the time the arrangement started, but who subsequently loses capacity.

(3) This paragraph applies where either—

- (a) the local authority is satisfied that A's loss of capacity to consent to the making of payments is temporary and either—
 - (i) the period or periods of loss of capacity are not likely to affect A's ability to manage the payments; or
 - (ii) another person who appears to the authority to be capable of managing the payments is prepared to accept and manage the payments on behalf of A during the periods of A's incapacity; or
- (b) condition 2 in subsection (4) of section 50 of the Act is met.

Persons subject to requirements imposed in relation to drug or alcohol use

14.—(1) This regulation applies to persons listed in the Schedule.

(2) A local authority may make a direct payment to a person to whom this regulation applies but only if it attaches conditions in the terms set out in paragraph (3) and the further condition in paragraph (4) is met.

(3) The conditions which must be attached are—

- (a) that A agrees and remains in agreement that the payments are made to a person ("B") to manage on A's behalf; and
- (b) that B agrees and remains in agreement to receive the payments and to manage the payments to meet A's needs for care and support.

(4) The further condition is that the local authority is satisfied that B is an appropriate person to receive and manage payments on A's behalf.

Adran 117 o Ddeddf Iechyd Meddwl 1983

15.—(1) Pan fo awdurdod lleol o dan ddyletswydd i ddarparu gwasanaethau ôl-ofal ar gyfer person o dan adran 117 o Ddeddf Iechyd Meddwl 1983(1) a bod yr amodau yn adrannau 50, 51 a 52 o'r Ddeddf (fel y'u haddaswyd gan Atodlen A1) wedi eu bodloni, yna rhaid iddo wneud taliadau uniongyrchol i gyflawni ei ddyletswydd.

(2) Mae'r Rheoliadau hyn yn gymwys i daliadau uniongyrchol a wneir wrth gyflawni dyletswydd awdurdod lleol o dan adran 117 o Ddeddf Iechyd Meddwl 1983 gyda'r addasiadau canlynol.

(3) Mae cyfeiriadau yn y rheoliad hwn at “ôl-ofal” (“*after-care*”) neu “gwasanaethau ôl-ofal” (“*after-care services*”) i'w dehongli yn unol ag adran 117 o Ddeddf Iechyd Meddwl 1983.

(4) Yn rheoliad 3 dileer y geiriau “diwallu'r anghenion, neu'r agwedd honno ar yr anghenion, y gwneir y taliadau mewn perthynas â hwy neu hi” a rhodder yn eu lle “cyflawni ei ddyletswydd o dan adran 117 o Ddeddf Iechyd Meddwl 1983 neu'r agwedd honno ar y ddyletswydd, y gwneir y taliadau mewn perthynas â hi”.

(5) (a) Yn rheoliad 4(1)(a) dileer y geiriau “diwallu anghenion A am ofal a chymorth,” a rhodder yn eu lle “darparu gwasanaethau ôl-ofal o dan adran 117 o Ddeddf Iechyd Meddwl 1983”;

(b) yn rheoliad 4(1)(b) dileer y geiriau “ddiwallu anghenion A” a rhodder yn eu lle “gyflawni ei ddyletswydd o dan adran 117 o Ddeddf Iechyd Meddwl 1983”;

(c) yn rheoliad 4(2)(a) dileer y geiriau “diwallu'r anghenion hynny” a rhodder yn eu lle “cyflawni ei ddyletswydd”; a

(d) hepgorer rheoliad 4(2)(g).

(6) Yn rheoliad 5 dileer y geiriau “ddiwallu anghenion” a rhodder yn eu lle “gyflawni ei ddyletswydd tuag at”.

(7) Yn rheoliad 6(2)(a) dileer y geiriau “gofal a chymorth” a rhodder yn eu lle “ôl-ofal”.

(8) Yn rheoliad 7(2)(a) dileer y geiriau “gofal a chymorth” a rhodder yn eu lle “gwasanaethau ôl-ofal”.

(9) (a) Yn rheoliad 8(2)(a) dileer y geiriau “anghenion y mae taliad yn cael ei wneud mewn cysylltiad â hwy gael eu diwallu” a rhodder yn eu lle “gwasanaethau ôl-ofal y gwneir taliadau mewn cysylltiad â hwy gael eu darparu”;

Section 117 of the Mental Health Act 1983

15.—(1) Where a local authority is under a duty to provide after-care services for a person under section 117 of the Mental Health Act 1983(1) and the conditions in sections 50, 51 and 52 of the Act (as modified by Schedule A1) are met, then it must make direct payments to discharge its duty.

(2) These Regulations apply to direct payments made in discharge of a local authority's duty under section 117 of the Mental Health Act 1983 with the following modifications.

(3) References in this regulation to “after-care” (“*ôl-ofal*”) or “after-care services” (“*gwasanaethau ôl-ofal*”) are to be construed in accordance with section 117 of the Mental Health Act 1983.

(4) In regulation 3 remove the words “meet the needs, or that aspect of the needs” and substitute “discharge its duty under section 117 of the Mental Health Act 1983 or that aspect of the duty”.

(5) (a) In regulation 4(1)(a) remove the words “meet the needs of A for care and support,” and substitute “provide after-care services under section 117 of the Mental Health Act 1983”;

(b) in regulation 4(1)(b) remove the words “meeting A's needs” and substitute “discharging its duty under section 117 of Mental Health Act 1983”;

(c) in regulation 4(2)(a) remove the words “meet those needs” and substitute “discharge its duty”; and

(d) omit regulation 4(2)(g).

(6) In regulation 5 remove the words “meeting the needs of” and substitute “discharging its duty towards”.

(7) In regulation 6(2)(a) remove the words “care and support” and substitute “after-care”.

(8) In regulation 7(2)(a) remove the word “care and support” and substitute “after-care services”.

(9) (a) In regulation 8(2)(a) remove the words “needs in respect of which payment is being made may not be met” and substitute “after-care services in respect of which payments are made may not be provided”;

(1) 1983 p. 20.

(1) 1983 c. 20.

(b) yn rheoliad 8(2)(b) dileer y geiriau “ddiwallu anghenion A” a rhodder yn eu lle “gyflawni ei ddyletswydd tuag at A”; ac

(c) yn rheoliad 8(3) dileer y geiriau “caniateir i anghenion A gael eu diwallu” a rhodder yn eu lle “caniateir i wasanaethau ôl-ofal gael eu darparu”.

(10) Hefgorer rheoliad 9.

(11) Yn rheoliad 10(a) dileer y geiriau “ddiwallu’r angen” a rhodder yn eu lle “ddarparu’r gwasanaeth ôl-ofal”.

(12) (a) Yn rheoliad 11(1)(c)(i) dileer y geiriau “diwallu anghenion” a rhodder yn eu lle “cyflawni ei ddyletswydd tuag at”;

(b) yn rheoliad 11(3)(d)(ii) dileer y geiriau “ofal a chymorth” a rhodder yn eu lle “ôl-ofal”.

(13) Hefgorer rheoliad 12.

(14) Yn rheoliad 14(3)(b) dileer y geiriau “diwallu anghenion A am ofal a chymorth” a rhodder yn eu lle “darparu gwasanaethau ôl-ofal ar gyfer A”.

(b) in regulation 8(2)(b) remove the words “meeting A’s needs” and substitute “discharging its duty towards A”; and

(c) in regulation 8(3) remove “A’s needs can only be met” and substitute “after-care services may only be provided”.

(10) Omit regulation 9.

(11) In regulation 10(a) remove the words “meet the need” and substitute “provide the after-care service”.

(12) (a) In regulation 11(1)(c)(i) remove the words “meeting the needs of” and substitute “discharging its duty towards”;

(b) in regulation 11(3)(d)(ii) remove the words “care and support” and substitute “after-care”.

(13) Omit regulation 12.

(14) In regulation 14(3)(b) remove the words “meet A’s needs for care and support” and substitute “provide after-care services for A”.

Mark Drakeford

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol,
un o Weinidogion Cymru

21 Hydref 2015

Minister for Health and Social Services, one of the
Welsh Ministers

21 October 2015

YR ATODLEN Rheoliad 14(1)

Oedolion y caiff yr awdurdod lleol ddiwallu eu hanghenion drwy wneud taliadau uniongyrchol yn ddarostyngedig i amodau penodol

Mae'r Atodlen hon yn gymwys i berson os yw—

- (a) yn destun gofyniad adsefydlu cyffuriau, fel y diffinnir “drug rehabilitation requirement” gan adran 209 o Ddeddf Cyfiawnder Troseddol 2003(1), a osodwyd gan orchymyn cymunedol o fewn yr ystyr a roddir i “community order” gan adran 177 o'r Ddeddf honno, neu gan ddedfryd ohiriedig o garchar o fewn yr ystyr a roddir i “suspended sentence of imprisonment” gan adran 189 o'r Ddeddf honno;
- (b) yn destun gofyniad triniaeth alcohol fel y diffinnir “alcohol treatment requirement” gan adran 212 o Ddeddf Cyfiawnder Troseddol 2003, a osodwyd gan orchymyn cymunedol o fewn yr ystyr a roddir i “community order” gan adran 177 o'r Ddeddf honno neu gan ddedfryd ohiriedig o garchar o fewn yr ystyr a roddir i “suspended sentence of imprisonment” gan adran 189 o'r Ddeddf honno;
- (c) wedi ei ryddhau ar drwydded o dan Ran 2 o Ddeddf Cyfiawnder Troseddol 1991(2), Pennod 6 o Ran 12 o Ddeddf Cyfiawnder Troseddol 2003 neu Bennod 2 o Ddeddf (Dedfrydau) Troseddau 1997(3), yn ddarostyngedig i amod trwydded ansafonol sy'n ei gwneud yn ofynnol bod y troseddwr yn ymgymryd â gwaith ymddygiad troseddol i fynd i'r afael ag ymddygiad sy'n gysylltiedig â chyffuriau neu alcohol;
- (d) o dan ofyniad i dderbyn triniaeth ar gyfer ei ddibyniaeth ar gyffuriau neu alcohol yn rhinwedd gorchymyn adsefydlu cymunedol o fewn yr ystyr a roddir i “community rehabilitation order” gan adran 41 o Ddeddf Pwerau Llysoedd Troseddol (Dedfrydu) 2000(4) neu orchymyn cosbi ac adsefydlu cymunedol o fewn yr ystyr a roddir i “community punishment and rehabilitation order” gan adran 51 o'r Ddeddf honno;

(1) 2003 p. 44.
(2) 1991 p. 53.
(3) 1997 p. 43.
(4) 2000 p. 6.

SCHEDULE Regulation 14(1)

Adults whose needs the local authority may meet by making direct payments subject to certain conditions

This Schedule applies to a person if they are—

- (a) subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003(1), imposed by a community order within the meaning of section 177 of that Act, or by a suspended sentence of imprisonment, within the meaning of section 189 of that Act;
- (b) subject to an alcohol treatment requirement as defined by section 212 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section 177 of that Act, or by a suspended sentence of imprisonment, within the meaning of section 189 of that Act;
- (c) released on licence under Part 2 of the Criminal Justice Act 1991(2), Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Chapter 2 of the Crime (Sentences) Act 1997(3), subject to a non standard licence condition requiring the offender to undertake offending behaviour work to address drug or alcohol related behaviour;
- (d) required to submit to treatment for their drug or alcohol dependency by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000(4) or a community punishment and rehabilitation order within the meaning of section 51 of that Act;

(1) 2003 c. 44.
(2) 1991 c. 53.
(3) 1997 c. 43.
(4) 2000 c. 6.

- (e) yn destun gorchymyn trin a phrofi cyffuriau a osodwyd o dan adran 52 o Ddeddf Pwerau Llysoedd Troseddol (Dedfrydu) 2000;
- (f) o dan ofyniad i dderbyn triniaeth ar gyfer ei ddibyniaeth ar gyffuriau neu alcohol yn rhinwedd gofyniad mewn gorchymyn prawf o fewn yr ystyr a roddir i “probation order” gan adrannau 228 i 230 o Ddeddf Gweithdrefn Droseddol (Yr Alban) 1995(1) neu yn destun gorchymyn trin a phrofi cyffuriau o fewn yr ystyr a roddir i “drug treatment and testing order” gan adran 234B o’r Ddeddf honno; neu
- (g) wedi ei ryddhau ar drwydded o dan adran 22 neu 26 o Ddeddf Carchardai (Yr Alban) 1989(2) neu o dan adran 1 neu 1AA o Ddeddf Carcharorion ac Achosion Troseddol (Yr Alban) 1993(3) ac yn ddarostyngedig i amod ei fod yn derbyn triniaeth am ei ddibyniaeth ar gyffuriau neu alcohol.
- (e) subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000;
- (f) required to submit to treatment for their drug or alcohol dependency by virtue of a requirement of a probation order within the meaning of sections 228 to 230 of the Criminal Procedure (Scotland) Act 1995(1) or subject to a drug treatment and testing order within the meaning of section 234B of that Act; or
- (g) released on licence under section 22 or 26 of the Prisons (Scotland) Act 1989(2) or under section 1 or 1AA of the Prisoners and Criminal Proceedings (Scotland) Act 1993(3) and subject to a condition that they submit to treatment for their drug or alcohol dependency.

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(1) 1995 p. 46.
(2) 1989 p. 45.
(3) 1993 p. 9.

(1) 1995 c. 46.
(2) 1989 c. 45.
(3) 1993 c. 9.

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