



Deddf Iechyd a Gofal Cymdeithasol (Cymru) 2025

2025 dsc 1

Health and Social Care (Wales) Act 2025

2025 asc 1



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Archebionf ffôn/ Ymholiadau cyffredinol 0333 202 5070
E-bost: customer.services@tso.co.uk
Ffôn Testun: 0333 202 5077

Published by TSO (The Stationery Office), a Williams Lea company,
and available from:

Online
www.tsoshop.co.uk

Mail, Telephone & E-mail
TSO
PO Box 29, Norwich, NR3 1GN
Telephone orders/General enquiries: 0333 202 5070
E-mail: customer.services@tso.co.uk
Textphone: 0333 202 5077

ISBN 978-0-348-11388-4



9 780348 113884

Lluniwyd Nodiadau Esboniadol yn gymorth i ddeall y Ddeddf hon ac maent ar gael
ar wahân.

Explanatory Notes have been produced to assist in the understanding of this Act and
are available separately.

£25.78



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Deddf Iechyd a Gofal Cymdeithasol (Cymru) 2025

Deddf gan Senedd Cymru i wneud darpariaeth ynghylch rheoleiddio a darparu gwasanaethau gofal cymdeithasol a gofal iechyd yng Nghymru. [24 Mawrth 2025]

Gan ei fod wedi ei basio gan Senedd Cymru ac wedi derbyn cydsyniad Ei Fawrhydi, deddfir fel a ganlyn:

RHAN 1

GOFAL CYMDEITHASOL

PENNOD 1

DARPARU GWASANAETHAU GOFAL CYMDEITHASOL I BLANT: CYFYNGIADAU AR ELW

Trosolwg o'r Bennod

1 Trosolwg o Bennod 1

- (1) Mae'r Bennod hon yn gwneud darpariaeth i gyfyngu ar wneud elw wrth ddarparu gwasanaethau cartrefi gofal a ddarperir yn gyfan gwbl neu'n bennaf i blant (gwasanaethau cartrefi plant), gwasanaethau maethu a gwasanaethau llety diogel (y cyfeirir atynt fel "gwasanaethau plant o dan gyfyngiad").
- (2) Mae'n gwneud hyn drwy ddiwygio Rhan 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 (dccc 2) ("Deddf 2016") a Rhan 6 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4) ("Deddf 2014").
- (3) Mae'r diwygiadau i Ddeddf 2016 yn cynnwys —
 - (a) gosod gofyniad ar ddarparwr gwasanaeth plant o dan gyfyngiad sydd wedi ei gofrestru ar ôl i'r darpariaethau ddod i rym i gael ei ymgorffori yn "endid nid-er-elw";



Health and Social Care (Wales) Act 2025

An Act of Senedd Cymru to make provision about the regulation and provision of social care services and health care in Wales. [24 March 2025]

Having been passed by Senedd Cymru and having received the assent of His Majesty, it is enacted as follows:

PART 1

SOCIAL CARE

CHAPTER 1

PROVISION OF SOCIAL CARE SERVICES TO CHILDREN: RESTRICTIONS ON PROFIT

Overview of Chapter

1 Overview of Chapter 1

- (1) This Chapter makes provision to restrict the making of profit in the provision of care home services provided wholly or mainly to children (children's home services), fostering services and secure accommodation services (referred to as "restricted children's services").
- (2) It does this by amending Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) ("the 2016 Act") and Part 6 of the Social Services and Well-being (Wales) Act 2014 (anaw 4) ("the 2014 Act").
- (3) The amendments to the 2016 Act include —
 - (a) imposing a requirement on a provider of a restricted children's service that is registered after the coming into force of the provisions to be incorporated as a "not-for-profit entity";

- (b) darparu bod trefniadau ariannol afresymol neu anghymesur yr ymrwymir iddynt gan endid o'r fath yn dystiolaeth y mae rhaid i Weinidogion Cymru roi sylw iddi wrth benderfynu a yw darparwr yn berson addas a phriodol;
 - (c) darpariaeth drosiannol ar gyfer darparwr gwasanaeth plant o dan gyfyngiad sydd wedi ei gofrestru cyn i'r darpariaethau hyn ddod i rym (caniateir i unrhyw ddarparwr o'r fath, sy'n parhau'n gofrestredig ond nad yw wedi ei ymgorffori yn endid nid-er-elw, barhau'n gofrestredig yn ddarostyngedig i amodau a osodir gan reoliadau).
- (4) Mae'r diwygiadau i Ddeddf 2014 yn gosod gofynion cyfatebol ar awdurdod lleol mewn perthynas â llety a ddarperir gan yr awdurdod i blant sy'n derbyn gofal, gan gynnwys –
- (a) diwygio dyletswydd bresennol (yn adran 75 o Ddeddf 2014) ar yr awdurdod i gymryd camau i sicrhau bod digon o lety o fewn ei ardal i ddiwallu anghenion plant sy'n derbyn gofal er mwyn ei gwneud yn ofynnol, yn lle hynny, i'r awdurdod gymryd pob cam rhesymol i sicrhau bod digon o lety a ddarperir gan endidau nid-er-elw naill ai o fewn ei ardal neu'n agos iddi i ddiwallu anghenion y plant hynny;
 - (b) dyletswydd newydd ar yr awdurdod lleol i gyflwyno cynllun digonolrwydd i Weinidogion Cymru sy'n nodi pa gamau y mae'r awdurdod yn eu cymryd er mwyn bodloni'r gofyniad yn adran 75;
 - (c) diwygio dyletswydd bresennol ar yr awdurdod lleol i adrodd i Weinidogion Cymru yn flynyddol (adran 144A o Ddeddf 2014) er mwyn adlewyrchu'r ddyletswydd i sicrhau llety a hefyd y cynllun digonolrwydd newydd.
- (5) Mae'r ddyletswydd yn Neddf 2014 ar awdurdod lleol i leoli plentyn, sy'n derbyn gofal ac na all fyw gyda rhiant, mewn cartref plant neu gyda rhieni maeth hefyd wedi ei diwygio fel bod rhaid i'r awdurdod lleol, pan fo'r amgylchiadau hyn yn codi, leoli'r plentyn mewn llety a ddarperir gan endid nid-er-elw, oni bai bod hynny yn anghyson â dyletswyddau'r awdurdod lleol o dan adran 78 o'r Ddeddf honno (dyletswydd i hyrwyddo llesiant plentyn) (ac yn yr achos hwnnw, rhaid i'r awdurdod lleol wneud cais i Weinidogion Cymru gymeradwyo lleoliad mewn llety a ddarperir gan ddarparwr nad yw'n bodloni'r gofynion sydd wedi eu gosod o dan Ddeddf 2016).

Rheoleiddio gwasanaethau gofal cymdeithasol a ddarperir i blant

2 Gwasanaethau plant o dan gyfyngiad

Yn Neddf 2016 –

- (a) yn adran 1, ar ôl paragraff (b) mewnosoder –
 - “(ba) mae Pennod 2 hefyd yn gwneud darpariaeth sy'n cyfyngu ar yr endidau a gaiff ddarparu gwasanaethau cartrefi plant, gwasanaethau llety diogel a gwasanaethau maethu;”;
- (b) ar ôl adran 2 mewnosoder –

“2A Ystyr “gwasanaeth plant o dan gyfyngiad”

- (1) At ddibenion y Rhan hon, mae'r gwasanaethau rheoleiddiedig a ganlyn yn “gwasanaeth plant o dan gyfyngiad” –

- (b) providing that unreasonable or disproportionate financial arrangements entered into by such an entity are evidence to which the Welsh Ministers must have regard when deciding if a provider is a fit and proper person;
 - (c) transitional provision for a provider of a restricted children's service that is registered prior to the coming into force of these provisions (any such provider that remains registered but is not incorporated as a not-for-profit entity may remain registered subject to conditions imposed by regulations).
- (4) The amendments to the 2014 Act impose corresponding requirements on a local authority in relation to accommodation provided by the authority to looked after children, including—
 - (a) amending an existing duty (in section 75 of the 2014 Act) on the authority to take steps to secure that there is sufficient accommodation within its area to meet the needs of looked after children so as to instead require the authority to take all reasonable steps to secure that there is sufficient accommodation provided by not-for-profit entities either within or near to its area to meet the needs of such children;
 - (b) a new duty on the local authority to submit a sufficiency plan to the Welsh Ministers setting out what steps it is taking to meet the requirement in section 75;
 - (c) amending an existing duty on the local authority to report to the Welsh Ministers annually (section 144A of the 2014 Act) to reflect both the duty to secure accommodation and the new sufficiency plan.
- (5) The duty in the 2014 Act on a local authority to place a looked after child, who cannot live with a parent, in a children's home or with foster parents is also amended so that where these circumstances arise, the local authority must place the child in accommodation provided by a not-for-profit entity unless that is inconsistent with the duties of the local authority under section 78 of that Act (duty to promote well-being of child) (in which case, the authority must apply for the Welsh Ministers to approve a placement in accommodation provided by a provider that does not meet the requirements imposed under the 2016 Act).

Regulation of social care services provided to children

2 Restricted children's services

In the 2016 Act—

- (a) in section 1, after paragraph (b) insert—
 - “(ba) Chapter 2 also makes provision restricting the entities that may provide children's home services, secure accommodation services and fostering services;”;
- (b) after section 2 insert—

“2A Meaning of “restricted children's service”

- (1) For the purposes of this Part, the following regulated services are a “restricted children's service” —

- (a) gwasanaeth cartref gofal i'r graddau y mae'r gwasanaeth yn wasanaeth cartref plant;
 - (b) gwasanaeth maethu;
 - (c) gwasanaeth llety diogel.
- (2) At ddibenion is-adran (1), mae "gwasanaeth cartref plant" yn wasanaeth cartref gofal a ddarperir mewn un neu ragor o fannau y mae'r gwasanaeth yn cael ei ddarparu'n gyfan gwbl neu'n bennaf i blant ynddo neu ynddynt.
- (3) Mae Atodlen 1 yn gwneud darpariaeth bellach ynghylch ystyr gwasanaeth plant o dan gyfyngiad.";
- (c) yn Atodlen 1, ar ôl paragraff 1(3) mewnosoder –
 - “(3A) Ond nid yw ysgol sy'n gyfystyr â gwasanaeth cartref gofal yn rhinwedd is-baragraff (3) yn gyfystyr â gwasanaeth cartref plant oni bai –
 - (a) ei bod wedi darparu mwy o ddiwrnodau o lety i blant sy'n derbyn gofal nag i rai nad ydynt yn blant sy'n derbyn gofal am unrhyw gyfnod o 12 mis sy'n dod o fewn y 24 mis blaenorol, neu
 - (b) ei bod yn bwriadu darparu mwy o ddiwrnodau o lety i blant sy'n derbyn gofal nag i rai nad ydynt yn blant sy'n derbyn gofal am unrhyw gyfnod o 12 mis sy'n dod o fewn y 24 mis dilynol.
 - (3B) Yn is-baragraff (3A), ystyr "plant sy'n derbyn gofal" yw plant sy'n derbyn gofal gan awdurdodau lleol fel y'u disgrifir yn adran 74(1) o Ddeddf 2014.”

3 Ceisiadau i gofrestru mewn cysylltiad â gwasanaethau plant o dan gyfyngiad

- (1) Mae Deddf 2016 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 6, ar ôl is-adran (1) mewnosoder –
 - “(1A) Yn achos person, ac eithrio awdurdod lleol, sy'n dymuno darparu gwasanaeth plant o dan gyfyngiad, rhaid i'r cais hefyd gynnwys unrhyw wybodaeth a ragnodir er mwyn bodloni Gweinidogion Cymru bod y person yn bodloni'r gofyniad yn adran 6A(1).”
- (3) Ar ôl adran 6 mewnosoder –

“6A Cofrestru mewn cysylltiad â gwasanaeth plant o dan gyfyngiad

- (1) Er mwyn cael ei gofrestru mewn cysylltiad â gwasanaeth plant o dan gyfyngiad, rhaid i berson nad yw'n awdurdod lleol fod yn endid nid-er-elw.
- (2) At ddibenion y Rhan hon, mae "endid nid-er-elw" yn berson sy'n bodloni amodau 1 a 2 yn is-adrannau (3) a (4).
- (3) Amod 1 yw bod amcanion neu ddibenion y person yn ymwneud yn anad dim â'r canlynol –

- (a) a care home service in so far as the service is a children's home service;
 - (b) a fostering service;
 - (c) a secure accommodation service.
- (2) For the purposes of subsection (1), a "children's home service" is a care home service provided at one or more places at which the service is provided wholly or mainly to children.
- (3) Schedule 1 makes further provision about the meaning of a restricted children's service."
- (c) in Schedule 1, after paragraph 1(3) insert –
 - "(3A) But a school that constitutes a care home service by virtue of sub-paragraph (3) does not constitute a children's home service unless–
 - (a) it has provided more days of accommodation to looked after children than to children who are not looked after children for any period of 12 months falling within the previous 24 months, or
 - (b) it intends to provide more days of accommodation to looked after children than to children who are not looked after children for any period of 12 months falling within the following 24 months.
 - (3B) In sub-paragraph (3A), "looked after children" means children who are looked after by local authorities as described in section 74(1) of the 2014 Act."

3 **Applications for registration in respect of restricted children's services**

- (1) The 2016 Act is amended as follows.
- (2) In section 6, after subsection (1) insert –
 - "(1A) In the case of a person, other than a local authority, who wants to provide a restricted children's service, the application must also include such information as may be prescribed to satisfy the Welsh Ministers that the person meets the requirement in section 6A(1)."
- (3) After section 6 insert –

"6A Registration in respect of a restricted children's service

- (1) To be registered in respect of a restricted children's service, a person who is not a local authority must be a not-for-profit entity.
- (2) For the purposes of this Part, a "not-for-profit entity" is a person that meets conditions 1 and 2 in subsections (3) and (4).
- (3) Condition 1 is that the person's objects or purposes primarily relate to –

- (a) lles plant, neu
- (b) unrhyw fudd cyhoeddus arall a ragnodir gan Weinidogion Cymru.
- (4) Amod 2 yw bod y person yn un o'r mathau o ymgymeriad a ganlyn (fel y'u diffinnir yn adran 6B) –
 - (a) cwmni elusennol cyfyngedig drwy warant heb gyfalaf cyfrannau,
 - (b) sefydliad elusennol corfforedig,
 - (c) cymdeithas gofrestredig elusennol, neu
 - (d) cwmni buddiant cymunedol cyfyngedig drwy warant heb gyfalaf cyfrannau.

6B Cofrestru mewn cysylltiad â gwasanaeth plant o dan gyfyngiad: diffiniadau

- (1) Mae'r diffiniadau a ganlyn yn gymwys at ddibenion adran 6A(4).
- (2) Mae "cwmni elusennol cyfyngedig drwy warant heb gyfalaf cyfrannau" yn gwmni –
 - (a) sydd wedi ei gofrestru o dan Ddeddf Cwmnïau 2006 (p. 46) yng Nghymru, Lloegr, yr Alban neu Ogledd Iwerddon,
 - (b) y mae ei atebolrwydd yn gyfyngedig drwy warant ac nad oes ganddo gyfalaf cyfrannau, ac
 - (c) sy'n elusen a gofrestrwyd o dan un neu ragor o'r canlynol –
 - (i) Deddf Elusennau 2011 (p. 25);
 - (ii) Deddf Elusennau a Buddsoddi gan Ymddiriedolwyr (Yr Alban) 2005 (dsa 10);
 - (iii) Deddf Elusennau (Gogledd Iwerddon) 2008 (p. 12).
- (3) Mae "sefydliad elusennol corfforedig" yn sefydliad a gofrestrwyd o dan –
 - (a) adran 209, 232 neu 238 o Ddeddf Elusennau 2011 neu reoliadau a wneir o dan adran 234 o'r Ddeddf honno,
 - (b) adran 55, 58 neu 60 o Ddeddf Elusennau a Buddsoddi gan Ymddiriedolwyr (Yr Alban) 2005, neu
 - (c) adran 111, 114 neu 117 o Ddeddf Elusennau (Gogledd Iwerddon) 2008 neu reoliadau a wneir o dan adran 115 o'r Ddeddf honno.
- (4) Mae "cymdeithas gofrestredig elusennol" yn –
 - (a) cymdeithas –
 - (i) sy'n "cymdeithas gofrestredig" o fewn yr ystyr a roddir i "registered society" gan adran 1(1) o Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol 2014 (p. 14), a

- (a) the welfare of children, or
 - (b) such other public good as the Welsh Ministers may prescribe.
- (4) Condition 2 is that the person is one of the following types of undertaking (as defined in section 6B) –
 - (a) a charitable company limited by guarantee without a share capital,
 - (b) a charitable incorporated organisation,
 - (c) a charitable registered society, or
 - (d) a community interest company limited by guarantee without a share capital.

6B Registration in respect of a restricted children’s service: definitions

- (1) The following definitions apply for the purposes of section 6A(4).
- (2) A “charitable company limited by guarantee without a share capital” is a company –
 - (a) that is registered under the Companies Act 2006 (c. 46) in Wales, England, Scotland or Northern Ireland,
 - (b) whose liability is limited by guarantee and that does not have a share capital, and
 - (c) that is a charity registered under one or more of –
 - (i) the Charities Act 2011 (c. 25);
 - (ii) the Charities and Trustee Investment (Scotland) Act 2005 (asp 10);
 - (iii) the Charities Act (Northern Ireland) 2008 (c. 12).
- (3) A “charitable incorporated organisation” is an organisation registered under –
 - (a) section 209, 232 or 238 of the Charities Act 2011 or regulations made under section 234 of that Act,
 - (b) section 55, 58 or 60 of the Charities and Trustee Investment (Scotland) Act 2005, or
 - (c) section 111, 114 or 117 of the Charities Act (Northern Ireland) 2008 or regulations made under section 115 of that Act.
- (4) A “charitable registered society” is –
 - (a) a society that is –
 - (i) a “registered society” within the meaning of section 1(1) of the Co-operative and Community Benefit Societies Act 2014 (c. 14), and

- (ii) sy'n elusen o fewn ystyr adran 1(1) o Ddeddf Elusennau 2011,
- (b) cymdeithas –
 - (i) sy'n "cymdeithas gofrestredig" o fewn yr ystyr a roddir i "registered society" gan adran 1(1) o Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol 2014, a
 - (ii) sy'n elusen a gofrestrwyd o dan Ddeddf Elusennau a Buddsoddi gan Ymddiriedolwyr (Yr Alban) 2005, neu
- (c) cymdeithas –
 - (i) sy'n "cymdeithas gofrestredig" o fewn yr ystyr a roddir i "registered society" gan adran 1A(1) o Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol (Gogledd Iwerddon) 1969 (p. 24), a
 - (ii) sy'n elusen a gofrestrwyd o dan Ddeddf Elusennau (Gogledd Iwerddon) 2008.
- (5) Mae "cwmni buddiant cymunedol cyfyngedig drwy warant heb gyfalaf cyfrannau" yn gwmni –
 - (a) sydd wedi ei gofrestru o dan Ddeddf Cwmnïau 2006 yng Nghymru, Lloegr, yr Alban neu Ogledd Iwerddon,
 - (b) y mae ei atebolrwydd yn gyfyngedig drwy warant ac nad oes ganddo gyfalaf cyfrannau, ac
 - (c) sy'n gwmni buddiant cymunedol o dan Ran 2 o Ddeddf Cwmnïau (Archwilio, Ymchwiliadau a Menter Gymunedol) 2004 (p. 27).
- (6) Yn is-adrannau (2) a (5) –
 - (a) mae i gyfeiriadau at fod atebolrwydd cwmni yn "cyfyngedig drwy warant" yr ystyr a roddir i "limited by guarantee" gan adran 3(3) o Ddeddf Cwmnïau 2006, a
 - (b) nid oes gan gwmni gyfalaf cyfrannau os nad oes ganddo bŵer o dan ei gyfansoddiad i ddyroddi cyfrannau.

4 Cofrestru mewn cysylltiad â gwasanaeth plant o dan gyfyngiad: trefniadau trosiannol

- (1) Mae Deddf 2016 wedi ei diwygio fel a ganlyn.
- (2) Ar ôl adran 6B (fel y'i mewnosodir gan adran 3) mewnosoder –

"6C Cofrestru mewn cysylltiad â gwasanaeth plant o dan gyfyngiad: trefniadau trosiannol

Mae Atodlen 1A yn gwneud darpariaeth ar gyfer trefniadau trosiannol mewn cysylltiad â darparwyr gwasanaethau a gofrestrwyd cyn i adran 6A(1) ddod i rym."

- (3) Ar ôl Atodlen 1 mewnosoder –

- (ii) a charity within the meaning of section 1(1) of the Charities Act 2011,
- (b) a society that is –
 - (i) a “registered society” within the meaning of section 1(1) of the Co-operative and Community Benefit Societies Act 2014, and
 - (ii) a charity registered under the Charities and Trustee Investment (Scotland) Act 2005, or
- (c) a society that is –
 - (i) a “registered society” within the meaning of section 1A(1) of the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969 (c. 24), and
 - (ii) a charity registered under the Charities Act (Northern Ireland) 2008.
- (5) A “community interest company limited by guarantee without a share capital” is a company –
 - (a) that is registered under the Companies Act 2006 in Wales, England, Scotland or Northern Ireland,
 - (b) whose liability is limited by guarantee and that does not have a share capital, and
 - (c) that is a community interest company under Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27).
- (6) In subsections (2) and (5) –
 - (a) references to a company’s liability being “limited by guarantee” have the meaning given by section 3(3) of the Companies Act 2006, and
 - (b) a company does not have a share capital if it does not have power under its constitution to issue shares.

4 Registration in respect of a restricted children’s service: transitional arrangements

- (1) The 2016 Act is amended as follows.
- (2) After section 6B (as inserted by section 3) insert –

“6C Registration in respect of a restricted children’s service: transitional arrangements

Schedule 1A makes provision for transitional arrangements in respect of service providers registered prior to the coming into force of section 6A(1).”

- (3) After Schedule 1 insert –

“ATODLEN 1A
(fel y’i cyflwynir gan adran 6C)

GWASANAETHAU PLANT O DAN GYFYNGIAD: TREFNIADAU
COFRESTRU TROSIANNOL AR GYFER DARPARWYR
GWASANAETHAU PRESENNOL

Y cyfnod trosiannol mewn cysylltiad â gwasanaethau plant o dan gyfyngiad

- 1 (1) Yn yr Atodlen hon, mewn perthynas â gwasanaeth plant o dan gyfyngiad, mae cyfeiriadau at y cyfnod trosiannol yn gyfeiriadau at y cyfnod –
 - (a) sy’n dechrau â’r diwrnod y daw’r gwasanaeth yn wasanaeth plant o dan gyfyngiad yn rhinwedd dyfodiad adran 6A(1) i rym mewn perthynas â’r gwasanaeth, a
 - (b) sy’n gorffen â’r diwrnod a bennir gan Weinidogion Cymru drwy reoliadau at ddibenion y paragraff hwn.
- (2) Caiff rheoliadau a wneir o dan is-baragraff (1)(b) bennu diwrnodau gwahanol ar gyfer –
 - (a) mathau gwahanol o wasanaeth plant o dan gyfyngiad;
 - (b) disgrifiadau gwahanol o ddarparwr gwasanaeth (er enghraifft, darparwyr gwasanaethau sy’n arbenigo mewn darparu math penodol o wasanaeth plant o dan gyfyngiad).
- (3) Ond nid yw is-baragraff (2) yn cyfyngu ar gymhwyso adran 187 mewn perthynas â rheoliadau a wneir o dan is-baragraff (1)(b).
- (4) Cyn gwneud rheoliadau o dan is-baragraff (1)(b) rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy’n briodol yn eu barn hwy.

Darparwyr gwasanaethau presennol: esemptiad rhag adran 6A(1)

- 2 (1) Mae’r paragraff hwn yn gymwys i ddarparwr gwasanaeth, ac eithrio awdurdod lleol, sydd wedi ei gofrestru –
 - (a) mewn cysylltiad â gwasanaeth cartref plant, pan fo’r cyfnod trosiannol yn dechrau mewn cysylltiad â’r gwasanaeth hwnnw;
 - (b) mewn cysylltiad â gwasanaeth maethu, pan fo’r cyfnod trosiannol yn dechrau mewn cysylltiad â’r gwasanaeth hwnnw;
 - (c) mewn cysylltiad â gwasanaeth llety diogel, pan fo’r cyfnod trosiannol yn dechrau mewn cysylltiad â’r gwasanaeth hwnnw.
- (2) Ac mae’r paragraff hwn yn gymwys i ddarparwr gwasanaeth o’r fath yn ystod y cyfnod trosiannol.
- (3) Yn yr Atodlen hon, mewn perthynas â darparwr, mae cyfeiriadau at y gwasanaeth presennol yn gyfeiriadau at y gwasanaeth y mae’r darparwr wedi ei gofrestru mewn cysylltiad ag ef fel y’i disgrifir yn is-baragraff (1).

“SCHEDULE 1A
(as introduced by section 6C)

RESTRICTED CHILDREN’S SERVICES: TRANSITIONAL
REGISTRATION ARRANGEMENTS FOR EXISTING SERVICE
PROVIDERS

Transitional period in respect of restricted children’s services

- 1 (1) In this Schedule, in relation to a restricted children’s service, references to the transitional period are to the period that –
 - (a) begins with the day on which the service becomes a restricted children’s service by virtue of section 6A(1) coming into force in relation to the service, and
 - (b) ends with the day appointed by the Welsh Ministers by regulations for the purposes of this paragraph.
- (2) Regulations made under sub-paragraph (1)(b) may appoint different days for –
 - (a) different types of restricted children’s service;
 - (b) different descriptions of service provider (for example service providers that specialise in the provision of a particular type of restricted children’s service).
- (3) But sub-paragraph (2) does not limit the application of section 187 in relation to regulations made under sub-paragraph (1)(b).
- (4) Before making regulations under sub-paragraph (1)(b) the Welsh Ministers must consult any persons they think appropriate.

Existing service providers: exemption from section 6A(1)

- 2 (1) This paragraph applies to a service provider, other than a local authority, who is registered –
 - (a) in respect of a children’s home service, when the transitional period begins in respect of that service;
 - (b) in respect of a fostering service, when the transitional period begins in respect of that service;
 - (c) in respect of a secure accommodation service, when the transitional period begins in respect of that service.
- (2) And this paragraph applies to such a service provider during the transitional period.
- (3) In this Schedule, in relation to a provider, references to the existing service are to the service in respect of which the provider is registered as described in sub-paragraph (1).

- (4) I'r graddau y mae darparwr gwasanaeth y mae'r paragraff hwn yn gymwys iddo wedi ei gofrestru mewn cysylltiad â'r gwasanaeth presennol –
 - (a) nid yw cofrestriad y darparwr yn ddarostyngedig i'r gofyniad yn adran 6A(1) (ac mae unrhyw gyfeiriad at y gofyniad hwnnw i'w ddarllen yn unol â hynny), a
 - (b) (o ganlyniad) rhaid i'r cofnod yn y gofrestr mewn cysylltiad â'r darparwr ddangos –
 - (i) nad yw cofrestriad y darparwr mewn cysylltiad â'r gwasanaeth presennol yn ddarostyngedig i'r gofyniad yn adran 6A(1), a
 - (ii) nad yw'r amod yn adran 7(3)(aa) wedi ei osod ar gofrestriad y darparwr mewn cysylltiad â'r gwasanaeth hwnnw.
- (5) Ond nid yw is-baragraff (4) yn gymwys at ddibenion cais a wneir gan y darparwr gwasanaeth –
 - (a) mewn perthynas â'r gwasanaeth presennol, o dan adran 11(1)(a)(ii);
 - (b) mewn cysylltiad ag unrhyw wasanaeth arall, o dan adran 11(1)(a)(i).

Rheoliadau ynghylch darparu gwasanaethau plant o dan gyfyngiad gan ddarparwyr gwasanaethau presennol

- 3 (1) Caiff Gweinidogion Cymru drwy reoliadau wneud darpariaeth sy'n gosod amodau ar ddarparwr gwasanaeth y mae paragraff 2 yn gymwys iddo.
- (2) Caiff amodau a osodir gan reoliadau o dan is-baragraff (1) gynnwys –
 - (a) cyfyngiadau ar y math o wasanaeth plant o dan gyfyngiad y caiff y darparwr gwasanaeth ei ddarparu;
 - (b) cyfyngiadau ar y disgrifiad o blant sy'n derbyn gofal y caiff y darparwr ddarparu'r gwasanaeth plant o dan gyfyngiad mewn cysylltiad â hwy, er enghraifft drwy gyfeirio at eu hanghenion gofal a chymorth.
- (3) Mae is-baragraff (4) yn gymwys –
 - (a) pan fo darparwr gwasanaeth yn methu â chydymffurfio ag amodau a osodir gan reoliadau o dan is-baragraff (1), neu
 - (b) yn achos darparwr gwasanaeth a ddisgrifir ym mharagraff 2(1)(b), pan fo'r darparwr yn methu â chydymffurfio â rheoliadau a wneir o dan adran 87 o Ddeddf 2014.
- (4) Pan fo'r is-baragraff hwn yn gymwys, caiff Gweinidogion Cymru –

- (4) In so far as a service provider to which this paragraph applies is registered in respect of the existing service –
 - (a) the registration of the provider is not subject to the requirement in section 6A(1) (and any reference to that requirement is to be read accordingly), and
 - (b) (in consequence) the entry in the register in respect of the provider must show –
 - (i) that the provider’s registration in respect of the existing service is not subject to the requirement in section 6A(1), and
 - (ii) that the condition in section 7(3)(aa) is not imposed on the provider’s registration in respect of that service.
- (5) But sub-paragraph (4) does not apply for the purposes of an application made by the service provider –
 - (a) in relation to the existing service, under section 11(1)(a)(ii);
 - (b) in respect of any other service, under section 11(1)(a)(i).

Regulations about provision of restricted children’s services by existing service providers

- 3 (1) The Welsh Ministers may by regulations make provision imposing conditions on a service provider to which paragraph 2 applies.
- (2) Conditions imposed by regulations under sub-paragraph (1) may include –
 - (a) restrictions on the type of restricted children’s service that the service provider may provide;
 - (b) restrictions on the description of looked after children in respect of whom the provider may provide the restricted children’s service, for example by reference to their care and support needs.
- (3) Sub-paragraph (4) applies where –
 - (a) a service provider fails to comply with conditions imposed by regulations under sub-paragraph (1), or
 - (b) in the case of a service provider described in paragraph 2(1)(b), the provider fails to comply with regulations made under section 87 of the 2014 Act.
- (4) Where this sub-paragraph applies, the Welsh Ministers may –

- (a) arfer eu swyddogaethau o dan adran 13 i amrywio cofrestriad y darparwr drwy ddileu'r gwasanaeth neu ddileu man y mae'r gwasanaeth presennol yn cael ei ddarparu ynddo, neu
 - (b) arfer eu swyddogaethau o dan adran 15 i ganslo cofrestriad y darparwr mewn cysylltiad â'r gwasanaeth presennol.
- (5) Cyn gwneud rheoliadau o dan is-baragraff (1) rhaid i Weinidogion Cymru ymgynghori ag unrhyw bersonau sy'n briodol yn eu barn hwy.

Darparwyr gwasanaethau presennol: cais i amrywio cofrestriad

- 4 (1) Mae'r paragraff hwn yn gymwys mewn cysylltiad â darparwr gwasanaeth sydd wedi ei gofrestru mewn cysylltiad â gwasanaeth presennol.
- (2) Er gwaethaf paragraff 2(4), caiff darparwr gwasanaeth y mae'r paragraff hwn yn gymwys iddo wneud cais i Weinidogion Cymru i gofrestriad y darparwr mewn cysylltiad â'r gwasanaeth presennol fod yn ddarostyngedig i'r gofyniad yn adran 6A(1).
- (3) Ond pan fo darparwr gwasanaeth y mae'r paragraff hwn yn gymwys iddo yn gwneud cais o dan adran 11(1)(a)(i) neu (ii) mewn cysylltiad â gwasanaeth plant o dan gyfyngiad ac nad hwnnw yw'r gwasanaeth presennol, rhaid i'r darparwr wneud cais i Weinidogion Cymru i gofrestriad y darparwr mewn cysylltiad â'r gwasanaeth presennol fod yn ddarostyngedig i'r gofyniad yn adran 6A(1).
- (4) Rhaid i gais o dan y paragraff hwn –
- (a) cynnwys unrhyw wybodaeth a ragnodir er mwyn bodloni Gweinidogion Cymru bod y person yn bodloni'r gofyniad yn adran 6A(1), a
 - (b) bod ar y ffurf ragnodedig.
- (5) Rhaid i Weinidogion Cymru ganiatáu cais o dan y paragraff hwn os ydynt wedi eu bodloni –
- (a) bod y cais –
 - (i) yn cynnwys popeth sy'n ofynnol o dan is-baragraff (4)(a), a
 - (ii) yn bodloni'r gofynion a ragnodir o dan is-baragraff (4)(b), a
 - (b) bod y darparwr yn bodloni'r gofyniad yn adran 6A(1).
- (6) Mewn unrhyw achos arall rhaid i Weinidogion Cymru wrthod y cais.
- (7) Pan fo Gweinidogion Cymru yn caniatáu cais o dan is-baragraff (5), rhaid i Weinidogion Cymru, i'r graddau y mae'r darparwr wedi ei gofrestru mewn cysylltiad â'r gwasanaeth presennol –
- (a) gosod yr amod yn adran 7(3)(aa) ar gofrestriad y darparwr;
 - (b) dangos yn y gofrestr –

- (a) exercise their functions under section 13 to vary the provider's registration by removing the service or a place at which the existing service is provided, or
 - (b) exercise their functions under section 15 to cancel the provider's registration in respect of the existing service.
- (5) Before making regulations under sub-paragraph (1) the Welsh Ministers must consult any persons they think appropriate.

Existing service providers: application for variation of registration

- 4
- (1) This paragraph applies in respect of a service provider that is registered in respect of an existing service.
 - (2) Despite paragraph 2(4), a service provider to which this paragraph applies may apply to the Welsh Ministers for the provider's registration in respect of the existing service to be subject to the requirement in section 6A(1).
 - (3) But where a service provider to which this paragraph applies makes an application under section 11(1)(a)(i) or (ii) in respect of a restricted children's service that is not the existing service, the provider must apply to the Welsh Ministers for the provider's registration in respect of the existing service to be subject to the requirement in section 6A(1).
 - (4) An application under this paragraph must –
 - (a) include such information as may be prescribed to satisfy the Welsh Ministers that the person meets the requirement in section 6A(1), and
 - (b) be in the prescribed form.
 - (5) The Welsh Ministers must grant an application under this paragraph if satisfied that –
 - (a) the application –
 - (i) contains everything required under sub-paragraph (4)(a), and
 - (ii) meets the requirements prescribed under sub-paragraph (4)(b), and
 - (b) the provider meets the requirement in section 6A(1).
 - (6) In any other case the Welsh Ministers must refuse the application.
 - (7) Where the Welsh Ministers grant an application under sub-paragraph (5), the Welsh Ministers must, in so far as the provider is registered in respect of the existing service –
 - (a) impose the condition in section 7(3)(aa) on the provider's registration;
 - (b) show in the register that –

- (i) bod cofrestriad y darparwr mewn cysylltiad â'r gwasanaeth presennol yn ddarostyngedig i'r gofyniad yn adran 6A(1), a
 - (ii) bod yr amod yn adran 7(3)(aa) wedi ei osod ar gofrestrriad y darparwr mewn cysylltiad â'r gwasanaeth hwnnw.
- (8) Pan fo amrywiad o dan y paragraff hwn yn cymryd effaith, nid yw paragraffau 2(4) a 3 yn gymwys i'r darparwr gwasanaeth.
- (9) Nid yw amrywiad o dan y paragraff hwn yn cymryd effaith ond os yw gofynion adran 18 i 20 wedi eu bodloni (i'r graddau y maent yn gymwys).

Dehongli

5 Yn yr Atodlen hon—

- (a) ystyr “plant sy’n derbyn gofal” yw plant sy’n derbyn gofal gan awdurdodau lleol fel y’u disgrifir yn adran 74(1) o Ddeddf 2014;
 - (b) mae cyfeiriadau at y “cofrestr” yn gyfeiriadau at y gofrestr a gynhelir o dan adran 38 o’r Ddeddf hon.”
- (4) Yn adran 45, ar ôl “adran 27 neu 37(2)(a)” mewnosoder “neu o dan baragraff 3(1) o Atodlen 1A”.

5 Caniatáu neu wrthod cofrestriad mewn cysylltiad â gwasanaeth plant o dan gyfyngiad

- (1) Mae Deddf 2016 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 7(1), ar ôl paragraff (a) mewnosoder —
 - “(aa) yn achos cais mewn cysylltiad â gwasanaeth plant o dan gyfyngiad, fod yr ymgeisydd yn bodloni’r gofyniad yn adran 6A(1);”.
- (3) Yn adran 7(3)—
 - (a) ar ddiwedd paragraff (a) hepgorer “a”;
 - (b) ar ôl paragraff (a) mewnosoder —
 - “(aa) rhaid iddo, yn achos cais mewn cysylltiad â gwasanaeth plant o dan gyfyngiad, fod yn ddarostyngedig i amod bod y darparwr gwasanaeth yn hysbysu Gweinidogion Cymru am unrhyw amgylchiadau nad yw’r darparwr bellach yn bodloni’r gofyniad yn adran 6A(1) odanynt, a”.

6 Person addas a phriodol: ystyriaethau perthnasol

- (1) Mae Deddf 2016 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 9(7), ar ôl paragraff (d) mewnosoder —
 - “(e) pan fo’r person yn ddarparwr gwasanaeth—
 - (i) sydd wedi ei gofrestru mewn cysylltiad â gwasanaeth plant o dan gyfyngiad, a

- (i) the provider's registration in respect of the existing service is subject to the requirement in section 6A(1), and
 - (ii) the condition in section 7(3)(aa) is imposed on the provider's registration in respect of that service.
- (8) Where a variation under this paragraph takes effect, paragraphs 2(4) and 3 do not apply to the service provider.
- (9) A variation under this paragraph takes effect only if the requirements of section 18 to 20 are met (so far as applicable).

Interpretation

5 In this Schedule —

- (a) "looked after children" means children who are looked after by local authorities as described in section 74(1) of the 2014 Act;
 - (b) references to the "register" are to the register maintained under section 38 of this Act."
- (4) In section 45, after "section 27 or 37(2)(a)" insert "or under paragraph 3(1) of Schedule 1A".

5 Grant or refusal of registration in respect of a restricted children's service

- (1) The 2016 Act is amended as follows.
- (2) In section 7(1), after paragraph (a) insert —
- "(aa) in the case of an application in respect of a restricted children's service, the applicant meets the requirement in section 6A(1);".
- (3) In section 7(3) —
- (a) at the end of paragraph (a) omit "and";
 - (b) after paragraph (a) insert —
- "(aa) must, in the case of an application in respect of a restricted children's service, be subject to a condition that the service provider notify the Welsh Ministers of any circumstances under which the provider no longer meets the requirement in section 6A(1), and".

6 Fit and proper person: relevant considerations

- (1) The 2016 Act is amended as follows.
- (2) In section 9(7), after paragraph (d) insert —
- "(e) where the person is a service provider that —
- (i) is registered in respect of a restricted children's service, and

- (ii) sy'n ddarostyngedig i'r gofyniad yn adran 6A(1),
a yw'n ymddangos i Weinidogion Cymru fod y darparwr wedi
ymrwymo i drefniant ariannol sy'n dod o fewn adran 9A."

(3) Ar ôl adran 9 mewnosoder –

"9A Prawf person addas a phriodol: trefniadau ariannol sy'n ymwneud â gwasanaethau plant o dan gyfyngiad

- (1) At ddibenion y prawf person addas a phriodol yn adran 9, mae trefniant ariannol yn dod o fewn yr adran hon os yw'n drefniant gyda neu er lles person perthnasol –
 - (a) sy'n afresymol neu'n anghymesur o dan yr holl amgylchiadau, a
 - (b) a all (o ganlyniad) danseilio gallu'r darparwr gwasanaeth i ddilyn ei amcanion neu ei ddibenion (ac o ran hynny, gweler adran 6A(3)).
- (2) Wrth benderfynu a ymrwymwyd i drefniant ariannol o'r fath, rhaid rhoi sylw i'r canlynol –
 - (a) maint neu werth y trefniant a'i ddiben (gan gynnwys i ba raddau y mae'n ymwneud â darparu'r gwasanaeth plant o dan gyfyngiad);
 - (b) maint neu werth y trefniant o gymharu â faint o incwm y mae'r darparwr gwasanaeth yn ei gael o ddarparu'r gwasanaeth plant o dan gyfyngiad;
 - (c) y gyfran o gyfanswm incwm y darparwr gwasanaeth sy'n dod o ddarparu'r gwasanaeth plant o dan gyfyngiad;
 - (d) llesiant plant sy'n cael gofal a chymorth (yn narpariaeth y gwasanaeth plant o dan gyfyngiad).
- (3) At ddibenion adran 9(7)(e) a'r adran hon –
 - (a) mae "ymrwymo i drefniant ariannol" yn cynnwys gwneud taliad neu ddyfarnu unrhyw fudd (uniongyrchol neu anuniongyrchol) sydd â gwerth ariannol, ond nid yw wedi ei gyfyngu i hynny (ac mae cyfeiriadau at drefniant ariannol i'w darllen fel petaent yn cynnwys cyfres o drefniadau);
 - (b) ystyr "person perthnasol" yw unrhyw un o'r canlynol –
 - (i) cyflogai, gweithiwr neu swyddog i'r darparwr gwasanaeth;
 - (ii) person cysylltiedig â chyflogai, gweithiwr neu swyddog i'r darparwr gwasanaeth;
 - (iii) pan fo'r darparwr gwasanaeth yn rhan o grŵp o bersonau sydd o dan berchnogaeth ar y cyd neu reolaeth ar y cyd, unrhyw berson o fewn y grŵp hwnnw.

(ii) is subject to the requirement in section 6A(1),
whether it appears to the Welsh Ministers that the provider has
entered into a financial arrangement that falls within section
9A.”

(3) After section 9 insert —

**“9A Fit and proper person test: financial arrangements relating to
restricted children’s services**

- (1) For the purposes of the fit and proper person test in section 9, a financial arrangement falls within this section if it is an arrangement with or for the benefit of a relevant person that —
 - (a) is unreasonable or disproportionate in all of the circumstances, and
 - (b) (in consequence) may undermine the service provider’s pursuit of its objects or purposes (as to which, see section 6A(3)).
- (2) When determining whether such a financial arrangement has been entered into, regard must be had to —
 - (a) the size or value of the arrangement and its purpose (including the extent to which it relates to the provision of the restricted children’s service);
 - (b) the size or value of the arrangement relative to the amount of income the service provider receives from providing the restricted children’s service;
 - (c) the proportion of the service provider’s total income that comes from providing the restricted children’s service;
 - (d) the well-being of children who receive care and support (in the provision of the restricted children’s service).
- (3) For the purposes of section 9(7)(e) and this section —
 - (a) “entering into a financial arrangement” includes but is not limited to making a payment or awarding any benefit (direct or indirect) that has monetary value (and references to a financial arrangement are to be read as including a series of arrangements);
 - (b) “relevant person” means any of the following —
 - (i) an employee, worker or officer of the service provider;
 - (ii) a person connected to an employee, worker or officer of the service provider;
 - (iii) where the service provider is part of a group of persons under common ownership or common control, any person within that group.

9B Trefniadau ariannol sy'n ymwneud â gwasanaethau plant o dan gyfyngiad: darpariaeth atodol

(1) Yn adran 9A(3)(b) –

(a) mae i “cyflogai” a “gweithiwr” yr ystyron a roddir i “employee” a “worker” gan adran 230 o Ddeddf Hawliau Cyflogaeth 1996 (p. 18);

(b) ystyr “swyddog” yw –

(i) unrhyw gyfarwyddwr, unrhyw reolwr, unrhyw ysgrifennydd neu unrhyw swyddog tebyg arall yn y darparwr gwasanaeth (ac, mewn perthynas â darparwr gwasanaeth y mae ei faterion yn cael eu rheoli gan ei aelodau, ystyr “cyfarwyddwr” yw aelod o'r darparwr gwasanaeth);

(ii) unrhyw berson arall sydd â rheolaeth gyffredinol dros y darparwr gwasanaeth, ac sy'n rheoli'r darparwr hwnnw, a, phan fo'r darparwr gwasanaeth yn elusen, mae hyn yn cynnwys unrhyw ymddiriedolwr elusen o fewn ystyr y Deddfau Elusennau.

(2) At ddibenion adran 9A(3)(b), mae'r canlynol yn gysylltiedig â chyflogai, gweithiwr neu swyddog i'r darparwr gwasanaeth –

(a) ei blentyn, ei riant, ei wŷr neu ei wyres, ei dad-cu/daid neu ei fam-gu/nain, ei frawd neu ei chwaer;

(b) ei briod neu ei bartner sifil;

(c) person sy'n cynnal busnes mewn partneriaeth ag ef neu ag unrhyw berson sy'n dod o fewn paragraff (a) neu (b);

(d) sefydliad sy'n cael ei reoli –

(i) ganddo ef neu gan unrhyw berson sy'n dod o fewn paragraff (a), (b) neu (c), neu

(ii) gan ddau neu ragor o bersonau sy'n dod o fewn is-baragraff (i), o'u cymryd gyda'i gilydd;

(e) corff corfforaethol –

(i) y mae gan y person, neu unrhyw berson cysylltiedig sy'n dod o fewn unrhyw un neu ragor o baragraffau (a) i (c), fuddiant sylweddol ynddo, neu

(ii) y mae gan ddau neu ragor o bersonau sy'n dod o fewn is-baragraff (i), o'u cymryd gyda'i gilydd, fuddiant sylweddol ynddo.

(3) Yn is-adran (2) –

(a) mae “plentyn” yn cynnwys llysblentyn;

9B Financial arrangements relating to restricted children’s services: supplementary provision

- (1) In section 9A(3)(b) –
 - (a) “employee” and “worker” have the meanings given by section 230 of the Employment Rights Act 1996 (c. 18);
 - (b) an “officer” means –
 - (i) any director, manager, secretary or other similar officer of the service provider (and, in relation to a service provider whose affairs are managed by its members, “director” means a member of the service provider);
 - (ii) any other person having the general control and management of the service provider,and, where the service provider is a charity, this includes any charity trustee within the meaning of the Charities Acts.
- (2) For the purposes of section 9A(3)(b), the following are connected to an employee, worker or officer of the service provider –
 - (a) their child, parent, grandchild, grandparent, brother or sister;
 - (b) their spouse or civil partner;
 - (c) a person carrying on business in partnership with them or with any person falling within paragraph (a) or (b);
 - (d) an institution which is controlled –
 - (i) by them or by any person falling within paragraph (a), (b) or (c), or
 - (ii) by two or more persons falling within sub-paragraph (i), when taken together;
 - (e) a body corporate in which –
 - (i) the person or any connected person falling within any of paragraphs (a) to (c) has a substantial interest, or
 - (ii) two or more persons falling within sub-paragraph (i), when taken together, have a substantial interest.
- (3) In subsection (2) –
 - (a) “child” includes a stepchild;

- (b) pan na fo dau berson yn briod â'i gilydd, nac yn bartneriaid sifil i'w gilydd, ond yn byw gyda'i gilydd fel pe baent yn gwpl priod neu'n bartneriaid sifil, mae pob un ohonynt i'w drin fel pe bai'n briod neu'n bartner sifil i'r llall;
 - (c) mae i "sefydliad" yr ystyr a roddir i "institution" gan adran 9(3) o Ddeddf Elusennau 2011 ac mae person yn rheoli sefydliad os yw'r person yn gallu, yn uniongyrchol neu'n anuniongyrchol, sicrhau bod materion y sefydliad yn cael eu cynnal yn unol â dymuniadau'r person;
 - (d) mae i gyfeiriadau at berson a chanddo "buddiant sylweddol mewn corff corfforaethol" yr ystyr a roddir i berson a chanddo "substantial interest in a body corporate" gan adran 352 o Ddeddf Elusennau 2011.
- (4) At ddibenion adran 9A(3)(b)(iii), mae grŵp o bersonau i'w drin fel pe bai o dan reolaeth ar y cyd os yw'r grŵp –
- (a) yn grŵp o gyrff corfforaethol sydd wedi eu cydgysylltu,
 - (b) yn cynnwys cyrff corfforaethol sydd oll o dan reolaeth un person neu un grŵp o bersonau, neu
 - (c) yn cynnwys un neu ragor o gyrff corfforaethol a pherson, neu grŵp o bersonau, sydd â rheolaeth dros y corff corfforaethol hwnnw neu'r cyrff corfforaethol hynny.
- (5) Yn is-adran (4), ystyr "grŵp o gyrff corfforaethol sydd wedi eu cydgysylltu" yw grŵp sy'n cynnwys dau neu ragor o gyrff corfforaethol y mae pob un ohonynt wedi eu cydgysylltu â'i gilydd.
- (6) At ddibenion is-adran (5), mae unrhyw ddau gorff corfforaethol yn rhai sydd wedi eu cydgysylltu –
- (a) os yw un ohonynt yn gorff corfforaethol y mae'r llall yn is-gorff iddo, neu
 - (b) os yw'r ddau ohonynt yn is-gyrff i un corff corfforaethol (ac mae "cyrff corfforaethol sydd wedi eu cydgysylltu" i'w ddehongli yn unol â hynny).
- (7) At ddibenion is-adran (4)(b) ac (c), mae person neu grŵp o bersonau yn rheoli corff corfforaethol os yw'r person neu'r grŵp o bersonau yn gallu, yn uniongyrchol neu'n anuniongyrchol, sicrhau bod materion y corff corfforaethol yn cael eu cynnal yn unol â dymuniadau'r person neu'r grŵp o bersonau.
- (8) Yn yr adran hon –
- ystyr "y Deddfau Elusennau" (*"the Charities Acts"*) yw Deddf Elusennau 2011 (p. 25), Deddf Elusennau a Buddsoddi gan Ymddiriedolwyr (Yr Alban) 2005 (dsa 10) a Deddf Elusennau (Gogledd Iwerddon) 2008 (p. 12);
- mae i "is-gorff" yr ystyr a roddir i "subsidiary" gan adran 1159 o Ddeddf Cwmnïau 2006 (p. 46);

- (b) where two people are not married to, or civil partners of, each other but live together as if they were a married couple or civil partners, each of them is to be treated as the spouse or civil partner of the other;
 - (c) “institution” has the meaning given by section 9(3) of the Charities Act 2011 and a person controls an institution if the person is able, directly or indirectly, to secure that the affairs of the institution are conducted in accordance with the person’s wishes;
 - (d) references to having a “substantial interest in a body corporate” have the meaning given by section 352 of the Charities Act 2011.
- (4) For the purposes of section 9A(3)(b)(iii), a group of persons is to be treated as being under common control if the group –
- (a) is a group of interconnected bodies corporate,
 - (b) consists of bodies corporate of which one and the same person or group of persons has control, or
 - (c) consists of one or more bodies corporate and a person who, or a group of persons which, has control of that or those bodies corporate.
- (5) In subsection (4), a “group of interconnected bodies corporate” means a group consisting of two or more bodies corporate all of which are interconnected with each other.
- (6) For the purposes of subsection (5), any two bodies corporate are interconnected if –
- (a) one of them is a body corporate of which the other is a subsidiary, or
 - (b) both of them are subsidiaries of one and the same body corporate (and “interconnected bodies corporate” is to be construed accordingly).
- (7) For the purposes of subsection (4)(b) and (c), a person or group of persons controls a body corporate if the person or group of persons is able, directly or indirectly, to secure that the affairs of the body corporate are conducted in accordance with the wishes of the person or group of persons.
- (8) In this section –
- “the Charities Acts” (“*y Deddfau Elusennau*”) means the Charities Act 2011 (c. 25), the Charities and Trustee Investment (Scotland) Act 2005 (asp 10) and the Charities Act (Northern Ireland) 2008 (c. 12);
 - “person” (“*person*”) includes a body corporate, a partnership and an unincorporated association;

mae “person” (“person”) yn cynnwys corff corfforaethol, partneriaeth a chymdeithas anghorfforedig.”

7 Darparwyr gwasanaethau plant o dan gyfyngiad: yr wybodaeth a gynhwysir mewn datganiad blynyddol

Yn Neddf 2016, yn adran 10 –

(a) yn is-adran (2)(a), ar ôl paragraff (viii) mewnosoder –

“(viiiia) unrhyw wybodaeth a ragnodir am dystiolaeth sy’n berthnasol i’r prawf person addas a phriodol;”;

(b) ar ôl is-adran (2) mewnosoder –

“(2A) Yn achos darparwr gwasanaeth, ac eithrio awdurdod lleol, sy’n darparu gwasanaeth plant o dan gyfyngiad, rhaid i ddatganiad hefyd gynnwys unrhyw wybodaeth a ragnodir er mwyn bodloni Gweinidogion Cymru bod y darparwr yn bodloni’r gofyniad yn adran 6A(1).

(2B) Ond nid yw is-adran (2A) yn gymwys mewn cysylltiad â darparwr nad yw adran 6A yn gymwys iddo yn rhinwedd paragraff 2(4) o Atodlen 1A.”;

(c) yn is-adran (6) –

(i) ym mharagraff (b), ar y diwedd hepgorer “neu”;

(ii) ar ôl paragraff (b) mewnosoder –

“(ba) y rheoliadau cyntaf a wneir o dan is-adran (2)(a)(viiiia),”;

(iii) ym mharagraff (c), ar y diwedd mewnosoder “neu”;

(iv) ar ôl paragraff (c) mewnosoder –

“(d) y rheoliadau cyntaf a wneir o dan is-adran (2A),”.

8 Amrywio neu ganslo cofrestriad fel darparwr gwasanaeth plant o dan gyfyngiad

(1) Mae Deddf 2016 wedi ei diwygio fel a ganlyn.

(2) Yn adran 11, ar ôl is-adran (3) mewnosoder –

“(4) Yn achos cais o dan is-adran (1)(a)(i) i ddarparu gwasanaeth plant o dan gyfyngiad, rhaid i’r cais hefyd gynnwys unrhyw wybodaeth a ragnodir er mwyn bodloni Gweinidogion Cymru bod y darparwr gwasanaeth yn bodloni’r gofyniad yn adran 6A(1).”

(3) Yn adran 12 –

(a) yn is-adran (1), yn lle “is-adran (2)” rhodder “is-adrannau (1A) a (2)”;

(b) ar ôl is-adran (1) mewnosoder –

“(1A) Yn achos cais o dan adran 11(1)(a)(i) i ddarparu gwasanaeth plant o dan gyfyngiad, ni chaiff Gweinidogion Cymru ond caniatáu cais os ydynt wedi eu bodloni bod y darparwr gwasanaeth yn bodloni’r gofyniad yn adran 6A(1).”

(4) Yn adran 13, yn is-adran (3) –

“subsidiary” (“*is-gorff*”) has the meaning given by section 1159 of the Companies Act 2006 (c. 46).”

7 Providers of restricted children’s services: information contained in annual return

In the 2016 Act, in section 10—

(a) in subsection (2)(a), after paragraph (viii) insert—

“(viiiia) such information about evidence relevant to the fit and proper person test as may be prescribed;”;

(b) after subsection (2) insert—

“(2A) In the case of a service provider, other than a local authority, that provides a restricted children’s service, a return must also contain such information as may be prescribed to satisfy the Welsh Ministers that the provider meets the requirement in section 6A(1).

(2B) But subsection (2A) does not apply in respect of a provider to which section 6A does not apply by virtue of paragraph 2(4) of Schedule 1A.”;

(c) in subsection (6)—

(i) in paragraph (b), at the end omit “or”;

(ii) after paragraph (b) insert—

“(ba) the first regulations made under subsection (2)(a)(viiiia),”;

(iii) in paragraph (c), at the end insert “or”;

(iv) after paragraph (c) insert—

“(d) the first regulations made under subsection (2A),”.

8 Variation or cancellation of registration as a provider of a restricted children’s service

(1) The 2016 Act is amended as follows.

(2) In section 11, after subsection (3) insert—

“(4) In the case of an application under subsection (1)(a)(i) to provide a restricted children’s service, the application must also contain such information as may be prescribed to satisfy the Welsh Ministers that the service provider meets the requirement in section 6A(1)”.

(3) In section 12—

(a) in subsection (1), for “subsection (2)” substitute “subsections (1A) and (2)”;

(b) after subsection (1) insert—

“(1A) In the case of an application under section 11(1)(a)(i) to provide a restricted children’s service, the Welsh Ministers may only grant an application if they are satisfied that the service provider meets the requirement in section 6A(1).”

(4) In section 13, in subsection (3)—

- (a) ar ddiwedd paragraff (a) hepgorer “neu”;
- (b) ar ddiwedd paragraff (b) mewnosoder “, neu”;
- (c) ar ôl paragraff (b) mewnosoder –
 - “(c) os ydynt wedi eu bodloni, pan fo’r gwasanaeth yn wasanaeth plant o dan gyfyngiad, nad yw’r darparwr gwasanaeth yn bodloni’r gofyniad yn adran 6A(1).”

(5) Yn adran 13, ar ôl is-adran (3) mewnosoder –

“(3A) Gweler hefyd baragraff 3(4)(a) o Atodlen 1A, mewn cysylltiad ag amrywio cofrestriad darparwr gwasanaeth i ddileu gwasanaeth plant o dan gyfyngiad yn ystod y cyfnod trosiannol a ddiffinnir yn yr Atodlen honno.”

(6) Yn adran 15 –

- (a) yn is-adran (1), ar ôl paragraff (f) mewnosoder – “;
 - (g) mae pob un o’r gwasanaethau y mae’r darparwr gwasanaeth wedi ei gofrestru mewn cysylltiad â hwy yn wasanaeth plant o dan gyfyngiad ac nid yw’r darparwr gwasanaeth yn bodloni’r gofyniad yn adran 6A(1).”;
- (b) ar ôl is-adran (1) mewnosoder –
 - “(1A) Gweler hefyd baragraff 3(4)(b) o Atodlen 1A, mewn cysylltiad â chanslo cofrestriad darparwr gwasanaeth mewn cysylltiad â gwasanaeth plant o dan gyfyngiad yn ystod y cyfnod trosiannol a ddiffinnir yn yr Atodlen honno.”

9 **Gwasanaethau plant o dan gyfyngiad: yr wybodaeth a gynhwysir yn y gofrestr o ddarparwyr gwasanaethau**

Yn Neddf 2016, yn adran 38 –

- (a) yn is-adran (2) –
 - (i) ar ôl paragraff (a) mewnosoder –
 - “(aa) a yw unrhyw un neu ragor o’r gwasanaethau hynny yn wasanaeth plant o dan gyfyngiad;”;
 - (ii) ar ôl paragraff (d) mewnosoder –
 - “(da) yn achos darparwr gwasanaeth plant o dan gyfyngiad –
 - (i) bod cofrestriad y darparwr mewn cysylltiad â’r gwasanaeth hwnnw yn ddarostyngedig i’r gofyniad yn adran 6A(1), a
 - (ii) bod yr amod yn adran 7(3)(aa) wedi ei osod ar gofrestrriad y darparwr mewn cysylltiad â’r gwasanaeth hwnnw;”;
- (b) ar ôl is-adran (2) mewnosoder –

- (a) at the end of paragraph (a) omit “or”
- (b) at the end of paragraph (b) insert “, or”;
- (c) after paragraph (b) insert –
 - “(c) where the service is a restricted children’s service, the service provider does not meet the requirement in section 6A(1).”

(5) In section 13, after subsection (3) insert –

“(3A) See also paragraph 3(4)(a) of Schedule 1A, in respect of variation of a service provider’s registration to remove a restricted children’s service during the transitional period defined in that Schedule.”

(6) In section 15 –

- (a) in subsection (1), after paragraph (f) insert – “;
 - (g) each of the services that the service provider is registered in respect of is a restricted children’s service and the service provider does not meet the requirement in section 6A(1)”;
- (b) after subsection (1) insert –
 - “(1A) See also paragraph 3(4)(b) of Schedule 1A, in respect of cancellation of the registration of a service provider in respect of a restricted children’s service during the transitional period defined in that Schedule.”

9 **Restricted children’s services: information contained in the register of service providers**

In the 2016 Act, in section 38 –

- (a) in subsection (2) –
 - (i) after paragraph (a) insert –
 - “(aa) whether any of those services is a restricted children’s service;”;
 - (ii) after paragraph (d) insert –
 - “(da) in the case of a provider of a restricted children’s service –
 - (i) that the provider’s registration in respect of that service is subject to the requirement in section 6A(1), and
 - (ii) that the condition in section 7(3)(aa) is imposed on the provider’s registration in respect of that service;”;
- (b) after subsection (2) insert –

- (2A) Gweler hefyd Atodlen 1A, mewn cysylltiad â chofrestriad darparwr gwasanaeth plant o dan gyfyngiad nad yw'n ddarostyngedig i'r gofyniad yn adran 6A(1) yn ystod y cyfnod trosiannol a ddiffinnir yn yr Atodlen honno."

Swyddogaethau awdurdod lleol mewn cysylltiad â llety ar gyfer plant sy'n derbyn gofal

10 Dyletswydd awdurdod lleol i sicrhau digon o lety

- (1) Mae Deddf 2014 wedi ei diwygio fel a ganlyn.
- (2) Mae adran 75 wedi ei diwygio fel y nodir yn is-adrannau (3) i (6).
- (3) Yn is-adran (1) –
 - (a) yn lle "camau sy'n sicrhau, i'r graddau y mae'n rhesymol ymarferol," rhodder "pob cam rhesymol i sicrhau";
 - (b) ym mharagraff (a) –
 - (i) ar ôl "awdurdod," mewnosoder "neu'n agos iddi,";
 - (ii) ar y diwedd, hepgorer "a";
 - (c) ar ôl paragraff (a) mewnosoder –
 - "(aa) yn achos llety gyda rhiant maeth awdurdod lleol, yn llety gyda rhiant maeth sydd wedi ei awdurdodi felly gan berson a ddisgrifir yn adran 81A(4)(a),
 - (ab) yn achos llety mewn cartref plant, yn llety mewn cartref plant y mae person a ddisgrifir yn adran 81A(4)(b) wedi ei gofrestru mewn cysylltiad ag ef, a".
- (4) Yn is-adran (2), ym mharagraff (c), yn lle "yn ardal yr awdurdod" rhodder "o fewn ardal yr awdurdod, neu'n agos iddi,".
- (5) Yn is-adran (3), yn lle'r geiriau o "i fantais" hyd at y diwedd rhodder "i'r fantais bod ystod o lety –
 - (a) sydd o fewn ardal yr awdurdod, neu'n agos iddi, a
 - (b) sy'n gallu diwallu gwahanol anghenion y plant a grybwyllir yn is-adran (2)."
- (6) Yn is-adran (4), yn lle'r geiriau o "ystyr "darparwyr llety"" hyd at y diwedd rhodder "ac yn adran 75A, ystyr "cartref plant" yw man yng Nghymru y mae gwasanaeth cartref plant (o fewn ystyr adran 2A(2) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016) yn cael ei ddarparu ynddo.".
- (7) Yn adran 197(1), yn y diffiniad o "cartref plant", ym mharagraff (b), ar y dechrau mewnosoder "ac eithrio yn adrannau 75 a 75A".

11 Dyletswydd i lunio a chyhoeddi cynllun digonolrwydd blynyddol

Yn Neddf 2014, ar ôl adran 75 mewnosoder –

- (2A) See also Schedule 1A, in respect of the registration of a provider of a restricted children's service that is not subject to the requirement in section 6A(1) during the transitional period defined in that Schedule."

Local authority functions in respect of accommodation for looked after children

10 Local authority duty to secure sufficient accommodation

- (1) The 2014 Act is amended as follows.
- (2) Section 75 is amended as is set out in subsections (3) to (6).
- (3) In subsection (1) –
 - (a) for "steps that secure, so far as reasonably practicable," substitute "all reasonable steps to secure";
 - (b) in paragraph (a) –
 - (i) after "within" insert ", or is near to,";
 - (ii) at the end, omit "and";
 - (c) after paragraph (a) insert –
 - "(aa) in the case of accommodation with a local authority foster parent, is accommodation with a foster parent who is authorised as such by a person described in section 81A(4)(a),
 - (ab) in the case of accommodation in a children's home, is accommodation in a children's home in respect of which a person described in section 81A(4)(b) is registered, and".
- (4) In subsection (2), in paragraph (c), for "in" substitute "within, or is near to,".
- (5) In subsection (3), for the words from "having" to the end substitute "there being a range of accommodation that –
 - (a) is within, or is near to, the authority's area, and
 - (b) is capable of meeting the differing needs of the children mentioned in subsection (2)."
- (6) In subsection (4), for the words from "accommodation providers" to the end substitute "and in section 75A, "children's home" means a place in Wales at which a children's home service (within the meaning of section 2A(2) of the Regulation and Inspection of Social Care (Wales) Act 2016) is provided.".
- (7) In section 197(1), in the definition of "children's home", in paragraph (b), at the beginning insert "except in sections 75 and 75A,".

11 Duty to prepare and publish an annual sufficiency plan

In the 2014 Act, after section 75 insert –

“75A Dyletswydd i sicrhau llety: llunio a chyhoeddi cynllun digonolrwydd blynyddol

- (1) Cyn dechrau pob blwyddyn ariannol rhaid i awdurdod lleol lunio a chyhoeddi cynllun (“cynllun digonolrwydd blynyddol”) sy’n nodi’r camau y bydd yn eu cymryd yn y flwyddyn honno yn unol â’i ddyletswydd o dan adran 75(1).
- (2) Rhaid i gynllun digonolrwydd blynyddol –
 - (a) bod ar ffurf a ragnodir drwy reoliadau, a
 - (b) cael ei gymeradwyo gan Weinidogion Cymru cyn ei gyhoeddi (gweler adrannau 75B a 75C).
- (3) Rhaid i gynllun digonolrwydd blynyddol gynnwys, mewn perthynas â’r flwyddyn ariannol y mae’n ymwneud â hi –
 - (a) nifer y plant y mae’r awdurdod yn amcangyfrif –
 - (i) y bydd yn gofalu amdanynt, a
 - (ii) y bydd yn annhebygol o allu gwneud trefniadau mewn cysylltiad â hwy o dan adran 81(2);
 - (b) asesiad ynghylch faint o lety a ddarperir gan rieni maeth awdurdod lleol a chartrefi plant fydd ar gael i’r awdurdod lleol at ddiben lleoli plant a ddisgrifir ym mharagraff (a) yn unol ag adran 81A(2);
 - (c) asesiad ynghylch i ba raddau y mae’r llety hwnnw yn bodloni gofynion paragraffau (a) i (b) o adran 75(1);
 - (d) mewn perthynas â cheisiadau y mae’r awdurdod lleol yn rhagweld y bydd yn eu gwneud i gymeradwyo lleoliadau atodol yn unol ag adran 81B –
 - (i) amcangyfrif o nifer y ceisiadau a ddisgwylir,
 - (ii) y rhesymau pam y mae’r nifer hwnnw o geisiadau yn debygol o gael ei wneud,
 - (iii) gwybodaeth i’w rhagnodi mewn rheoliadau ynghylch darparwyr er elw sy’n darparu llety yng Nghymru ac sy’n debygol o gael eu henwi yn y ceisiadau hynny, a
 - (iv) gwybodaeth i’w rhagnodi mewn rheoliadau ynghylch darparwyr preifat sy’n darparu llety yn Lloegr ac sy’n debygol o gael eu henwi yn y ceisiadau hynny;
 - (e) gwybodaeth ynghylch sut y bwriedir i gamau sydd i’w cymryd gan yr awdurdod lleol sicrhau bod gan yr awdurdod ddigon o lety sy’n bodloni gofynion paragraffau (a) i (b) o adran 75(1);
 - (f) unrhyw wybodaeth arall a ragnodir drwy reoliadau.
- (4) At ddibenion is-adran (3)(d)(iii) ac adran 81B, ystyr “darparwr er elw” yw –

“75A Duty to secure accommodation: preparation and publication of annual sufficiency plan

- (1) Before the beginning of each financial year a local authority must prepare and publish a plan (an “annual sufficiency plan”) setting out the steps it will take in that year in pursuance of its duty under section 75(1).
- (2) An annual sufficiency plan must –
 - (a) be in such form as may be prescribed by regulations, and
 - (b) be approved by the Welsh Ministers before publication (see sections 75B and 75C).
- (3) An annual sufficiency plan must include, in relation to the financial year to which it relates –
 - (a) the number of children the local authority estimates –
 - (i) that it will be looking after, and
 - (ii) in respect of whom it will be unlikely to be able to make arrangements under section 81(2);
 - (b) an assessment of the amount of accommodation provided by local authority foster parents and children’s homes that will be available to the local authority for the purpose of placing children described in paragraph (a) in accordance with section 81A(2);
 - (c) an assessment of the extent to which that accommodation meets the requirements of paragraphs (a) to (b) of section 75(1);
 - (d) in relation to applications the local authority anticipates making for approval of supplementary placements in accordance with section 81B –
 - (i) an estimate of the number of applications anticipated,
 - (ii) the reasons why that number of applications is likely to be made,
 - (iii) information to be prescribed in regulations about for-profit providers who provide accommodation in Wales and who are likely to be named in those applications, and
 - (iv) information to be prescribed in regulations about private providers who provide accommodation in England and who are likely to be named in those applications;
 - (e) information about how steps to be taken by the local authority are intended to ensure that the authority has sufficient accommodation that meets the requirements of paragraphs (a) to (b) of section 75(1);
 - (f) such other information as may be prescribed by regulations.
- (4) For the purposes of subsection 3(d)(iii) and section 81B, a “for-profit provider” means –

- (a) mewn perthynas â llety a ddarperir gan rieni maeth awdurdod lleol, darparwr gwasanaeth nad yw'n dod o fewn y disgrifiadau a roddir yn adran 81A(4)(a);
 - (b) mewn perthynas â llety a ddarperir gan gartref plant, darparwr gwasanaeth nad yw'n dod o fewn y disgrifiadau a roddir yn adran 81A(4)(b).
- (5) At ddibenion is-adran (3)(d)(iv) ac adran 81B, ystyr “darparwyr preifat” yw –
 - (a) mewn perthynas â llety a ddarperir gan rieni maeth awdurdod lleol, person yn Lloegr sydd wedi ei gofrestru mewn cysylltiad ag asiantaeth faethu o dan Ran 2 o Ddeddf Safonau Gofal 2000;
 - (b) mewn perthynas â llety a ddarperir gan gartref plant, person, ac eithrio awdurdod lleol, sydd wedi ei gofrestru mewn cysylltiad â'r cartref plant o dan Ran 2 o Ddeddf Safonau Gofal 2000.
- (6) Yn yr adran hon ac yn adran 81A, mae i “darparwr gwasanaeth” yr ystyr a roddir gan adran 3(1)(c) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016.

75B Dyletswydd i sicrhau llety: y weithdrefn ar gyfer cymeradwyo cynllun digonolrwydd

- (1) Cyn cyhoeddi ei gynllun digonolrwydd blynyddol, rhaid i awdurdod lleol –
 - (a) llunio drafft o'r cynllun, a
 - (b) cyflwyno'r drafft i Weinidogion Cymru i'w gymeradwyo ganddynt.
- (2) Rhaid cyflwyno'r cynllun drafft cyntaf i Weinidogion Cymru heb fod yn hwyrach na 4 mis cyn dechrau'r flwyddyn ariannol y mae'n ymwneud â hi.
- (3) Rhaid cyflwyno cynlluniau drafft dilynol i Weinidogion Cymru heb fod yn hwyrach na 2 fis cyn dechrau'r flwyddyn ariannol y mae'n ymwneud â hi.
- (4) Pan fo Gweinidogion Cymru yn cymeradwyo drafft o gynllun digonolrwydd blynyddol, rhaid iddynt hysbysu'r awdurdod lleol am eu penderfyniad.

75C Dyletswydd i sicrhau llety: y weithdrefn os nad yw'r cynllun drafft yn cael ei gymeradwyo gan Weinidogion Cymru

- (1) Mae'r adran hon yn gymwys os yw Gweinidogion Cymru yn penderfynu peidio â chymeradwyo drafft o gynllun digonolrwydd blynyddol a gyflwynir iddynt gan awdurdod lleol o dan adran 75B.
- (2) Rhaid i Weinidogion Cymru hysbysu'r awdurdod lleol gan nodi –
 - (a) y rhesymau dros y penderfyniad;

- (a) in relation to accommodation provided by local authority foster parents, a service provider that does not fall within the descriptions given in section 81A(4)(a);
 - (b) in relation to accommodation provided by a children’s home, a service provider that does not fall within the descriptions given in section 81A(4)(b).
- (5) For the purposes of subsection 3(d)(iv) and section 81B, a “private provider” means –
 - (a) in relation to accommodation provided by local authority foster parents, a person in England that is registered in respect of a fostering agency under Part 2 of the Care Standards Act 2000;
 - (b) in relation to accommodation provided by a children’s home, a person, other than a local authority, that is registered in respect of the children’s home under Part 2 of the Care Standards Act 2000.
- (6) In this section and section 81A, “service provider” has the meaning given by section 3(1)(c) of the Regulation and Inspection of Social Care (Wales) Act 2016.

75B Duty to secure accommodation: procedure for approval of sufficiency plan

- (1) Before publishing its annual sufficiency plan, a local authority must –
 - (a) prepare a draft of the plan, and
 - (b) submit the draft to the Welsh Ministers for their approval.
- (2) The first draft plan must be submitted to the Welsh Ministers no later than 4 months before the beginning of the financial year to which it relates.
- (3) Subsequent draft plans must be submitted to the Welsh Ministers no later than 2 months before the beginning of the financial year to which they relate.
- (4) Where the Welsh Ministers approve a draft of an annual sufficiency plan they must notify the local authority of their decision.

75C Duty to secure accommodation: procedure if draft plan not approved by Welsh Ministers

- (1) This section applies if the Welsh Ministers decide not to approve a draft of an annual sufficiency plan submitted to them by a local authority under section 75B.
- (2) The Welsh Ministers must notify the local authority setting out –
 - (a) the reasons for the decision;

- (b) y cyfnod y mae rhaid i'r awdurdod lleol, cyn diwedd y cyfnod hwnnw, gyflwyno drafft pellach o'r cynllun i Weinidogion Cymru.
- (3) Rhaid i'r awdurdod lleol gyflwyno drafft pellach o'r cynllun ynghyd ag adroddiad sy'n esbonio sut, wrth lunio'r drafft, y mae'r awdurdod lleol wedi ystyried y rhesymau a nodir yn yr hysbysiad a roddir o dan is-adran (2).
- (4) Mae adran 75B(4) yn gymwys pan fo Gweinidogion Cymru yn cymeradwyo drafft pellach a gyflwynir iddynt o dan yr adran hon fel y mae'n gymwys pan fo Gweinidogion Cymru yn cymeradwyo drafft a gyflwynir iddynt o dan adran 75B.
- (5) Mae is-adrannau (2) a (3) yn gymwys pan fo Gweinidogion Cymru yn penderfynu peidio â chymeradwyo drafft pellach a gyflwynir iddynt o dan yr adran hon fel y maent yn gymwys pan fo Gweinidogion Cymru yn penderfynu peidio â chymeradwyo drafft a gyflwynir iddynt o dan adran 75B."

12 Dyletswydd i sicrhau llety: adrodd

Yn Neddf 2014, ar ôl adran 75C (fel y'i mewnosodir gan adran 11) mewnosoder –

"75D Dyletswydd i sicrhau llety: adrodd

Mewn perthynas â phob blwyddyn ariannol y mae cynllun digonolrwydd blynyddol wedi ei wneud ar ei chyfer o dan adran 75A, rhaid i adroddiad blynyddol a lunnir gan awdurdod lleol o dan adran 144A nodi –

- (a) sut y mae camau a gymerwyd gan yr awdurdod lleol yn y flwyddyn ariannol honno wedi cynyddu (neu sut y disgwylir iddynt gynyddu) faint o lety sydd ar gael i'r awdurdod sy'n bodloni gofynion paragraffau (a) i (b) o adran 75(1);
- (b) nifer y ceisiadau a wnaeth yr awdurdod lleol yn y flwyddyn ariannol honno am gymeradwyaeth i leoli plant mewn lleoliad atodol yn unol ag adran 81B;
- (c) y rhesymau dros unrhyw wahaniaeth rhwng nifer y ceisiadau a ddarperir o dan baragraff (b) a nifer y ceisiadau yr oedd yr awdurdod lleol wedi amcangyfrif o dan adran 75A(3)(d)(i) y byddai'n eu gwneud yn ystod y flwyddyn."

13 Y ffyrdd y mae plant sy'n derbyn gofal i'w lletya

(1) Mae Deddf 2014 wedi ei diwygio fel a ganlyn.

(2) Yn adran 81 –

- (a) yn is-adran (2), yn lle "is-adrannau (4) ac (11)" rhodder "is-adran (4) ac adran 81C(1) a (2)";

- (b) the period before the end of which the local authority must submit a further draft of the plan to the Welsh Ministers.
- (3) The local authority must submit a further draft of the plan together with a report explaining how, in preparing the draft, the local authority has taken account of the reasons set out in the notice given under subsection (2).
- (4) Section 75B(4) applies where the Welsh Ministers approve a further draft submitted to them under this section as it applies where the Welsh Ministers approve a draft submitted to them under section 75B.
- (5) Subsections (2) and (3) apply where the Welsh Ministers decide not to approve a further draft submitted to them under this section as they apply where the Welsh Ministers decide not to approve a draft submitted to them under section 75B."

12 **Duty to secure accommodation: reporting**

In the 2014 Act, after section 75C (as inserted by section 11) insert –

"75D Duty to secure accommodation: reporting

In relation to each financial year for which an annual sufficiency plan has been made under section 75A, an annual report prepared by a local authority under section 144A must set out –

- (a) how steps taken by the local authority in that financial year have increased (or are expected to increase) the amount of accommodation available to the authority that meets the requirements of paragraphs (a) to (b) of section 75(1);
- (b) the number of applications the local authority made in that financial year for approval to place children in a supplementary placement in accordance with section 81B;
- (c) the reasons for any difference between the number of applications provided under paragraph (b) and the number of applications the local authority had estimated under section 75A(3)(d)(i) it would make during the year."

13 **Ways in which looked after children are to be accommodated**

- (1) The 2014 Act is amended as follows.
- (2) In section 81 –
 - (a) in subsection (2), for "subsections (4) and (11)" substitute "subsection (4) and section 81C(1) and (2)";

(b) yn is-adran (5), yn lle'r geiriau o "leoli" hyd at y diwedd rhodder "wneud trefniadau ar gyfer C yn unol ag adran 81A(2), ond mae hyn yn ddarostyngedig i adran 81C(1) a (2)";

(c) hepgorer is-adrannau (6) i (13).

(3) Ar ôl adran 81 mewnosoder –

"81A Y ffyrdd y mae plant sy'n derbyn gofal i'w lletya a'u cynnal: lleoliadau

- (1) Mae'r adran hon yn gymwys pan fo'n ofynnol i awdurdod lleol, yn rhinwedd adran 81(5), leoli plentyn y mae'n gofalu amdano ("C") mewn llety.
- (2) Pan fo'r adran hon yn gymwys, yn ddarostyngedig i is-adran (4) rhaid i'r awdurdod lleol leoli C yn y lleoliad mwyaf priodol sydd ar gael, yn ei farn ef.
- (3) Yn is-adran (2), ystyr "lleoliad" yw –
 - (a) lleoliad gydag unigolyn sy'n berthynas, yn ffrind neu'n berson arall sy'n gysylltiedig ag C ac sydd hefyd yn rhiant maeth awdurdod lleol,
 - (b) lleoliad gyda rhiant maeth awdurdod lleol nad yw'n dod o fewn paragraff (a),
 - (c) lleoliad mewn cartref plant, neu
 - (d) yn ddarostyngedig i adran 82, lleoliad yn unol â threfniadau eraill sy'n cydymffurfio ag unrhyw reoliadau a wneir at ddibenion yr adran hon.
- (4) Oni bai na fyddai'n gyson â dyletswyddau'r awdurdod lleol o dan adran 78, gan roi sylw i'r materion y cyfeirir atynt yn is-adran (5)(a), rhaid i'r awdurdod sicrhau –
 - (a) os yw'n lleoli C mewn lleoliad sy'n dod o fewn paragraff (b) o is-adran (3), fod y lleoliad gyda rhiant maeth awdurdod lleol sydd wedi ei awdurdodi felly gan –
 - (i) yr awdurdod lleol,
 - (ii) awdurdod lleol gwahanol, neu
 - (iii) darparwr gwasanaeth sydd wedi ei gofrestru yn ddarostyngedig i'r gofyniad yn adran 6A(1) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016;
 - (b) os yw'n lleoli C mewn lleoliad sy'n dod o fewn paragraff (c) o is-adran (3), fod y lleoliad mewn cartref plant y mae un o'r personau a ganlyn wedi ei gofrestru mewn cysylltiad ag ef –
 - (i) yr awdurdod lleol,
 - (ii) awdurdod lleol gwahanol, neu

- (b) in subsection (5), for the words from “place” to the end substitute “make arrangements for C in accordance with section 81A(2), but this is subject to section 81C(1) and (2)”;
 - (c) omit subsections (6) to (13).
- (3) After section 81 insert –

“81A Ways in which looked after children are to be accommodated and maintained: placements

- (1) This section applies where a local authority is required, by virtue of section 81(5), to place a child whom it is looking after (“C”) in accommodation.
- (2) Where this section applies, subject to subsection (4) the local authority must place C in the placement that is, in its opinion, the most appropriate placement available.
- (3) In subsection (2), “placement” means –
 - (a) placement with an individual who is a relative, friend or other person connected with C and who is also a local authority foster parent,
 - (b) placement with a local authority foster parent who does not fall within paragraph (a),
 - (c) placement in a children’s home, or
 - (d) subject to section 82, placement in accordance with other arrangements that comply with any regulations made for the purposes of this section.
- (4) Unless it would not be consistent with the local authority’s duties under section 78, having regard to the matters referred to in subsection (5)(a), the authority must ensure that –
 - (a) if it places C in a placement falling within paragraph (b) of subsection (3), the placement is with a local authority foster parent who is authorised as such by –
 - (i) the local authority,
 - (ii) a different local authority, or
 - (iii) a service provider that is registered subject to the requirement in section 6A(1) of the Regulation and Inspection of Social Care (Wales) Act 2016;
 - (b) if it places C in a placement falling within paragraph (c) of subsection (3), the placement is in a children’s home in respect of which one of the following persons is registered –
 - (i) the local authority,
 - (ii) a different local authority, or

- (iii) darparwr gwasanaeth sydd wedi ei gofrestru yn ddarostyngedig i'r gofyniad yn adran 6A(1) o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016.
- (5) Wrth benderfynu ar y lleoliad mwyaf priodol ar gyfer C o dan is-adran (2), rhaid i'r awdurdod lleol, yn ddarostyngedig i ddarpariaethau eraill y Rhan hon, yn enwedig i'w ddyletswyddau o dan adran 78 –
 - (a) rhoi sylw i'r canlynol –
 - (i) a fyddai llety'n cael ei ddarparu i C o fewn ardal yr awdurdod neu a fyddai C fel arall yn cael byw gerllaw cartref C;
 - (ii) a fyddai'n amharu ar addysg neu hyfforddiant C;
 - (iii) os oes gan C frawd neu chwaer sydd hefyd yn derbyn llety gan yr awdurdod lleol, a fyddai C yn gallu byw gyda'r brawd neu'r chwaer;
 - (iv) os yw C yn anabl, a yw'r llety a ddarperir yn addas i anghenion penodol C;
 - (v) os yw C eisoes yn cael ei letya mewn lleoliad yn unol ag is-adran (2), a fyddai symud C i leoliad arall yn amharu arno;
 - (b) rhoi blaenoriaeth uwch i leoliad sy'n dod o fewn paragraff (a) o is-adran (3) na'r hyn a roddir i leoliadau sy'n dod o fewn paragraffau eraill yr is-adran honno.
- (6) Yn is-adran (4)(a) a (b), mae'r cyfeiriad at awdurdod lleol gwahanol yn cynnwys awdurdod lleol yn Lloegr.
- (7) Rhaid i god a ddyroddir gan Weinidogion Cymru yn unol ag adran 145 gynnwys darpariaeth ynghylch arfer swyddogaethau awdurdod lleol o dan yr adran hon.

81B Y ffyrdd y mae plant sy'n derbyn gofal i'w lletya a'u cynnal: cais i gymeradwyo lleoliad atodol

- (1) Mae'r adran hon yn gymwys –
 - (a) pan fo'n ofynnol i awdurdod lleol leoli plentyn y mae'n gofalu amdano ("C") yn y lleoliad mwyaf priodol sydd ar gael yn unol ag adran 81A(2),
 - (b) pan mai'r lleoliad mwyaf priodol sydd ar gael, ym marn yr awdurdod lleol, yw lleoliad sy'n dod o fewn paragraff (b) neu (c) o adran 81A(3), ac
 - (c) pan na all yr awdurdod lleol gydymffurfio â'r gofyniad perthnasol yn adran 81A(4) mewn cysylltiad â'r lleoliad hwnnw.
- (2) Rhaid i'r awdurdod lleol wneud cais i Weinidogion Cymru i gymeradwyo'r lleoliad.

- (iii) a service provider that is registered subject to the requirement in section 6A(1) of the Regulation and Inspection of Social Care (Wales) Act 2016.
- (5) In determining the most appropriate placement for C under subsection (2), the local authority must, subject to the other provisions of this Part, in particular to its duties under section 78 –
 - (a) have regard to whether –
 - (i) C would be provided with accommodation within the authority's area or would otherwise be allowed to live near C's home;
 - (ii) C's education or training would be disrupted;
 - (iii) if C has a sibling for whom the local authority is also providing accommodation, C and the sibling would be able to live together;
 - (iv) if C is disabled, the accommodation provided is suitable to C's particular needs;
 - (v) if C is already accommodated in a placement in accordance with subsection (2), C would be disrupted by moving to another placement;
 - (b) give preference to a placement falling within paragraph (a) of subsection (3) over placements falling within the other paragraphs of that subsection.
- (6) In subsection (4)(a) and (b), the reference to a different local authority includes a local authority in England.
- (7) A code issued by the Welsh Ministers in accordance with section 145 must include provision on the exercise of a local authority's functions under this section.

81B Ways in which looked after children are to be accommodated and maintained: application for approval of a supplementary placement

- (1) This section applies where –
 - (a) a local authority is required to place a child whom it is looking after ("C") in the most appropriate placement available in accordance with section 81A(2),
 - (b) in the opinion of the local authority, the most appropriate placement available is a placement falling within paragraph (b) or (c) of section 81A(3), and
 - (c) the local authority is unable to comply with the relevant requirement in section 81A(4) in respect of that placement.
- (2) The local authority must apply to the Welsh Ministers for approval of the placement.

- (3) Rhaid i gais o dan is-adran (2) gynnwys –
- (a) enw'r darparwr er elw neu'r darparwr preifat (fel y bo'n gymwys),
 - (b) telerau'r lleoliad (gan gynnwys telerau o ran talu),
 - (c) datganiad sy'n nodi'r rhesymau pam y mae'r awdurdod o'r farn y byddai'n gweithredu yn anghyson â'i ddyletswydd o dan adran 78 pe na bai'n lleoli C gyda'r darparwr er elw neu'r darparwr preifat,
 - (d) gwybodaeth ynghylch sut y cydymffurfiwyd ag unrhyw ofynion sy'n ymwneud ag arfer swyddogaethau'r awdurdod lleol o dan adran 81A yn y cod a ddyroddwyd gan Weinidogion Cymru yn unol ag adran 145, ac
 - (e) unrhyw wybodaeth arall a ragnodir gan Weinidogion Cymru mewn rheoliadau.
- (4) Rhaid i Weinidogion Cymru gymeradwyo'r lleoliad os ydynt wedi eu bodloni –
- (a) bod y cais a wneir o dan is-adran (2) yn bodloni gofynion is-adran (3),
 - (b) yn achos lleoliad sy'n dod o fewn paragraff (b) o adran 81A(3), nad oes lleoliad amgen –
 - (i) sydd yr un mor briodol, a
 - (ii) sy'n bodloni'r amod yn adran 81A(4)(a),
 - (c) yn achos lleoliad sy'n dod o fewn paragraff (c) o adran 81A(3), nad oes lleoliad amgen –
 - (i) sydd yr un mor briodol, a
 - (ii) sy'n bodloni'r amod yn adran 81A(4)(b), a
 - (d) bod y lleoliad yn rhesymol o dan yr holl amgylchiadau.
- (5) Ond os ydynt yn penderfynu nad ydynt wedi eu bodloni yn unol ag is-adran (4), rhaid i Weinidogion Cymru –
- (a) hysbysu'r awdurdod lleol,
 - (b) rhoi rhesymau ysgrifenedig dros y penderfyniad hwnnw i'r awdurdod, ac
 - (c) cyfarwyddo'r awdurdod lleol i ailystyried, gan roi ystyriaeth i'r rhesymau hynny ac i unrhyw wybodaeth arall a bennir yn y cyfarwyddyd wrth wneud hynny.
- (6) Os yw'r awdurdod lleol yn parhau i fod o'r farn, ar ôl ailystyried yn unol â'r cyfarwyddyd, mai'r lleoliad yw'r lleoliad mwyaf priodol ar gyfer C, rhaid iddo wneud cais pellach i Weinidogion Cymru i gymeradwyo'r lleoliad.

- (3) An application under subsection (2) must include –
 - (a) the name of the for-profit provider or private provider (as applicable),
 - (b) the terms of the placement (including terms as to payment),
 - (c) a statement setting out the reasons why the authority considers that it would be acting inconsistently with its duty under section 78 were it not to place C with the for-profit provider or private provider,
 - (d) information about how any requirements relating to the exercise of the local authority’s functions under section 81A in the code issued by the Welsh Ministers in accordance with section 145 have been complied with, and
 - (e) such other information as the Welsh Ministers may prescribe in regulations.
- (4) The Welsh Ministers must approve the placement if they are satisfied –
 - (a) that the application made under subsection (2) meets the requirements of subsection (3),
 - (b) in the case of a placement falling within paragraph (b) of section 81A(3), that there is no alternative placement –
 - (i) that is as appropriate, and
 - (ii) that meets the condition in section 81A(4)(a),
 - (c) in the case of a placement falling within paragraph (c) of section 81A(3), that there is no alternative placement –
 - (i) that is as appropriate, and
 - (ii) that meets the condition in section 81A(4)(b), and
 - (d) the placement is reasonable in all the circumstances.
- (5) But if they decide they are not satisfied in accordance with subsection (4), the Welsh Ministers must –
 - (a) notify the local authority,
 - (b) give the authority written reasons for that decision, and
 - (c) direct the local authority to reconsider, taking those reasons and any other information specified in the direction into account in doing so.
- (6) If the local authority continues to be of the opinion, after reconsidering in accordance with the direction, that the placement is the most appropriate placement for C, it must make a further application to the Welsh Ministers for approval of the placement.

- (7) Mae is-adrannau (3) i (6) yn gymwys i gais pellach am gymeradwyaeth fel y maent yn gymwys i gais cyntaf am gymeradwyaeth, ac eithrio bod rhaid i gais pellach am gymeradwyaeth gynnwys datganiad gan yr awdurdod lleol sy'n nodi –
- (a) sut y rhoddodd yr awdurdod ystyriaeth i resymau Gweinidogion Cymru dros beidio â bod wedi eu bodloni yn unol ag is-adran (4) wrth ailystyried y lleoliad mwyaf priodol ar gyfer C, a
 - (b) y rhesymau pam y mae'r awdurdod yn parhau i fod o'r farn mai'r lleoliad yw'r lleoliad mwyaf priodol ar gyfer C.
- (8) Cyfeirir at leoliad sydd wedi ei gymeradwyo gan Weinidogion Cymru o dan yr adran hon fel "lleoliad atodol".

81C Y ffyrdd y mae plant sy'n derbyn gofal i'w lletya a'u cynnal: darpar fabwysiadwyr

- (1) Mae is-adran (2) yn gymwys pan –
- (a) bo awdurdod lleol yn gofalu am blentyn ("C"),
 - (b) bo'r awdurdod lleol wedi ei fodloni y dylai C gael ei leoli ar gyfer ei fabwysiadu ac yn bwriadu lleoli C i'w fabwysiadu gyda darpar fabwysiadydd penodol ("A"),
 - (c) bo asiantaeth fabwysiadu wedi dyfarnu bod A yn addas i fabwysiadu plentyn, a
 - (d) na fo'r awdurdod lleol wedi ei awdurdodi i leoli C ar gyfer ei fabwysiadu.
- (2) Rhaid i'r awdurdod lleol leoli C gydag A oni bai y byddai'n fwy priodol yn ei farn –
- (a) i wneud trefniadau er mwyn i C fyw gyda pherson sy'n dod o fewn adran 81(3), neu
 - (b) i leoli C mewn lleoliad o ddisgrifiad a grybwyllwyd yn adran 81A(3).
- (3) At ddibenion is-adran (1) –
- (a) mae i "asiantaeth fabwysiadu" yr ystyr a roddir i "adoption agency" gan adran 2 o Ddeddf Mabwysiadu a Phlant 2002;
 - (b) nid yw awdurdod lleol wedi ei awdurdodi i leoli C ar gyfer ei fabwysiadu ond os yw wedi ei awdurdodi i wneud hynny o dan –
 - (i) adran 19 o'r Ddeddf honno (lleoli plant gyda chydysyniad rhiant), neu
 - (ii) gorchymyn lleoli a wneir o dan adran 21 o'r Ddeddf honno.

- (7) Subsections (3) to (6) apply to a further application for approval as they apply to a first application for approval, except that a further application for approval must include a statement from the local authority setting out –
 - (a) how the authority took the Welsh Ministers’ reasons for not being satisfied in accordance with subsection (4) into account when reconsidering the most appropriate placement for C, and
 - (b) the reasons why the authority continues to be of the opinion that the placement is the most appropriate placement for C.
- (8) A placement approved by the Welsh Ministers under this section is referred to as a “supplementary placement”.

81C Ways in which looked after children are to be accommodated and maintained: prospective adopters

- (1) Subsection (2) applies where –
 - (a) a local authority is looking after a child (“C”),
 - (b) the local authority is satisfied that C ought to be placed for adoption and proposes to place C for adoption with a particular prospective adopter (“A”),
 - (c) an adoption agency has determined that A is suitable to adopt a child, and
 - (d) the local authority is not authorised to place C for adoption.
- (2) The local authority must place C with A, unless in its opinion it would be more appropriate –
 - (a) to make arrangements for C to live with a person falling within section 81(3), or
 - (b) to place C in a placement of a description mentioned in section 81A(3).
- (3) For the purposes of subsection (1) –
 - (a) “adoption agency” has the meaning given by section 2 of the Adoption and Children Act 2002;
 - (b) a local authority is authorised to place C for adoption only if it has been authorised to do so under –
 - (i) section 19 of that Act (placing children with parental consent), or
 - (ii) a placement order made under section 21 of that Act.

81D Y ffyrdd y mae plant sy'n derbyn gofal i'w lletya a'u cynnal: pŵer i ddyfarnu telerau trefniadau lletya

- (1) Mae is-adran (2) yn gymwys pan fo awdurdod lleol yn gofalu am blentyn ("C").
- (2) Caiff yr awdurdod lleol ddyfarnu —
 - (a) telerau unrhyw drefniadau y mae'n eu gwneud o dan adran 81(2) mewn perthynas â phlentyn (gan gynnwys telerau o ran talu), a
 - (b) y telerau ar gyfer gosod C gyda rhiant maeth awdurdod lleol o dan adran 81A(2) neu gyda darpar fabwysiad ydd o dan adran 81C(2) (gan gynnwys telerau o ran talu ond yn ddarostyngedig i unrhyw orchymyn a wneir o dan adran 49 o Ddeddf Plant 2004)."

PENNOD 2

DIWYGIADAU AMRYWIOL MEWN PERTHYNAS Â GWASANAETHAU GOFAL CYMDEITHASOL, GWEITHWYR GOFAL CYMDEITHASOL A SWYDDOGAETHAU GOFAL CYMDEITHASOL AWDURDODAU LLEOL

Rheoleiddio gwasanaethau gofal cymdeithasol: cofrestru etc. darparwyr gwasanaethau gofal cymdeithasol

14 Dyletswydd i gyflwyno a chyhoeddi datganiad blynyddol

- (1) Mae is-adrannau (2) a (3) yn diwygio Deddf 2016 —
 - (a) i newid y gofyniad yn adran 10 i Weinidogion Cymru gyhoeddi datganiad blynyddol a gyflwynir gan ddarparwr gwasanaeth yn ofyniad bod rhaid i'r darparwr gwasanaeth gyhoeddi datganiad o'r fath a rhoi copïau ohono ar gael ar gais, a
 - (b) i wneud methiant i gyhoeddi datganiad blynyddol yn drosedd.
- (2) Yn adran 10 o Ddeddf 2016 —
 - (a) yn is-adran (1), yn lle'r geiriau o "gyflwyno" hyd at y diwedd rhodder ", ar ôl diwedd pob blwyddyn ariannol y mae'r darparwr wedi ei gofrestru ynddi —
 - (a) cyflwyno datganiad blynyddol i Weinidogion Cymru;
 - (b) cyhoeddi'r datganiad hwnnw ar ei wefan.";
 - (b) ar ôl is-adran (1) mewnosoder —

"(1A) Rhaid i ddarparwr gwasanaeth roi ar gael, ar gais, gopi o ddatganiad blynyddol sydd wedi ei gyhoeddi ar ei wefan.";
 - (c) ar ôl is-adran (4) mewnosoder —

"(4A) Rhaid cyhoeddi datganiad blynyddol o fewn y terfyn amser rhagnodedig.

(4B) Ond os yw datgelu gwybodaeth a gynhwysir yn y datganiad blynyddol wedi ei wahardd drwy unrhyw ddeddfiad neu reol gyfreithiol arall, rhaid cuddio'r wybodaeth honno yn y datganiad blynyddol cyn ei gyhoeddi.";

81D Ways in which looked after children are to be accommodated and maintained: power to determine terms of accommodation arrangements

- (1) Subsection (2) applies where a local authority is looking after a child (“C”).
- (2) The local authority may determine –
 - (a) the terms of any arrangements it makes under section 81(2) in relation to a child (including terms as to payment), and
 - (b) the terms on which it places C with a local authority foster parent under section 81A(2) or with a prospective adopter under section 81C(2) (including terms as to payment but subject to any order made under section 49 of the Children Act 2004)."

CHAPTER 2

MISCELLANEOUS AMENDMENTS IN RELATION TO SOCIAL CARE SERVICES, SOCIAL CARE WORKERS AND LOCAL AUTHORITY SOCIAL CARE FUNCTIONS

Regulation of social care services: registration etc. of social care services providers

14 Duty to submit and publish annual return

- (1) Subsections (2) and (3) amend the 2016 Act –
 - (a) to change the requirement in section 10, for the Welsh Ministers to publish an annual return submitted by a service provider, to a requirement that the service provider must publish such a return and make copies of it available on request, and
 - (b) to make failure to publish an annual return an offence.
- (2) In section 10 of the 2016 Act –
 - (a) in subsection (1), for the words from “submit” to the end substitute “, following the end of each financial year during which the provider is registered –
 - (a) submit an annual return to the Welsh Ministers;
 - (b) publish that return on its website.”;
 - (b) after subsection (1) insert –

“(1A) A service provider must make available, on request, a copy of an annual return published on its website.”
 - (c) after subsection (4) insert –

“(4A) An annual return must be published within the prescribed time limit.

(4B) But if disclosure of information contained in the annual return is prohibited by any enactment or other rule of law, that information must be redacted from the annual return before it is published.”;

(d) hepgorer is-adran (5).

(3) Yn adran 48 o Ddeddf 2016 —

(a) yn y pennawd, ar ôl “gyflwyno” mewnosoder “neu gyhoeddi”;

(b) yn lle’r geiriau o “fethu” hyd at y diwedd rhodder “ —

(a) methu â chyflwyno datganiad blynyddol i Weinidogion Cymru o fewn y terfyn amser a ragnodir o dan adran 10(4), neu

(b) methu â chyhoeddi datganiad blynyddol ar ei wefan o fewn y terfyn amser a ragnodir o dan adran 10(4A).”

15 Cais i ganslo cofrestriad darparwr gwasanaeth: yr wybodaeth sydd i’w darparu

(1) Mae is-adran (2) yn diwygio Deddf 2016 i roi pŵer i Weinidogion Cymru i ragnodi’r wybodaeth sydd i’w darparu gyda chais y mae darparwr gwasanaeth yn ei wneud i ganslo cofrestriad y darparwr o dan y Ddeddf.

(2) Yn adran 14 o Ddeddf 2016, ar ôl is-adran (1) mewnosoder —

“(1A) Rhaid i gais o dan is-adran (1) —

(a) cynnwys unrhyw wybodaeth a ragnodir gan Weinidogion Cymru;

(b) bod ar y ffurf ragnodedig.”

16 Canslo ac amrywio cofrestriad darparwr gwasanaeth heb gais: y gweithdrefnau hysbysu

(1) Mae is-adrannau (2) a (3) yn diwygio Deddf 2016 i gymhwyso’r weithdrefn hysbysiad o gynnig (gweler adran 18 o’r Ddeddf honno), yn hytrach na’r weithdrefn hysbysiad gwella (gweler adran 16 o’r Ddeddf honno), wrth amrywio neu ganslo cofrestriad darparwr gwasanaeth gan Weinidogion Cymru o dan amgylchiadau penodol pan na fo unrhyw welliant yn bosibl.

(2) Yn adran 13 o Ddeddf 2016 —

(a) hepgorer is-adran (2);

(b) yn is-adran (4), ar ôl paragraff (b) mewnosoder —

“(ba) bod yr unigolyn cyfrifol sydd wedi ei ddynodi mewn cysylltiad â’r man hwnnw, neu unrhyw berson arall, wedi ei gollfarnu o drosedd berthnasol, neu wedi cael rhybuddiad mewn cysylltiad â throedd berthnasol, mewn cysylltiad â gwasanaeth rheoleiddiedig a ddarperir gan y darparwr gwasanaeth yn y man hwnnw, ohono neu mewn perthynas ag ef,”;

(c) ar ôl is-adran (4) mewnosoder —

“(4A) At ddibenion is-adran (4)(ba) mae trosedd berthnasol yn drosedd a restrir yn adran 15(2).”

(d) yn is-adran (5), yn lle’r geiriau o “is-adran (3)” hyd at y diwedd rhodder “yr adran hon —

(a) yn achos amrywiad o dan is-adran (1), (3)(a) neu (4)(a), oni bai bod gofynion adrannau 18 a 19 wedi eu bodloni;

(d) omit subsection (5).

(3) In section 48 of the 2016 Act —

(a) in the heading, after “submit” insert “or publish”;

(b) for the words from “fail” to the end substitute “ —

(a) fail to submit an annual return to the Welsh Ministers within the time limit prescribed under section 10(4), or

(b) fail to publish an annual return on its website within the time limit prescribed under section 10(4A).”

15 Application for cancellation of service provider’s registration: information to be provided

(1) Subsection (2) amends the 2016 Act to confer a power on the Welsh Ministers to prescribe the information that is to be provided with an application a service provider makes to cancel the provider’s registration under the Act.

(2) In section 14 of the 2016 Act, after subsection (1) insert —

“(1A) An application under subsection (1) must —

(a) contain such information as the Welsh Ministers may prescribe;

(b) be in the prescribed form.”

16 Cancellation and variation of service provider’s registration without application: notice procedures

(1) Subsections (2) and (3) amend the 2016 Act to apply the notice of proposal procedure (see section 18 of that Act), rather than the improvement notice procedure (see section 16 of that Act), to the variation or cancellation of a service provider’s registration by the Welsh Ministers in certain circumstances where no improvement is possible.

(2) In section 13 of the 2016 Act —

(a) omit subsection (2);

(b) in subsection (4), after paragraph (b) insert —

“(ba) the responsible individual designated in respect of that place, or any other person, has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service provided by the service provider at, from or in relation to that place,”;

(c) after subsection (4) insert —

“(4A) For the purposes of subsection (4)(ba) a relevant offence is an offence listed in section 15(2).”

(d) in subsection (5), for the words from “subsection (3)” to the end substitute “this section unless —

(a) in the case of variation under subsection (1), (3)(a) or (4)(a), the requirements of sections 18 and 19 are met;

- (b) yn achos amrywiad o dan is-adran (3)(b), (4)(b), (ba) neu (c), oni bai bod gofynion adrannau 16 a 17 wedi eu bodloni.”;
- (e) ar ôl is-adran (5) mewnosoder –
 - “(6) Ond nid oes dim byd yn is-adran (5) sy’n effeithio ar bŵer Gweinidogion Cymru i amrywio cofrestriad ar frys o dan adran 23.”
- (3) Yn adran 15 o Ddeddf 2016 –
 - (a) yn is-adran (1) –
 - (i) ar ôl paragraff (b) mewnosoder –
 - “(ba) mae’r darparwr gwasanaeth wedi ei gollfarnu o drosedd berthnasol, neu wedi cael rhybuddiad mewn cysylltiad â throsedd berthnasol, mewn cysylltiad â gwasanaeth rheoleiddiedig y mae’n ei ddarparu;”;
 - (ii) ym mharagraff (d), yn lle “mae’r darparwr gwasanaeth neu unigolyn cyfrifol” rhodder “mae unigolyn cyfrifol ac eithrio’r darparwr gwasanaeth (gweler adran 21(2)(a))”;
 - (b) yn is-adran (2), yn lle “is-adran (1)(d)” rhodder “is-adran (1)(ba), (d)”;
 - (c) yn is-adran (3), yn lle’r geiriau o “oni bai” hyd at y diwedd rhodder –
 - (a) yn achos canslo ar y seiliau a nodir yn is-adran (1)(a), (b) neu (ba), oni bai bod gofynion adrannau 18 a 19 wedi eu bodloni;
 - (b) yn achos canslo ar y seiliau a nodir yn is-adran (1)(c), (d), (e) neu (f), oni bai bod gofynion adrannau 16 a 17 wedi eu bodloni.”;
 - (d) ar ôl is-adran (3) mewnosoder –
 - “(4) Ond nid oes dim byd yn is-adran (3) sy’n effeithio ar bŵer Gweinidogion Cymru i ganslo cofrestriad ar frys o dan adran 23.”

Rheoleiddio gwasanaethau gofal cymdeithasol: gwybodaeth, arolygiadau ac ymchwiliadau

17 Gwybodaeth, arolygiadau ac ymchwiliadau

- (1) Mae’r adran hon yn diwygio Pennod 3 o Ddeddf 2016 i wneud darpariaeth bellach mewn perthynas â phwerau Gweinidogion Cymru i gynnal arolygiadau ac i’w gwneud yn ofynnol i wybodaeth gael ei darparu, gan gynnwys mewn cysylltiad ag ymchwilio i droseddau.
- (2) Yn adran 32 o Ddeddf 2016 –
 - (a) yn is-adran (1) –
 - (i) yn lle “Caiff Gweinidogion Cymru ei gwneud yn ofynnol i berson perthnasol ddarparu unrhyw wybodaeth iddynt” rhodder “Mae is-adrannau (1A) ac (1B) yn gymwys pan fo Gweinidogion Cymru yn ystyried y gall fod gan berson perthnasol wybodaeth”;
 - (ii) yn y testun Saesneg, ar ôl “think” mewnosoder “it”;
 - (b) ar ôl is-adran (1) mewnosoder –

- (b) in the case of variation under subsection (3)(b), (4)(b), (ba) or (c), the requirements of sections 16 and 17 are met.”;
 - (e) after subsection (5) insert—
 - “(6) But nothing in subsection (5) affects the power of the Welsh Ministers to urgently vary a registration under section 23.”
- (3) In section 15 of the 2016 Act—
 - (a) in subsection (1)—
 - (i) after paragraph (b) insert—
 - “(ba) the service provider has been convicted of, or has been given a caution in respect of, a relevant offence in connection with a regulated service that they provide;”;
 - (ii) in paragraph (d), for “the service provider or a responsible individual” substitute “a responsible individual other than the service provider (see section 21(2)(a))”;
 - (b) in subsection (2), for “subsection (1)(d)” substitute “subsection (1)(ba), (d)”;
 - (c) in subsection (3), for the words from “the requirements” to the end substitute “—
 - (a) in the case of cancellation on the grounds set out in subsection (1)(a), (b) or (ba), the requirements of sections 18 and 19 are met;
 - (b) in the case of cancellation on the grounds set out in subsection (1)(c), (d), (e) or (f), the requirements of sections 16 and 17 are met.”;
 - (d) after subsection (3) insert—
 - “(4) But nothing in subsection (3) affects the power of the Welsh Ministers to urgently cancel a registration under section 23.”

Regulation of social care services: information, inspections and investigations

17 Information, inspection and investigations

- (1) This section amends Chapter 3 of the 2016 Act to make further provision in relation to the Welsh Ministers’ powers to carry out inspections and to require information to be provided, including in respect of investigating offences.
- (2) In section 32 of the 2016 Act—
 - (a) in subsection (1)—
 - (i) for “The Welsh Ministers may require a relevant person to provide them with any” substitute “Subsections (1A) and (1B) apply where the Welsh Ministers consider that a relevant person may have”;
 - (ii) after “think” insert “it”;
 - (b) after subsection (1) insert—

- “(1A) Pan fo’r is-adran hon yn gymwys, caiff Gweinidogion Cymru roi hysbysiad i berson perthnasol sy’n ei gwneud yn ofynnol i’r person hwnnw –
- (a) cyflwyno unrhyw ddogfennau –
 - (i) a bennir neu a ddisgrifir yn yr hysbysiad, neu sy’n dod o fewn categori o ddogfen a bennir neu a ddisgrifir yn yr hysbysiad, a
 - (ii) sydd ym meddiant y person neu o dan reolaeth y person, a
 - (b) cyflwyno’r dogfennau mewn modd a bennir yn yr hysbysiad.
- (1B) Pan fo’r is-adran hon yn gymwys, caiff Gweinidogion Cymru roi hysbysiad i berson perthnasol sy’n ei gwneud yn ofynnol i’r person hwnnw –
- (a) ateb unrhyw gwestiwn –
 - (i) sydd wedi ei ofyn yn yr hysbysiad, a
 - (ii) y mae’r ateb iddo yn hysbys i’r person, a
 - (b) ateb mewn modd a bennir yn yr hysbysiad.”
- (c) yn is-adran (2), yn lle’r geiriau o “os” hyd at y diwedd rhodder “ –
- (a) os yw datgelu’r wybodaeth honno wedi ei wahardd drwy unrhyw ddeddfiad neu reol gyfreithiol arall;
 - (b) pe bai gan y person hawlogaeth i wrthod datgelu’r wybodaeth mewn achos yn yr Uchel Lys ar sail braint broffesiynol gyfreithiol.”
- (d) ar ôl is-adran (4) mewnosoder –
- “(5) Pan fo Gweinidogion Cymru yn ei gwneud yn ofynnol i berson ddarparu gwybodaeth gan eu bod yn amau bod trosedd yn cael ei chyflawni neu fod trosedd wedi ei chyflawni –
- (a) ni chânt ei gwneud yn ofynnol i’r wybodaeth gael ei darparu ond os oes ganddynt sail resymol dros amau hynny;
 - (b) rhaid iddynt hysbysu’r person, yn ysgrifenedig, at ba ddiben y maent yn ei gwneud yn ofynnol i’r wybodaeth gael ei darparu.
- (6) Yn yr adran hon mae cyfeiriadau at “darparwr gwasanaeth” yn cynnwys person y mae Gweinidogion Cymru yn amau’n rhesymol –
- (a) ei fod yn darparu gwasanaeth rheoleiddiedig mewn man nad yw’r person hwnnw wedi ei gofrestru mewn cysylltiad ag ef o dan adran 7, neu
 - (b) ei fod wedi darparu gwasanaeth rheoleiddiedig mewn man nad oedd y person hwnnw wedi ei gofrestru mewn cysylltiad ag ef o dan adran 7.”
- (3) Ar ôl adran 32 mewnosoder –

- “(1A) Where this subsection applies, the Welsh Ministers may give a notice to a relevant person requiring that person –
 - (a) to produce any documents which –
 - (i) are specified or described in the notice, or fall within a category of document which is specified or described in the notice, and
 - (ii) are in the person’s custody or under the person’s control, and
 - (b) to produce the documents in a manner specified in the notice.
- (1B) Where this subsection applies, the Welsh Ministers may give a notice to a relevant person requiring that person –
 - (a) to answer any question –
 - (i) which is asked in the notice, and
 - (ii) the answer to which is known to the person, and
 - (b) to answer in a manner specified in the notice.”
- (c) in subsection (2), for the words from “disclosure” to the end substitute “ –
 - (a) disclosure of that information is prohibited by any enactment or other rule of law;
 - (b) the person would be entitled to refuse to disclose the information in proceedings in the High Court on grounds of legal professional privilege.”
- (d) after subsection (4) insert –
 - “(5) Where the Welsh Ministers require a person to provide information as they suspect an offence is being or has been committed –
 - (a) they may only require the information to be provided if they have reasonable grounds for their suspicion;
 - (b) they must inform the person, in writing, of the purpose for which they are requiring the information to be provided.
 - (6) In this section references to a “service provider” include a person who the Welsh Ministers reasonably suspect –
 - (a) is providing a regulated service at a place in respect of which that person is not registered under section 7, or
 - (b) has provided a regulated service at a place in respect of which that person was not registered under section 7.”
- (3) After section 32 insert –

“32A Braint yn erbyn hunanargyhuddo

- (1) Ni chaniateir i wybodaeth a roddir gan berson (“P”) mewn ymateb i hysbysiad a roddir o dan adran 32(1B) gael ei defnyddio mewn achos troseddol yn erbyn P.
- (2) Ond nid yw is-adran (1) yn gymwys –
 - (a) os yw’r achos am drosedd o dan adran 5 o Ddeddf Anudon 1911 (p. 6) (datganiadau anwir a wneir ac eithrio ar lw);
 - (b) yn ystod yr achos –
 - (i) os dygir tystiolaeth sy’n ymwneud â’r wybodaeth gan P, neu ar ei ran, neu
 - (ii) os gofynnir cwestiwn sy’n ymwneud â’r wybodaeth gan P, neu ar ei ran.”
- (4) Yn adran 33 –
 - (a) yn is-adran (1)(b), yn lle “o drefniadaeth a chydgyssylltiad gwasanaethau rheoleiddiedig a ddarperir gan ddarparwr gwasanaeth” rhodder “o’r ffordd y mae gwasanaethau rheoleiddiedig a ddarperir gan ddarparwr gwasanaeth yn cael eu trefnu, eu rheoli neu eu cydgysylltu”;
 - (b) ar ôl is-adran (1) mewnosoder –

“(1A) Yn y Rhan hon mae cyfeiriad at “ymchwiliad” yn gyfeiriad at ymchwiliad ynghylch a yw person yn cyflawni neu wedi cyflawni trosedd o dan y Rhan hon.”;
 - (c) yn is-adran (2), ar y diwedd mewnosoder “neu ymchwiliad”.
- (5) Yn adran 34 –
 - (a) yn is-adran (1) –
 - (i) ar ôl “arolygiad” mewnosoder “neu ymchwiliad”;
 - (ii) yn lle “ac arolygu” rhodder “i”;
 - (b) yn is-adran (2), yn lle “ac arolygu mangre” rhodder “i fangre”;
 - (c) yn is-adran (3), ar ôl “arolygiad” mewnosoder “neu ymchwiliad”;
 - (d) yn is-adran (4), ar y dechrau mewnosoder “Wrth gynnal arolygiad neu ymchwiliad,”.
- (6) Yn adran 35 –
 - (a) yn is-adran (1) –
 - (i) ar ôl “arolygiad” mewnosoder “neu ymchwiliad”;
 - (ii) hepgorer “yn breifat”.
 - (b) ar ôl is-adran (1) mewnosoder –

“(1A) Caniateir i arolygydd ei gwneud yn ofynnol i gyfweliad o dan is-adran (1) gael ei gynnal yn breifat.”;
 - (c) yn is-adran (2), yn lle’r geiriau “ni chaiff” hyd at y diwedd rhodder “o ran arolygydd –

“32A Privilege against self-incrimination

- (1) Information given by a person (“P”) in response to a notice given under section 32(1B) may not be used in criminal proceedings against P.
- (2) But subsection (1) does not apply –
 - (a) if the proceedings are for an offence under section 5 of the Perjury Act 1911 (c. 6) (false statements made otherwise than on oath);
 - (b) if, in the proceedings –
 - (i) evidence relating to the information is adduced by or on behalf of P, or
 - (ii) a question relating to it is asked by or on behalf of P.”
- (4) In section 33 –
 - (a) in subsection (1)(b), for “and” substitute “, management or”;
 - (b) after subsection (1) insert –

“(1A) In this Part a reference to an “investigation” is a reference to an investigation into whether a person is committing or has committed an offence under this Part.”;
 - (c) in subsection (2), at the end, insert “or an investigation”.
- (5) In section 34 –
 - (a) in subsection (1) –
 - (i) after “inspection” insert “or an investigation”;
 - (ii) omit “and inspect”;
 - (b) in subsection (2), omit “and inspect”;
 - (c) in subsection (3), after “inspection” insert “or an investigation”;
 - (d) in subsection (4), at the beginning insert “When carrying out an inspection or an investigation,”.
- (6) In section 35 –
 - (a) in subsection (1) –
 - (i) after “inspection” insert “or an investigation”;
 - (ii) omit “in private”.
 - (b) after subsection (1) insert –

“(1A) An inspector may require an interview under subsection (1) to be carried out in private.”;
 - (c) in subsection (2), for the words “may” to the end substitute “ –

- (a) ni chaiff gyf-weld â pherson sy'n dod o fewn is-adran (3) heb gydsyniad y person, a
 - (b) ni chaiff gyf-weld â pherson ("P") at ddibenion holi a yw P wedi cyflawni trosedd oni bai—
 - (i) bod P wedi cael ei hysbysu am ddiben y cyfweiliad;
 - (ii) y rhoddir y cyfle i P i gael cynrychiolaeth gyfreithiol."
 - (d) yn is-adran (4), ar ôl "Caiff arolygydd" mewnosoder ", at ddibenion cynnal arolygiad,".
- (7) Yn adran 36—
- (a) yn is-adran (2), ar ôl "adroddiad" mewnosoder ", i'r graddau a ystyrir yn gymesur gan Weinidogion Cymru,";
 - (b) ar ôl is-adran (3) mewnosoder —

"(3A) Ond nid yw gofyniad yn is-adran (3) yn gymwys pan fo Gweinidogion Cymru yn ystyried y byddai cyflawni'r gofyniad yn amhriodol gan roi sylw i fudd pennaf person y mae ei ofal a'i gymorth wedi eu hasesu yn yr adroddiad."

Gweithwyr gofal cymdeithasol: cofrestru ac addasrwydd i ymarfer

18 Ystyr gweithiwr gofal cymdeithasol: gweithwyr gofal plant

- (1) Mae is-adran (2) yn diwygio Deddf 2016 i ychwanegu, at y rhestr o bersonau y gall Gweinidogion Cymru eu heithrio o'r diffiniad o "weithiwr gofal cymdeithasol" at ddibenion y Ddeddf, neu eu cynnwys yn y diffiniad hwnnw, bobl sy'n darparu goruchwyliaeth i blant (ond a all fod yn darparu gofal a chymorth neu beidio yn rhan o'u rôl).
- (2) Yn adran 79 o Ddeddf 2016—
 - (a) yn is-adran (3)—
 - (i) ym mharagraffau (e) ac (f), yn lle "gofal a chymorth i unrhyw berson yng Nghymru" rhodder "—
 - (i) gofal a chymorth;
 - (ii) gofal plant,
 - i unrhyw berson yng Nghymru";
 - (ii) ar ôl paragraff (l) mewnosoder —";
 - (m) person a gyflogir i ddarparu gofal plant gan berson sydd wedi ei gofrestru o dan Ran 2 o Fesur Plant a Theuluoedd (Cymru) 2010 (mccc 1) fel darparwr gofal dydd i blant";
 - (b) ar ôl is-adran (3) mewnosoder —

"(3A) Yn is-adran (3), ystyr "gofal plant" yw gofal a goruchwyliaeth a ddarperir ar gyfer plant."

- (a) may not interview a person falling within subsection (3) without the person's consent, and
 - (b) may not interview a person ("P") for the purpose of inquiring whether P has committed an offence unless –
 - (i) P is informed of the purpose of the interview;
 - (ii) P is given the opportunity to obtain legal representation."
 - (d) in subsection (4), after "may" insert "for the purposes of carrying out an inspection".
- (7) In section 36 –
- (a) in subsection (2), after "must" insert ", to the extent that the Welsh Ministers consider proportionate,";
 - (b) after subsection (3) insert –

“(3A) But a requirement in subsection (3) does not apply where the Welsh Ministers consider that fulfilling the requirement would be inappropriate having regard to the best interests of a person whose care and support is assessed in the report.”

Social care workers: registration and fitness to practise

18 **Meaning of social care worker: childcare workers**

- (1) Subsection (2) amends the 2016 Act to add, to the list of persons that the Welsh Ministers can except or include in the definition of "social care worker" for the purposes of the Act, people who provide supervision to children (but may or may not provide care and support as part of their role).
- (2) In section 79 of the 2016 Act –
 - (a) in subsection (3) –
 - (i) in paragraphs (e) and (f), for "care and support to any person in Wales", substitute " –
 - (i) care and support;
 - (ii) childcare,
 to any person in Wales";
 - (ii) after paragraph (l) insert –";
 - (m) a person employed to provide childcare by a person registered under Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1) as a provider of day care for children";
 - (b) after subsection (3) insert –

“(3A) In subsection (3), "childcare" means care and supervision that is provided for children.”

19 Achosion addasrwydd i ymarfer: pwerau i estyn gorchmynion interim

- (1) Mae is-adran (2) yn diwygio Deddf 2016 i roi'r pŵer i banel sy'n gwrandao ar achos gorchmyn interim i estyn gorchmyn interim.
- (2) Yn adran 147 o Ddeddf 2016 —
 - (a) yn is-adran (1), ar ôl paragraff (e) mewnosoder — “;
 - (f) yn achos gorchmyn interim nad yw wedi cael ei estyn gan y tribiwnlys o dan adran 148, estyn y gorchmyn interim.”;
 - (b) ar ôl is-adran (2) mewnosoder —

“(2A) Ni chaiff panel wneud penderfyniad a bennir yn is-adran (1)(f) ond —

 - (a) os yw'r panel wedi ei fodloni bod y penderfyniad yn bodloni un neu ragor o'r amodau y cyfeirir atynt ym mharagraffau (a) i (c) o is-adran (2), a
 - (b) os nad yw'r estyniad yn arwain at y gorchmyn interim yn cael effaith am gyfnod o fwy na 18 mis.”;
 - (c) yn is-adran (3), ar ôl “estyn” mewnosoder “gan banel o dan is-adran (1)(f) neu gan y tribiwnlys”;
 - (d) yn is-adran (4), ar ôl paragraff (a)(i) mewnosoder —

“(ia) gorchmyn interim fel y'i hestynnir neu fel y'i hestynnir ymhellach gan banel;”;
 - (e) ar ôl is-adran (4) mewnosoder —

“(5) Ond nid yw is-adran (4)(a)(i) a (b)(i) yn gymwys mewn perthynas â'r cyfeiriad at orchymyn interim yn is-adran (1)(f).”

Swyddogaethau gwasanaethau cymdeithasol awdurdod lleol

20 Taliadau uniongyrchol ym maes gofal cymdeithasol

- (1) Mae is-adran (2) yn diwygio Deddf 2014 er mwyn ychwanegu at y ffyrdd y mae awdurdod lleol yn gallu gwneud taliadau yn uniongyrchol i berson tuag at y gost o ddiwallu anghenion person am ofal a chymorth o dan adrannau 35 i 40, 42 a 45 o'r Ddeddf honno, neu mewn cysylltiad â gwasanaethau ôl-ofal o dan adran 117 o Ddeddf Iechyd Meddwl 1983 (p. 20), a hynny drwy ddarparu y gellir gwneud taliadau o'r fath i berson sydd wedi ei enwebu gan y person y gellid fel arall fod wedi gwneud y taliad iddo.
- (2) Mae Deddf 2014 wedi ei diwygio fel a ganlyn —
 - (a) ar ôl y croesbennawd sy'n dod o flaen adran 50 mewnosoder —

“49A Taliadau uniongyrchol

- (1) Caiff rheoliadau ei gwneud yn ofynnol neu ganiatáu i awdurdod lleol wneud taliadau i berson tuag at y gost o ddiwallu anghenion —
 - (a) oedolyn (“A”), o dan adran 35 neu 36;
 - (b) plentyn (“C”), o dan adran 37, 38 neu 39;
 - (c) gofalwr (“R”), o dan adran 40, 42 neu 45.

19 Fitness to practise cases: powers to extend interim orders

- (1) Subsection (2) amends the 2016 Act to give a panel hearing interim order proceedings the power to extend an interim order.
- (2) In section 147 of the 2016 Act –
 - (a) in subsection (1), after paragraph (e) insert – “;
 - (f) in the case of an interim order that has not been extended by the tribunal under section 148, extend the interim order.”;”;
 - (b) after subsection (2), insert –

“(2A) A panel may make a decision specified in subsection (1)(f) only if –

 - (a) the panel is satisfied that the decision meets one or more of the conditions referred to in paragraphs (a) to (c) of subsection (2), and
 - (b) the extension does not result in the interim order having effect for a period of more than 18 months.”;
 - (c) in subsection (3), after “extended” insert “by a panel under subsection (1)(f) or by the tribunal”;
 - (d) in subsection (4), after paragraph (a)(i) insert –

“(ia) an interim order as extended or further extended by a panel;”;
 - (e) after subsection (4) insert –

“(5) But subsection (4)(a)(i) and (b)(i) do not apply in relation to the reference to an interim order in subsection (1)(f).”

Local authority social services functions

20 Direct payments in social care

- (1) Subsection (2) amends the 2014 Act to supplement the ways in which a local authority can make payments directly to a person, towards the cost of meeting a person’s needs for care and support under sections 35 to 40, 42 and 45 of that Act, or in respect of after-care services under section 117 of the Mental Health Act 1983 (c. 20), by providing that such payments can be made to a person nominated by the person to whom the payment could otherwise have been made.
- (2) The 2014 Act is amended as follows –
 - (a) after the cross heading that precedes section 50 insert –

“49A Direct payments

- (1) Regulations may require or allow a local authority to make payments to a person towards the cost of meeting the needs of –
 - (a) an adult (“A”), under section 35 or 36;
 - (b) a child (“C”), under section 37, 38 or 39;
 - (c) a carer (“R”), under section 40, 42 or 45.

- (2) Ond ni chaiff rheoliadau o dan is-adran (1) ei gwneud yn ofynnol bod taliadau o'r fath yn cael eu gwneud na chaniatáu hynny oni bai –
- (a) pan fo'r taliadau i'w gwneud i ddiwallu anghenion oedolyn o dan adran 35 neu 36, y bodlonir amod 1, 2 neu 3 yn adran 50;
 - (b) pan fo'r taliadau i'w gwneud i ddiwallu anghenion plentyn o dan adran 37, 38 neu 39, y bodlonir amod 1 neu 2 yn adran 51;
 - (c) pan fo'r taliadau i'w gwneud i ddiwallu anghenion gofalwr o dan adran 40, 42 neu 45, y bodlonir amod 1 neu 2 yn adran 52.
- (3) Cyfeirir at daliad o dan yr adran hon yn y Ddeddf hon fel "taliad uniongyrchol".;
- (b) yn lle adrannau 50 i 52 rhodder –

"50 Taliadau uniongyrchol: yr amodau ar gyfer taliad i ddiwallu anghenion oedolyn

- (1) Mae'r amodau y cyfeirir atynt yn adran 49A(2)(a) mewn perthynas â gwneud taliadau uniongyrchol tuag at y gost o ddiwallu anghenion oedolyn ("A") o dan adran 35 neu 36 fel a ganlyn.
- (2) Amod 1 yw –
- (a) bod y taliadau i'w gwneud i A,
 - (b) bod yr awdurdod lleol yn credu bod gan A alluedd i gydsynio bod y taliadau'n cael eu gwneud,
 - (c) bod yr awdurdod lleol wedi ei fodloni –
 - (i) bod gwneud y taliadau yn ffordd briodol o ddiwallu anghenion A, a
 - (ii) bod gan A allu i reoli'r taliadau (naill ai ar ei ben ei hun neu gyda'r cymorth sydd ar gael iddo), a
 - (d) bod A wedi cydsynio bod y taliadau'n cael eu gwneud.
- (3) Amod 2 yw –
- (a) bod y taliadau i'w gwneud i berson ar wahân i A ("B"),
 - (b) bod yr awdurdod lleol yn credu nad oes gan A alluedd i gydsynio bod y taliadau'n cael eu gwneud,
 - (c) bod B yn berson addas,
 - (d) bod yr awdurdod lleol wedi ei fodloni –
 - (i) bod gwneud y taliadau yn ffordd briodol o ddiwallu anghenion A,
 - (ii) bod gan B allu i reoli'r taliadau (naill ai ar ei ben ei hun neu gyda'r cymorth sydd ar gael iddo), a
 - (iii) y bydd B yn gweithredu er lles pennaf A wrth reoli'r taliadau, ac

- (2) But regulations under subsection (1) may not require or allow such payments to be made unless –
 - (a) where the payments are to be made to meet an adult’s needs under section 35 or 36, condition 1, 2 or 3 in section 50 is met;
 - (b) where the payments are to be made to meet a child’s needs under section 37, 38 or 39, condition 1 or 2 in section 51 is met;
 - (c) where the payments are to be made to meet a carer’s needs under section 40, 42 or 45, condition 1 or 2 in section 52 is met.
- (3) A payment under this section is referred to in this Act as a “direct payment”.”;
- (b) for sections 50 to 52 substitute –

“50 Direct payments: conditions for payment to meet an adult’s needs

- (1) The conditions referred to in section 49A(2)(a) in relation to making direct payments towards the cost of meeting the needs of an adult (“A”) under section 35 or 36 are as follows.
- (2) Condition 1 is that –
 - (a) the payments are to be made to A,
 - (b) the local authority believes that A has capacity to consent to the making of the payments,
 - (c) the local authority is satisfied that –
 - (i) making the payments is an appropriate way of meeting A’s needs, and
 - (ii) A is capable of managing the payments (either by themselves or with the support that is available to them), and
 - (d) A has consented to the making of the payments.
- (3) Condition 2 is that –
 - (a) the payments are to be made to a person other than A (“B”),
 - (b) the local authority believes that A does not have capacity to consent to the making of the payments,
 - (c) B is a suitable person,
 - (d) the local authority is satisfied that –
 - (i) making the payments is an appropriate way of meeting A’s needs,
 - (ii) B is capable of managing the payments (either by themselves or with the support that is available to them), and
 - (iii) B will act in A’s best interests in managing the payments, and

- (e) bod y cydsyniad angenrheidiol wedi ei gael i wneud y taliadau i B.
- (4) Amod 3 yw –
 - (a) bod y taliadau i'w gwneud i berson a enwebir gan A ("N"),
 - (b) bod yr awdurdod lleol yn credu bod gan A alluedd i gydsynio bod y taliadau'n cael eu gwneud,
 - (c) bod yr awdurdod lleol wedi ei fodloni –
 - (i) bod gwneud y taliadau yn ffordd briodol o ddiwallu anghenion A, a
 - (ii) bod gan N allu i reoli'r taliadau (naill ai ar ei ben ei hun neu gyda'r cymorth sydd ar gael iddo),
 - (d) bod A wedi cydsynio bod y taliadau'n cael eu gwneud, ac
 - (e) bod N wedi cydsynio i gael y taliadau.
- (5) At ddibenion is-adran (3)(c), mae B yn "berson addas" –
 - (a) os yw B wedi ei awdurdodi o dan Ddeddf Galluedd Meddyliol 2005 (p'un ai yn nhermau cyffredinol neu benodol) i wneud penderfyniadau ynghylch anghenion A am ofal a chymorth,
 - (b) pan na fo B wedi ei awdurdodi fel y crybwyllwyd ym mharagraff (a), os yw person sydd wedi ei awdurdodi felly yn cytuno â'r awdurdod lleol fod B yn addas i gael taliadau tuag at y gost o ddiwallu anghenion A am ofal a chymorth, neu
 - (c) pan na fo B wedi ei awdurdodi fel y crybwyllwyd ym mharagraff (a) ac nad oes unrhyw berson sydd wedi ei awdurdodi felly, os yw'r awdurdod lleol o'r farn bod B yn addas i gael taliadau o'r math hwnnw.
- (6) At ddibenion is-adran (3)(e), ystyr "cydsyniad angenrheidiol" yw –
 - (a) cydsyniad B, a
 - (b) pan fo B yn berson addas yn rhinwedd is-adran (5)(b), cydsyniad person sydd wedi ei awdurdodi o dan Ddeddf Galluedd Meddyliol 2005 (p'un ai yn nhermau cyffredinol neu benodol) i wneud penderfyniadau ynghylch anghenion A am ofal a chymorth.

51 Taliadau uniongyrchol: yr amodau ar gyfer taliad i ddiwallu anghenion plentyn

- (1) Mae'r amodau y cyfeirir atynt yn adran 49A(2)(b) mewn perthynas â gwneud taliadau uniongyrchol tuag at y gost o ddiwallu anghenion plentyn ("C") o dan adran 37, 38 neu 39 fel a ganlyn.
- (2) Amod 1 yw –
 - (a) bod y taliadau i'w gwneud i berson ("P") sef –
 - (i) C, neu

- (e) the necessary consent has been obtained to make the payments to B.
- (4) Condition 3 is that –
 - (a) the payments are to be made to a person who is nominated by A (“N”),
 - (b) the local authority believes that A has capacity to consent to the making of the payments,
 - (c) the local authority is satisfied that –
 - (i) making the payments is an appropriate way of meeting A’s needs, and
 - (ii) N is capable of managing the payments (either by themselves or with the support that is available to them),
 - (d) A has consented to the making of the payments, and
 - (e) N has consented to receive the payments.
- (5) For the purposes of subsection (3)(c), B is a “suitable person” –
 - (a) if B is 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 B is not authorised as mentioned in paragraph (a), if a person who is so authorised agrees with the local authority that B is suitable to receive payments towards the cost of meeting A’s needs for care and support, or
 - (c) where B is not authorised as mentioned in paragraph (a) and there is no person who is so authorised, if the local authority considers that B is suitable to receive payments of that kind.
- (6) For the purposes of subsection (3)(e), the “necessary consent” means –
 - (a) the consent of B, and
 - (b) where B is a suitable person by virtue of subsection (5)(b), the consent of 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.

51 Direct payments: conditions for payment to meet a child’s needs

- (1) The conditions referred to in section 49A(2)(b) in relation to making direct payments towards the cost of meeting the needs of a child (“C”) under section 37, 38 or 39 are as follows.
- (2) Condition 1 is that –
 - (a) the payments are to be made to a person (“P”) who is –
 - (i) C, or

- (ii) person sydd â chyfrifoldeb rhiant dros C,
- (b) pan fo P—
 - (i) yn oedolyn neu'n blentyn 16 neu 17 oed, bod yr awdurdod lleol yn credu bod gan P alluedd i gydsynio bod y taliadau'n cael eu gwneud;
 - (ii) yn blentyn o dan 16 oed, bod yr awdurdod lleol wedi ei fodloni bod gan P ddealltwriaeth ddigonol i wneud penderfyniad deallus ynghylch cydsynio i gael y taliadau,
- (c) bod yr awdurdod lleol wedi ei fodloni—
 - (i) bod gwneud y taliadau yn ffordd briodol o ddiwallu anghenion C,
 - (ii) y caiff llesiant C ei ddiogelu a'i hyrwyddo drwy i'r taliadau gael eu gwneud, a
 - (iii) bod gan P allu i reoli'r taliadau (naill ai ar ei ben ei hun neu gyda'r cymorth sydd ar gael iddo), a
- (d) bod P wedi cydsynio bod y taliadau'n cael eu gwneud.
- (3) Amod 2 yw—
 - (a) bod y taliadau i'w gwneud i berson a enwebir gan P ("N"),
 - (b) pan fo P—
 - (i) yn oedolyn neu'n blentyn 16 neu 17 oed, bod yr awdurdod lleol yn credu bod gan P alluedd i gydsynio bod y taliadau'n cael eu gwneud;
 - (ii) yn blentyn o dan 16 oed, bod yr awdurdod lleol wedi ei fodloni bod gan P ddealltwriaeth ddigonol i wneud penderfyniad deallus ynghylch cydsynio bod y taliadau'n cael eu gwneud,
 - (c) bod yr awdurdod lleol wedi ei fodloni—
 - (i) bod gwneud y taliadau yn ffordd briodol o ddiwallu anghenion C,
 - (ii) y caiff llesiant C ei ddiogelu a'i hyrwyddo drwy i'r taliadau gael eu gwneud,
 - (iii) y bydd N yn gweithredu er lles pennaf C wrth reoli'r taliadau, a
 - (iv) bod gan N allu i reoli'r taliadau (naill ai ar ei ben ei hun neu gyda'r cymorth sydd ar gael iddo),
 - (d) bod P wedi cydsynio bod y taliadau'n cael eu gwneud, ac
 - (e) bod N wedi cydsynio i gael y taliadau.

- (ii) a person with parental responsibility for C,
 - (b) where P is—
 - (i) an adult or a child aged 16 or 17, the local authority believes that P has capacity to consent to the making of the payments;
 - (ii) a child aged under 16, the local authority is satisfied that P has sufficient understanding to make an informed decision about consenting to receive the payments,
 - (c) the local authority is satisfied that—
 - (i) making the payments is an appropriate way of meeting C's needs,
 - (ii) C's well-being will be safeguarded and promoted by the making of the payments, and
 - (iii) P is capable of managing the payments (either by themselves or with the support that is available to them), and
 - (d) P has consented to the making of the payments.
- (3) Condition 2 is that—
- (a) the payments are to be made to a person who is nominated by P ("N"),
 - (b) where P is—
 - (i) an adult or a child aged 16 or 17, the local authority believes that P has capacity to consent to the making of the payments;
 - (ii) a child aged under 16, the local authority is satisfied that P has sufficient understanding to make an informed decision about consenting to the making of the payments,
 - (c) the local authority is satisfied that—
 - (i) making the payments is an appropriate way of meeting C's needs,
 - (ii) the well-being of C will be safeguarded and promoted by the making of the payments,
 - (iii) N will act in C's best interests in managing the payments, and
 - (iv) N is capable of managing the payments (either by themselves or with the support that is available to them),
 - (d) P has consented to the making of the payments, and
 - (e) N has consented to receive the payments.

52 Taliadau uniongyrchol: yr amodau ar gyfer taliad i ddiwallu anghenion gofalwr

- (1) Mae'r amodau y cyfeirir atynt yn adran 49A(2)(c) mewn perthynas â gwneud taliadau uniongyrchol tuag at y gost o ddiwallu anghenion gofalwr ("R") o dan adran 40, 42 neu 45 fel a ganlyn.
- (2) Amod 1 yw —
 - (a) bod y taliadau i'w gwneud i R,
 - (b) pan fo R —
 - (i) yn oedolyn neu'n blentyn 16 neu 17 oed, bod yr awdurdod lleol yn credu bod gan R alluedd i gydsynio bod y taliadau'n cael eu gwneud;
 - (ii) yn blentyn o dan 16 oed, bod yr awdurdod lleol wedi ei fodloni bod gan R ddealltwriaeth ddigonol i wneud penderfyniad deallus ynghylch cydsynio i gael y taliadau,
 - (c) bod yr awdurdod lleol wedi ei fodloni —
 - (i) bod gwneud y taliadau yn ffordd briodol o ddiwallu anghenion R, a
 - (ii) bod gan R allu i reoli'r taliadau (naill ai ar ei ben ei hun neu gyda'r cymorth sydd ar gael iddo), a
 - (d) bod R wedi cydsynio bod y taliadau'n cael eu gwneud.
- (3) Amod 2 yw —
 - (a) bod y taliadau i'w gwneud i berson a enwebir gan R ("N"),
 - (b) pan fo R —
 - (i) yn oedolyn neu'n blentyn 16 neu 17 oed, bod yr awdurdod lleol yn credu bod gan R alluedd i gydsynio bod y taliadau'n cael eu gwneud;
 - (ii) yn blentyn o dan 16 oed, bod yr awdurdod lleol wedi ei fodloni bod gan R ddealltwriaeth ddigonol i wneud penderfyniad deallus ynghylch cydsynio bod y taliadau'n cael eu gwneud,
 - (c) bod yr awdurdod lleol wedi ei fodloni —
 - (i) bod gwneud y taliadau yn ffordd briodol o ddiwallu anghenion R,
 - (ii) pan fo R yn blentyn o dan 16 oed, y bydd N yn gweithredu er lles pennaf R wrth reoli'r taliadau, a
 - (iii) bod gan N allu i reoli'r taliadau (naill ai ar ei ben ei hun neu gyda'r cymorth sydd ar gael iddo),
 - (d) bod R wedi cydsynio bod y taliadau'n cael eu gwneud, ac
 - (e) bod N wedi cydsynio i gael y taliadau.";

52 Direct payments: conditions for payment to meet a carer's needs

- (1) The conditions referred to in section 49A(2)(c) in relation to making direct payments towards the cost of meeting the needs of a carer ("R") under section 40, 42 or 45 are as follows.
- (2) Condition 1 is that —
 - (a) the payments are to be made to R,
 - (b) where R is —
 - (i) an adult or a child aged 16 or 17, the local authority believes that R has capacity to consent to the making of the payments;
 - (ii) a child aged under 16, the local authority is satisfied that R has sufficient understanding to make an informed decision about consenting to receive the payments,
 - (c) the local authority is satisfied that —
 - (i) making the payments is an appropriate way of meeting R's needs, and
 - (ii) R is capable of managing the payments (either by themselves or with the support that is available to them), and
 - (d) R has consented to the making of the payments.
- (3) Condition 2 is that —
 - (a) the payments are to be made to a person who is nominated by R ("N"),
 - (b) where R is —
 - (i) an adult or a child aged 16 or 17, the local authority believes that R has capacity to consent to the making of the payments;
 - (ii) a child aged under 16, the local authority is satisfied that R has sufficient understanding to make an informed decision about consenting to the making of the payments,
 - (c) the local authority is satisfied that —
 - (i) making the payments is an appropriate way of meeting R's needs,
 - (ii) where R is a child aged under 16, N will act in R's best interests in managing the payments, and
 - (iii) N is capable of managing the payments (either by themselves or with the support that is available to them),
 - (d) R has consented to the making of the payments, and
 - (e) N has consented to receive the payments.";

(c) ar ôl adran 53 mewnosoder –

“53A Taliadau uniongyrchol: ôl-ofal o dan Ddeddf Iechyd Meddwl 1983

Mae’r ffyrdd y caiff awdurdod lleol gyflawni ei ddyletswydd o dan adran 117 o Ddeddf Iechyd Meddwl 1983 yn cynnwys drwy wneud taliadau uniongyrchol, ac at y diben hwnnw mae Atodlen A1 yn cael effaith.”;

(d) yn lle Atodlen A1 rhodder –

“ATODLEN A1

(fel y’i cyflwynir gan adran 53A)

**TALIADAU UNIONGYRCHOL: ÔL-OFAL O DAN DDEDDF IECHYD
MEDDWL 1983**

Cyffredinol

- 1 Caiff rheoliadau ei gwneud yn ofynnol neu ganiatáu i awdurdod lleol wneud taliadau mewn cysylltiad â pherson y mae adran 117 o Ddeddf Iechyd Meddwl 1983 (ôl-ofal) yn gymwys iddo sy’n gyfatebol i’r gost o ddarparu neu drefnu i ddarparu gwasanaethau ôl-ofal ar gyfer y person o dan yr adran honno.
- 2 Ond ni chaiff rheoliadau o dan baragraff 1 ei gwneud yn ofynnol bod taliadau o’r fath yn cael eu gwneud na chaniatáu hynny oni bai –
 - (a) pan fo’r taliad yn cael ei wneud mewn cysylltiad ag oedolyn, y bodlonir amod 1, 2 neu 3 ym mharagraff 4;
 - (b) pan fo’r taliad yn cael ei wneud mewn cysylltiad â phlentyn, y bodlonir amod 4 neu 5 ym mharagraff 5.
- 3 Cyfeirir at daliad o dan yr Atodlen hon yn y Ddeddf hon fel “taliad uniongyrchol”.

Taliadau uniongyrchol: gwasanaethau ôl-ofal ar gyfer oedolyn

- 4 (1) Mae’r amodau y cyfeirir atynt ym mharagraff 2(a) mewn perthynas â gwneud taliadau uniongyrchol mewn cysylltiad ag oedolyn (“A”) y mae adran 117 o Ddeddf Iechyd Meddwl 1983 (ôl-ofal) yn gymwys iddo sy’n gyfatebol i’r gost o ddarparu neu drefnu i ddarparu gwasanaethau ôl-ofal ar gyfer A o dan yr adran honno fel a ganlyn.
- (2) Amod 1 yw –
 - (a) bod y taliadau i’w gwneud i A,
 - (b) bod yr awdurdod lleol yn credu bod gan A alluedd i gydsynio bod y taliadau’n cael eu gwneud,
 - (c) bod yr awdurdod lleol wedi ei fodloni –

(c) after section 53 insert –

“53A Direct payments: after-care under the Mental Health Act 1983

The ways in which a local authority may discharge its duty under section 117 of the Mental Health Act 1983 include by making direct payments, and for that purpose Schedule A1 has effect.”;

(d) for Schedule A1 substitute –

“SCHEDULE A1
(as introduced by section 53A)

DIRECT PAYMENTS: AFTER-CARE UNDER THE MENTAL HEALTH ACT 1983

General

- 1 Regulations may require or allow a local authority to make payments in respect of a person to whom section 117 of the Mental Health Act 1983 (after-care) applies that are equivalent to the cost of providing or arranging for the provision of after-care services for the person under that section.
- 2 But regulations under paragraph 1 may not require or allow such payments to be made unless –
 - (a) where the payment is made in respect of an adult, condition 1, 2 or 3 in paragraph 4 is met;
 - (b) where the payment is made in respect of a child, condition 1 or 2 in paragraph 5 is met.
- 3 A payment under this Schedule is referred to in this Act as a “direct payment”.

Direct payments: after-care services for an adult

- 4 (1) The conditions referred to in paragraph 2(a) in relation to making direct payments in respect of an adult (“A”) to whom section 117 of the Mental Health Act 1983 (after-care) applies that are equivalent to the cost of providing or arranging the provision of after-care services for A under that section are as follows.
 - (2) Condition 1 is that –
 - (a) the payments are to be made to A,
 - (b) the local authority believes that A has capacity to consent to the making of the payments,
 - (c) the local authority is satisfied that –

- (i) bod gwneud y taliadau yn ffordd briodol o gyflawni ei ddyletswydd tuag at A o dan adran 117 o Ddeddf Iechyd Meddwl 1983, a
 - (ii) bod gan A allu i reoli'r taliadau (naill ai ar ei ben ei hun neu gyda'r cymorth sydd ar gael iddo), a
 - (d) bod A wedi cydsynio bod y taliadau'n cael eu gwneud.
- (3) Amod 2 yw —
- (a) bod y taliadau i'w gwneud i berson ar wahân i A ("B"),
 - (b) bod yr awdurdod lleol yn credu nad oes gan A alluedd i gydsynio bod y taliadau'n cael eu gwneud,
 - (c) bod B yn berson addas,
 - (d) bod yr awdurdod lleol wedi ei fodloni —
 - (i) bod gwneud y taliadau yn ffordd briodol o gyflawni ei ddyletswydd tuag at A o dan adran 117 o Ddeddf Iechyd Meddwl 1983,
 - (ii) bod gan B allu i reoli'r taliadau (naill ai ar ei ben ei hun neu gyda'r cymorth sydd ar gael iddo), a
 - (iii) y bydd B yn gweithredu er lles pennaf A wrth reoli'r taliadau, ac
 - (e) bod y cydsyniad angenrheidiol wedi ei gael i wneud y taliadau i B.
- (4) Amod 3 yw —
- (a) bod y taliadau i'w gwneud i berson a enwebir gan A ("N"),
 - (b) bod yr awdurdod lleol yn credu bod gan A alluedd i gydsynio bod y taliadau'n cael eu gwneud,
 - (c) bod yr awdurdod lleol wedi ei fodloni —
 - (i) bod gwneud y taliadau yn ffordd briodol o gyflawni ei ddyletswydd tuag at A o dan adran 117 o Ddeddf Iechyd Meddwl 1983, a
 - (ii) bod gan N allu i reoli'r taliadau (naill ai ar ei ben ei hun neu gyda'r cymorth sydd ar gael iddo),
 - (d) bod A wedi cydsynio bod y taliadau'n cael eu gwneud, ac
 - (e) bod N wedi cydsynio i gael y taliadau.
- (5) At ddibenion is-baragraff (3)(c), mae B yn "berson addas" —
- (a) os yw B wedi ei awdurdodi o dan Ddeddf Galluedd Meddyliol 2005 (p'un ai yn nhermau cyffredinol neu benodol) i wneud penderfyniadau ynghylch darparu i A wasanaethau ôl-ofal o dan adran 117 o Ddeddf Iechyd Meddwl 1983,

- (i) making the payments is an appropriate way of discharging its duty towards A under section 117 of the Mental Health Act 1983, and
 - (ii) A is capable of managing the payments (either by themselves or with the support that is available to them), and
 - (d) A has consented to the making of the payments.
- (3) Condition 2 is that –
- (a) the payments are to be made to a person other than A (“B”),
 - (b) the local authority believes that A does not have capacity to consent to the making of the payments,
 - (c) B is a suitable person,
 - (d) the local authority is satisfied that –
 - (i) making the payments is an appropriate way of discharging its duty towards A under section 117 of the Mental Health Act 1983,
 - (ii) B is capable of managing the payments (either by themselves or with the support that is available to them), and
 - (iii) B will act in A’s best interests in managing the payments, and
 - (e) the necessary consent has been obtained to make the payment to B.
- (4) Condition 3 is that –
- (a) the payments are to be made to a person who is nominated by A (“N”),
 - (b) the local authority believes that A has capacity to consent to the making of the payments,
 - (c) the local authority is satisfied that –
 - (i) making the payments is an appropriate way of discharging its duty towards A under section 117 of the Mental Health Act 1983, and
 - (ii) N is capable of managing the payments (either by themselves or with the support that is available to them),
 - (d) A has consented to the making of the payments, and
 - (e) N has consented to receive the payments.
- (5) For the purposes of sub-paragraph (3)(c), B is a “suitable person” –
- (a) if B is authorised under the Mental Capacity Act 2005 (whether in general or specific terms) to make decisions about the provision to A of after-care services under section 117 of the Mental Health Act 1983,

- (b) pan na fo B wedi ei awdurdodi fel y crybwyllwyd ym mharagraff (a), os yw person sydd wedi ei awdurdodi felly yn cytuno â'r awdurdod lleol fod B yn addas i gael y taliadau, neu
 - (c) pan na fo B wedi ei awdurdodi fel y crybwyllwyd ym mharagraff (a) ac nad oes unrhyw berson sydd wedi ei awdurdodi felly, os yw'r awdurdod lleol o'r farn bod B yn addas i gael taliadau o'r math hwnnw.
- (6) At ddibenion is-adran (3)(e), ystyr "cydsyniad angenrheidiol" yw –
- (a) cydsyniad B, a
 - (b) pan fo B yn berson addas yn rhinwedd is-baragraff (5)(b), cydsyniad person sydd wedi ei awdurdodi o dan Ddeddf Galluedd Meddyliol 2005 (p'un ai yn nhermau cyffredinol neu benodol) i wneud penderfyniadau ynghylch darparu i A wasanaethau ôl-ofal o dan adran 117 o Ddeddf Iechyd Meddwl 1983.

Taliadau uniongyrchol: gwasanaethau ôl-ofal ar gyfer plentyn

- 5 (1) Mae'r amodau y cyfeirir atynt ym mharagraff 2(b) mewn perthynas â gwneud taliadau uniongyrchol mewn cysylltiad â phlentyn ("C") y mae adran 117 o Ddeddf Iechyd Meddwl 1983 (ôl-ofal) yn gymwys iddo sy'n gyfatebol i'r gost o ddarparu neu drefnu i ddarparu gwasanaethau ôl-ofal ar gyfer C o dan yr adran honno fel a ganlyn.
- (2) Amod 1 yw –
- (a) bod y taliadau i'w gwneud i berson ("P") sef –
 - (i) C, neu
 - (ii) person sydd â chyfrifoldeb rhiant dros C,
 - (b) pan fo P –
 - (i) yn oedolyn neu'n blentyn 16 neu 17 oed, bod yr awdurdod lleol yn credu bod gan P alluedd i gydsynio bod y taliadau'n cael eu gwneud;
 - (ii) yn blentyn o dan 16 oed, bod yr awdurdod lleol wedi ei fodloni bod gan P ddealltwriaeth ddigonol i wneud penderfyniad deallus ynghylch cydsynio i gael y taliadau,
 - (c) bod yr awdurdod lleol wedi ei fodloni –
 - (i) bod gwneud y taliadau yn ffordd briodol o gyflawni ei ddyletswydd tuag at C o dan adran 117 o Ddeddf Iechyd Meddwl 1983,
 - (ii) y caiff llesiant C ei ddiogelu a'i hyrwyddo drwy i'r taliadau gael eu gwneud, a
 - (iii) bod gan P allu i reoli'r taliadau (naill ai ar ei ben ei hun neu gyda'r cymorth sydd ar gael iddo), a

- (b) where B is not authorised as mentioned in paragraph (a), if a person who is so authorised agrees with the local authority that B is suitable to receive the payments, or
 - (c) where B is not authorised as mentioned in paragraph (a) and there is no person who is so authorised, if the local authority considers that B is suitable to receive payments of that kind.
- (6) For the purposes of sub-paragraph (3)(e), the “necessary consent” means—
 - (a) the consent of B, and
 - (b) where B is a suitable person by virtue of sub-paragraph (5)(b), the consent of a person authorised under the Mental Capacity Act 2005 (whether in general or specific terms) to make decisions about the provision to A of after-care services under section 117 of the Mental Health Act 1983.

Direct payments: after-care services for a child

- 5 (1) The conditions referred to in paragraph 2(b) in relation to making direct payments in respect of a child (“C”) to whom section 117 of the Mental Health Act 1983 (after-care) applies that are equivalent to the cost of providing or arranging the provision of after-care services for C under that section are as follows.
- (2) Condition 1 is that—
- (a) the payments are to be made to a person (“P”) who is—
 - (i) C, or
 - (ii) a person with parental responsibility for C,
 - (b) where P is—
 - (i) an adult or a child aged 16 or 17, the local authority believes that P has capacity to consent to the making of the payments;
 - (ii) a child aged under 16, the local authority is satisfied that P has sufficient understanding to make an informed decision about consenting to receive the payments,
 - (c) the local authority is satisfied that—
 - (i) making the payments is an appropriate way of discharging its duty towards C under section 117 of the Mental Health Act 1983,
 - (ii) C’s well-being will be safeguarded and promoted by the making of the payments, and
 - (iii) P is capable of managing the payments (either by themselves or with the support that is available to them), and

- (d) bod P wedi cydsynio bod y taliadau'n cael eu gwneud.
- (3) Amod 2 yw –
 - (a) bod y taliadau i'w gwneud i berson a enwebir gan P ("N"),
 - (b) pan fo P –
 - (i) yn oedolyn neu'n blentyn 16 neu 17 oed, bod yr awdurdod lleol yn credu bod gan P alluedd i gydsynio bod taliadau'n cael eu gwneud;
 - (ii) yn blentyn o dan 16 oed, bod yr awdurdod lleol wedi ei fodloni bod gan P ddealltwriaeth ddigonol i wneud penderfyniad deallus ynghylch cydsynio bod taliadau'n cael eu gwneud,
 - (c) bod yr awdurdod lleol wedi ei fodloni –
 - (i) bod gwneud y taliadau yn ffordd briodol o gyflawni ei ddyletswydd tuag at C o dan adran 117 o Ddeddf Iechyd Meddwl 1983,
 - (ii) y caiff llesiant C ei ddiogelu a'i hyrwyddo drwy i'r taliadau gael eu gwneud,
 - (iii) y bydd N yn gweithredu er lles pennaf C wrth reoli'r taliadau, a
 - (iv) bod gan N allu i reoli'r taliadau (naill ai ar ei ben ei hun neu gyda'r cymorth sydd ar gael iddo),
 - (d) bod P wedi cydsynio bod y taliadau'n cael eu gwneud, ac
 - (e) bod N wedi cydsynio i gael y taliadau.

Darpariaeth bellach ar gyfer taliadau uniongyrchol: ôl-ofal

- 6 Caiff rheoliadau o dan yr Atodlen hon hefyd wneud darpariaeth, yn benodol, ynghylch y canlynol –
 - (a) materion y caiff awdurdod lleol, neu y mae'n rhaid iddo, roi sylw iddynt wrth wneud penderfyniad o fath penodedig ynghylch taliadau uniongyrchol;
 - (b) amodau y caiff awdurdod lleol, neu y mae'n rhaid iddo, eu gosod a'r amodau na chaniateir iddo eu gosod, mewn perthynas â thaliadau uniongyrchol;
 - (c) camau y caiff awdurdod lleol, neu y mae'n rhaid iddo, eu cymryd cyn, neu ar ôl, gwneud penderfyniad o fath penodedig ynghylch taliadau uniongyrchol;
 - (d) cymorth y mae'n rhaid i awdurdod lleol ei ddarparu neu ei drefnu ar gyfer personau y mae'n gwneud taliadau uniongyrchol iddynt;

- (d) P has consented to the making of the payments.
- (3) Condition 2 is that –
 - (a) the payments are to be made to a person who is nominated by P (“N”),
 - (b) where P is –
 - (i) an adult or a child aged 16 or 17, the local authority believes that P has capacity to consent to the making of payments;
 - (ii) a child aged under 16, the local authority is satisfied that P has sufficient understanding to make an informed decision about consenting to the making of payments,
 - (c) the local authority is satisfied that –
 - (i) making the payments is an appropriate way of discharging its duty towards C under section 117 of the Mental Health Act 1983,
 - (ii) the well-being of C will be safeguarded and promoted by the making of the payments,
 - (iii) N will act in C’s best interests in managing the payments, and
 - (iv) N is capable of managing the payments (either by themselves or with the support that is available to them),
 - (d) P has consented to the making of the payments, and
 - (e) N has consented to receive the payments.

Further provision for direct payments: after-care

- 6 Regulations under this Schedule may also make provision (in particular) about the following –
 - (a) matters to which a local authority may or must have regard when making a decision of a specified type about direct payments;
 - (b) conditions that a local authority may or must attach, and conditions that it must not attach, in relation to direct payments;
 - (c) steps that a local authority may or must take before, or after, making a decision of a specified type about direct payments;
 - (d) support that a local authority must provide or arrange for persons to whom it makes direct payments;

- (e) achosion neu amgylchiadau lle y caiff awdurdod lleol weithredu fel asiant ar ran person y mae taliadau uniongyrchol yn cael eu gwneud iddo;
 - (f) amodau y cyflawnir odanynt ddyletswydd awdurdod lleol o dan adran 117 o Ddeddf Iechyd Meddwl 1983 (ôl-ofal) drwy wneud taliadau uniongyrchol, ac i ba raddau y cyflawnir y ddyletswydd honno drwy wneud taliadau uniongyrchol;
 - (g) achosion neu amgylchiadau lle na chaiff awdurdod lleol wneud, neu lle y caniateir iddo beidio â gwneud, taliadau i berson neu mewn perthynas â pherson;
 - (h) achosion neu amgylchiadau lle y mae'n rhaid i berson, neu lle y caiff person, nad yw bellach heb alluedd, neu y mae'r awdurdod lleol yn credu nad yw'r person hwnnw bellach heb alluedd, i gydsynio bod taliadau uniongyrchol yn cael eu gwneud, gael ei drin, serch hynny, at ddibenion paragraffau 4 a 5 fel pe na bai ganddo'r galluedd i wneud hynny;
 - (i) achosion neu amgylchiadau lle y caiff, neu y mae'n rhaid i, awdurdod lleol sy'n gwneud taliadau uniongyrchol adolygu'r arfer o wneud y taliadau hynny;
 - (j) achosion neu amgylchiadau lle y caiff, neu y mae'n rhaid i, awdurdod lleol sy'n gwneud taliadau uniongyrchol –
 - (i) terfynu'r arfer o wneud y taliadau hynny;
 - (ii) ei gwneud yn ofynnol i'r cyfan neu ran o daliad uniongyrchol gael ei ad-dalu;
 - (k) adennill unrhyw swm sy'n ddyledus i awdurdod lleol mewn cysylltiad â gwneud taliadau uniongyrchol.
- 7 Rhaid i reoliadau o dan yr Atodlen hon bennu bod rhaid i daliadau uniongyrchol i dalu'r gost o ddarparu neu drefnu i ddarparu gwasanaethau ôl-ofal o dan adran 117 o Ddeddf Iechyd Meddwl 1983 (ôl-ofal) gael eu gwneud ar raddfa y mae'r awdurdod lleol yn amcangyfrif ei bod yn gyfatebol i'r gost resymol o sicrhau bod y gwasanaethau hynny yn cael eu darparu i ddiwallu'r anghenion hynny.
- 8 Caiff person y mae awdurdod lleol yn gwneud taliad uniongyrchol iddo, yn ddarostyngedig i reoliadau a wneir o dan yr Atodlen hon, ddefnyddio'r taliad i brynu gwasanaethau ôl-ofal gan unrhyw berson (gan gynnwys, ymhlith eraill, yr awdurdod a wnaeth y taliad)."

21 Lletya plant

- (1) Mae is-adrannau (2) a (3) yn diwygio Deddf 2014 er mwyn cyfyngu'r canlynol –
- (a) gallu person a enwir mewn gorchymyn trefniadau plentyn i atal rhywun sydd â chyfrifoldeb rhiant dros blentyn sydd heb rieni, neu sydd ar goll neu sydd wedi ei adael, rhag gwrthwynebu i'r plentyn dderbyn gofal mewn llety awdurdod lleol, neu rhag ei symud o lety o'r fath;

- (e) cases or circumstances in which a local authority may act as an agent on behalf of a person to whom direct payments are made;
 - (f) conditions subject to which, and the extent to which, a local authority's duty under section 117 of the Mental Health Act 1983 (after-care) is discharged by the making of direct payments;
 - (g) cases or circumstances in which a local authority must not, or is allowed not to, make payments to a person or in relation to a person;
 - (h) cases or circumstances in which a person who no longer lacks, or who the local authority believes no longer lacks, capacity to consent to the making of direct payments must or may nonetheless be treated for the purposes of paragraphs 4 and 5 as lacking capacity to do so;
 - (i) cases or circumstances in which a local authority making direct payments may or must review the making of those payments;
 - (j) cases or circumstances in which a local authority making direct payments may or must –
 - (i) terminate the making of those payments;
 - (ii) require the repayment of the whole or part of a direct payment;
 - (k) the recovery of any amount due to a local authority in connection with the making of direct payments.
- 7 Regulations under this Schedule must specify that direct payments to meet the cost of providing or arranging for the provision of after-care services under section 117 of the Mental Health Act 1983 (after-care) must be made at a rate that the local authority estimates to be equivalent to the reasonable cost of securing the provision of those services to meet those needs.
- 8 A person to whom a local authority makes a direct payment may, subject to regulations made under this Schedule, use the payment to purchase after-care services from any person (including, among others, the authority that made the payment)."

21 Accommodation of children

- (1) Subsections (2) and (3) amend the 2014 Act to restrict –
- (a) the ability of a person named in a child arrangements order to prevent someone with parental responsibility for a child without parents, or who is lost or abandoned, from objecting to the child being looked after in local authority accommodation or removing them from such accommodation;

- (b) y gofyniad i awdurdod lleol leoli plentyn y mae'n gofalu amdano gyda pherson a enwir mewn gorchymyn trefniadau plentyn,
- i berson a enwir yn y gorchymyn trefniadau plentyn fel rhywun y mae'r plentyn i fyw gydag ef, ond nid i unrhyw berson arall a enwir mewn gorchymyn o'r fath.
- (2) Yn adran 76(6) o Ddeddf 2014, yn lle paragraff (a) rhodder –
- “(a) sydd wedi ei enwi mewn gorchymyn trefniadau plentyn (sydd mewn grym) fel person y mae'r plentyn i fyw gydag ef,”.
- (3) Yn adran 81(3) o Ddeddf 2014, ym mharagraff (c), yn lle'r geiriau o “yn berson” hyd at y diwedd rhodder “wedi ei enwi yn y gorchymyn trefniadau plentyn fel person yr oedd y plentyn i fyw gydag ef”.

Mân ddiwygiadau a diwygiadau canlyniadol

22 Gofal cymdeithasol: mân ddiwygiadau a diwygiadau canlyniadol

Mae Atodlen 1 yn gwneud mân ddiwygiadau a diwygiadau canlyniadol sy'n ymwneud â'r darpariaethau yn y Rhan hon.

RHAN 2

GOFAL IECHYD

23 Trosolwg o Ran 2

- (1) Mae adrannau 24 a 25 yn gwneud darpariaeth ar gyfer caniatáu gwneud taliadau yn uniongyrchol i glaf neu berson a enwebir gan y claf er mwyn i'r claf sicrhau gwasanaethau neu nwyddau y mae rhaid, neu y caniateir, eu darparu fel arall o dan Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p. 42) (“Deddf 2006”) neu o dan adran 117 o Ddeddf Iechyd Meddwl 1983 (p. 20), ac mewn cysylltiad â chaniatáu gwneud taliadau o'r fath.
- (2) Mae adran 26 yn diwygio adran 47 o Ddeddf 2014 er mwyn darparu na chaiff awdurdod lleol ond darparu neu drefnu i ddarparu gwasanaethau neu gyfleusterau y mae'n ofynnol eu darparu o dan ddeddfiadau iechyd penodol –
- (a) os byddai darparu'r gwasanaethau neu'r cyfleusterau'n gysylltiedig â gwasanaethau gofal a chymorth penodol y caiff yr awdurdod lleol eu darparu, neu y mae rhaid i'r awdurdod lleol eu darparu, o dan Ddeddf 2014, neu os byddai'n ategol at y gwasanaethau gofal a chymorth penodol hynny, a
- (b) os ydynt o natur y gellir disgwyl i'r awdurdod lleol eu darparu.

24 Taliadau uniongyrchol am ofal iechyd

- (1) Mae Deddf 2006 wedi ei diwygio fel a ganlyn.
- (2) Ar ôl adran 10A mewnosoder –

- (b) the requirement for a local authority to place a child who it is looking after with a person named in a child arrangements order,
to a person named in the child arrangements order as someone with whom the child is to live, but not any other person so named.
- (2) In section 76(6) of the 2014 Act, for paragraph (a) substitute –
 - “(a) named in a child arrangements order (that is in force) as a person with whom the child is to live,”.
- (3) In section 81(3) of the 2014 Act, in paragraph (c), for the words from “a person” to the end substitute “named in the child arrangements order as a person with whom the child was to live”.

Minor and consequential amendments

22 Social care: minor and consequential amendments

Schedule 1 makes minor and consequential amendments relating to the provisions in this Part.

PART 2

HEALTH CARE

23 Overview of Part 2

- (1) Sections 24 and 25 make provision for and in connection with allowing payments to be made directly to a patient or a person nominated by the patients for the purpose of the patient securing services or goods that otherwise must or may be provided under the National Health Service (Wales) Act 2006 (c. 42) (“the 2006 Act”) or under section 117 of the Mental Health Act 1983 (c. 20).
- (2) Section 26 amends section 47 of the 2014 Act so as to provide that a local authority may only provide or arrange the provision of services or facilities that are required to be provided under certain health enactments if –
 - (a) providing the services or facilities would be incidental or ancillary to certain care and support services that the local authority may or must provide under the 2014 Act, and
 - (b) they are of a nature that the local authority can be expected to provide.

24 Direct payments for health care

- (1) The 2006 Act is amended as follows.
- (2) After section 10A insert –

*“Direct payments for health care***10B Direct payments for health care**

- (1) The Welsh Ministers may, for the purpose of securing the provision to a patient of anything to which subsection (3) applies, make payments to the patient or to a person nominated by the patient.
- (2) Subsection (1) is subject to any provision made by regulations under section 10C.
- (3) This subsection applies to—
 - (a) anything that the Welsh Ministers may or must provide under section 2(1) or 3(1);
 - (b) anything for which the Welsh Ministers must arrange under paragraph 8 of Schedule 1;
 - (c) any vehicles that the Welsh Ministers may provide under paragraph 9 of Schedule 1;
 - (d) anything the Welsh Ministers may provide under paragraph 10 of Schedule 1 (including anything for which a grant may be made under paragraph 10(3) of Schedule 1).
- (4) Payments may not be made under subsection (1) unless the patient consents to the making of the payments, subject to any provision made by regulations under section 10C in respect of a patient who lacks capacity or is a child.
- (5) Where the Welsh Ministers make payments under subsection (1), they must, having regard to the purposes for which the payments are made, make arrangements for the provision to the patient, payee or their representative of such information, advice or other support, as the Welsh Ministers consider appropriate.
- (6) Regulations may provide that a Local Health Board may, for the purpose of securing the provision to a patient of after-care services that a Local Health Board must provide under section 117 of the Mental Health Act 1983 (c. 20), make payments to the patient or to a person nominated by the patient.
- (7) Regulations under subsection (6) must—
 - (a) provide that payments under the regulations cannot be made unless the patient consents to the making of the payments, subject to any provision made by regulations under section 10C in respect of a patient who lacks capacity or is a child;
 - (b) make provision in respect of information, advice or other support to be provided by a Local Health Board to patients, payees or their representatives in connection with the payments.
- (8) In section 10C and section 10D, “direct payments” means payments made under subsection (1) or under regulations made under subsection (6).

*“Direct payments for health care***10B Direct payments for health care**

- (1) The Welsh Ministers may, for the purpose of securing the provision to a patient of anything to which subsection (3) applies, make payments to the patient or to a person nominated by the patient.
- (2) Subsection (1) is subject to any provision made by regulations under section 10C.
- (3) This subsection applies to –
 - (a) anything that the Welsh Ministers may or must provide under section 2(1) or 3(1);
 - (b) anything for which the Welsh Ministers must arrange under paragraph 8 of Schedule 1;
 - (c) any vehicles that the Welsh Ministers may provide under paragraph 9 of Schedule 1;
 - (d) anything the Welsh Ministers may provide under paragraph 10 of Schedule 1 (including anything for which a grant may be made under paragraph 10(3) of Schedule 1).
- (4) Payments may not be made under subsection (1) unless the patient consents to the making of the payments, subject to any provision made by regulations under section 10C in respect of a patient who lacks capacity or is a child.
- (5) Where the Welsh Ministers make payments under subsection (1), they must, having regard to the purposes for which the payments are made, make arrangements for the provision to the patient, payee or their representative of such information, advice or other support, as the Welsh Ministers consider appropriate.
- (6) Regulations may provide that a Local Health Board may, for the purpose of securing the provision to a patient of after-care services that a Local Health Board must provide under section 117 of the Mental Health Act 1983 (c. 20), make payments to the patient or to a person nominated by the patient.
- (7) Regulations under subsection (6) must –
 - (a) provide that payments under the regulations cannot be made unless the patient consents to the making of the payments, subject to any provision made by regulations under section 10C in respect of a patient who lacks capacity or is a child;
 - (b) make provision in respect of information, advice or other support to be provided by a Local Health Board to patients, payees or their representatives in connection with the payments.
- (8) In section 10C and section 10D, “direct payments” means payments made under subsection (1) or under regulations made under subsection (6).

(9) In this section and section 10C –

- (a) “child” means a person who has not attained the age of 16;
- (b) references to a person lacking capacity are references to a person lacking capacity within the meaning of the Mental Capacity Act 2005 (c. 9).

10C Regulations about direct payments

- (1) Regulations may make provision about direct payments.
- (2) The regulations may, in particular, make provision about –
 - (a) the circumstances in which, and descriptions of persons and services in respect of which, direct payments may, must or must not be made;
 - (b) the circumstances in which direct payments may, must or must not be made to a person nominated by the patient;
 - (c) the making of direct payments (and, in particular, as to persons to whom payments may or must be made) if the patient lacks capacity to consent to the making of the payments or is a child;
 - (d) matters to which the Welsh Ministers or a Local Health Board may or must have regard when making a decision about direct payments;
 - (e) conditions that the Welsh Ministers or a Local Health Board may, must or must not attach in relation to direct payments;
 - (f) the steps that the Welsh Ministers or a Local Health Board may or must take before, or after, making a decision about direct payments;
 - (g) the conditions that the patient or (if different) the payee may or must be required to comply with before, after, or at the time when a direct payment is made;
 - (h) the amount of any direct payment or how it is to be calculated;
 - (i) the circumstances in which the Welsh Ministers or a Local Health Board may or must stop making direct payments;
 - (j) the circumstances in which the Welsh Ministers or a Local Health Board may or must require all or part of a direct payment to be repaid by the patient or (if different) the payee, or otherwise;
 - (k) the monitoring of the making of direct payments, of their use by the patient or (if different) the payee, or of services which they are used to secure;
 - (l) the review of decisions as to whether a direct payment should be made;

(9) In this section and section 10C –

- (a) “child” means a person who has not attained the age of 16;
- (b) references to a person lacking capacity are references to a person lacking capacity within the meaning of the Mental Capacity Act 2005 (c. 9).

10C Regulations about direct payments

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 - (a) the circumstances in which, and descriptions of persons and services in respect of which, direct payments may, must or must not be made;
 - (b) the circumstances in which direct payments may, must or must not be made to a person nominated by the patient;
 - (c) the making of direct payments (and, in particular, as to persons to whom payments may or must be made) if the patient lacks capacity to consent to the making of the payments or is a child;
 - (d) matters to which the Welsh Ministers or a Local Health Board may or must have regard when making a decision about direct payments;
 - (e) conditions that the Welsh Ministers or a Local Health Board may, must or must not attach in relation to direct payments;
 - (f) the steps that the Welsh Ministers or a Local Health Board may or must take before, or after, making a decision about direct payments;
 - (g) the conditions that the patient or (if different) the payee may or must be required to comply with before, after, or at the time when a direct payment is made;
 - (h) the amount of any direct payment or how it is to be calculated;
 - (i) the circumstances in which the Welsh Ministers or a Local Health Board may or must stop making direct payments;
 - (j) the circumstances in which the Welsh Ministers or a Local Health Board may or must require all or part of a direct payment to be repaid by the patient or (if different) the payee, or otherwise;
 - (k) the monitoring of the making of direct payments, of their use by the patient or (if different) the payee, or of services which they are used to secure;
 - (l) the review of decisions as to whether a direct payment should be made;

- (m) the arrangements to be made by the Welsh Ministers or Local Health Board for providing patients, payees or their representatives with information, advice or other support in connection with direct payments;
 - (n) the extent to which such support is to be treated as a service in respect of which direct payments may be made.
- (3) If the regulations make provision about persons who lack capacity to consent to the making of direct payments, the regulations may also make provision about the cases or circumstances where a person who has lacked that capacity but no longer does so (whether because of fluctuating capacity or regaining or gaining capacity).
 - (4) The regulations may provide for a sum which must be repaid to the Welsh Ministers or Local Health Board (as the case may be) by virtue of a condition or other requirement imposed by or under the regulations to be recoverable as a debt due to the Welsh Ministers or Local Health Board (as the case may be).
 - (5) The regulations may make provision –
 - (a) for a service in respect of which a direct payment has been made under section 10B(1) to be regarded as provided or arranged for by the Welsh Ministers under an enactment mentioned in section 10B(3), only to such extent and subject to such conditions as the regulations may specify;
 - (b) displacing functions or obligations of a Local Health Board with respect to the provision of after-care services under section 117 of the Mental Health Act 1983 (c. 20), only to such extent and subject to such conditions as the regulations may prescribe.
 - (6) In this section, “service” includes anything in respect of which direct payments may be made.

10D Arrangements with other bodies relating to direct payments

- (1) The Welsh Ministers or a Local Health Board may arrange with any person or body to provide assistance in connection with direct payments.
 - (2) Arrangements may be made under subsection (1) with voluntary organisations.
 - (3) Powers under this section may be exercised on such terms as may be agreed, including terms as to the making of payments by or to the Welsh Ministers or the Local Health Board.”
- (3) Yn adran 203(6A) –
- (a) ar ôl “section 10A(1),” mewnosoder “section 10C(1) (direct payments),”;
 - (b) ar ôl “section 82A (pharmaceutical needs assessments)” mewnosoder “or the first regulations under section 10B(6) (direct payments by Local Health Boards)”.

- (m) the arrangements to be made by the Welsh Ministers or Local Health Board for providing patients, payees or their representatives with information, advice or other support in connection with direct payments;
 - (n) the extent to which such support is to be treated as a service in respect of which direct payments may be made.
- (3) If the regulations make provision about persons who lack capacity to consent to the making of direct payments, the regulations may also make provision about the cases or circumstances where a person who has lacked that capacity but no longer does so (whether because of fluctuating capacity or regaining or gaining capacity).
- (4) The regulations may provide for a sum that must be repaid to the Welsh Ministers or Local Health Board (as the case may be) by virtue of a condition or other requirement imposed by or under the regulations to be recoverable as a debt due to the Welsh Ministers or Local Health Board (as the case may be).
- (5) The regulations may make provision –
- (a) for a service in respect of which a direct payment has been made under section 10B(1) to be regarded as provided or arranged for by the Welsh Ministers under an enactment mentioned in section 10B(3), only to such extent and subject to such conditions as the regulations may specify;
 - (b) displacing functions or obligations of a Local Health Board with respect to the provision of after-care services under section 117 of the Mental Health Act 1983 (c. 20), only to such extent and subject to such conditions as the regulations may prescribe.
- (6) In this section, “service” includes anything in respect of which direct payments may be made.

10D Arrangements with other bodies relating to direct payments

- (1) The Welsh Ministers or a Local Health Board may arrange with any person or body to provide assistance in connection with direct payments.
 - (2) Arrangements may be made under subsection (1) with voluntary organisations.
 - (3) Powers under this section may be exercised on such terms as may be agreed, including terms as to the making of payments by or to the Welsh Ministers or the Local Health Board.”
- (3) In section 203(6A) –
- (a) after “section 10A(1),” insert “section 10C(1) (direct payments),”;
 - (b) after “section 82A (pharmaceutical needs assessments)” insert “or the first regulations under section 10B(6) (direct payments by Local Health Boards)”.

25 Taliadau uniongyrchol am ofal iechyd: mân ddiwygiadau a diwygiadau canlyniadol

Mae Atodlen 2 yn gwneud mân ddiwygiadau a diwygiadau canlyniadol sy'n ymwneud â thaliadau uniongyrchol am ofal iechyd.

26 Darparu gwasanaethau iechyd gan awdurdodau lleol

(1) Mae Deddf 2014 wedi ei diwygio fel a ganlyn.

(2) Yn adran 47(1) –

(a) daw'r geiriau o "y byddai gwneud hynny yn gysylltiedig" hyd at y diwedd yn baragraff (a);

(b) ar ddiwedd y paragraff hwnnw mewnosoder ", a

(b) y byddai'r gwasanaeth neu'r cyfleuster o dan sylw o natur y gellid disgwyl i'r awdurdod lleol ei ddarparu."

(3) Yn adran 47(2) –

(a) daw'r geiriau o "y byddai gwneud hynny'n gysylltiedig" hyd at y diwedd yn baragraff (a);

(b) ar ddiwedd y paragraff hwnnw mewnosoder ", a

(b) y byddai'r gwasanaeth neu'r cyfleuster o dan sylw o natur y gellid disgwyl i'r awdurdod lleol ei ddarparu."

RHAN 3**CYFFREDINOL****27 Dehongli cyffredinol**

Yn y Ddeddf hon –

ystyr "Deddf 2006" (*"the 2006 Act"*) yw Deddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p. 42);

ystyr "Deddf 2014" (*"the 2014 Act"*) yw Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4);

ystyr "Deddf 2016" (*"the 2016 Act"*) yw Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 (dccc 2).

28 Darpariaeth ganlyniadol a darpariaeth drosiannol etc.

(1) Caiff Gweinidogion Cymru drwy reoliadau –

(a) gwneud darpariaeth sy'n ddeilliadol neu'n atodol i unrhyw ddarpariaeth yn y Ddeddf hon neu sy'n ganlyniadol ar unrhyw ddarpariaeth yn y Ddeddf hon;

(b) gwneud darpariaeth drosiannol neu ddarpariaeth arbed mewn cysylltiad ag unrhyw ddarpariaeth yn y Ddeddf hon.

(2) O ran rheoliadau o dan yr adran hon –

(a) cânt ddiwygio, addasu, diddymu neu ddirymu unrhyw ddeddfiad, pa bryd bynnag y'i deddfir neu y'i gwneir, gan gynnwys y Ddeddf hon;

(b) maent i'w gwneud drwy offeryn statudol.

25 Direct payments for health care: minor and consequential amendments

Schedule 2 makes minor and consequential amendments relating to direct payments for health care.

26 Provision of health services by local authorities

- (1) The 2014 Act is amended as follows.
- (2) In section 47(1) —
 - (a) the words from “doing so would be incidental” to the end become paragraph (a);
 - (b) at the end of that paragraph, insert “, and
 - (b) the service or the facility in question would be of a nature that the local authority could be expected to provide.””
- (3) In section 47(2) —
 - (a) the words from “doing so would be incidental” to the end become paragraph (a);
 - (b) at the end of that paragraph insert “, and
 - (b) the service or the facility in question would be of a nature that the local authority could be expected to provide.””

PART 3**GENERAL****27 General interpretation**

In this Act —

“the 2006 Act” (“*Deddf 2006*”) means the National Health Service (Wales) Act 2006 (c. 42);

“the 2014 Act” (“*Deddf 2014*”) means the Social Services and Well-being (Wales) Act 2014 (anaw 4);

“the 2016 Act” (“*Deddf 2016*”) means the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2).

28 Consequential and transitional provision etc.

- (1) The Welsh Ministers may by regulations —
 - (a) make provision that is incidental or supplementary to, or consequential on, any provision of this Act;
 - (b) make transitional or saving provision in connection with any provision of this Act.
- (2) Regulations under this section —
 - (a) may amend, modify, repeal or revoke any enactment, whenever enacted or made, including this Act;
 - (b) are to be made by statutory instrument.

- (3) Ni chaniateir gwneud offeryn statudol sy'n cynnwys rheoliadau a wneir o dan yr adran hon ac sy'n diwygio, yn addasu neu'n diddymu deddfiad sydd wedi ei gynnwys mewn deddfwriaeth sylfaenol oni bai bod drafft o'r offeryn wedi ei osod gerbron Senedd Cymru ac wedi ei gymeradwyo ganddi drwy benderfyniad.
- (4) Mae unrhyw offeryn statudol arall sy'n cynnwys rheoliadau o dan yr adran hon yn ddarostyngedig i'w ddiddymu yn unol â phenderfyniad gan Senedd Cymru.
- (5) Yn is-adran (3), ystyr "deddfwriaeth sylfaenol" yw –
 - (a) Deddf gan Senedd Cymru;
 - (b) Mesur gan Gynulliad Cenedlaethol Cymru;
 - (c) Deddf gan Senedd y Deyrnas Unedig.

29 Dod i rym

- (1) Daw'r darpariaethau a ganlyn i rym drannoeth y diwrnod y caiff y Ddeddf hon y Cydsyniad Brenhinol –
 - (a) yn Rhan 1 –
 - (i) adrannau 1, 16, 21 a 22 (i'r graddau y mae'n ymwneud â pharagraff 3(b) o Atodlen 1);
 - (ii) paragraffau 2(1) a (6), 3(b), 5(1) a (4), 7(1), (3), (4), (14) a (15) o Atodlen 1;
 - (b) yn Rhan 2, adrannau 23 a 26;
 - (c) y Rhan hon.
- (2) Daw darpariaethau eraill y Ddeddf hon i rym ar ddiwrnod a bennir gan Weinidogion Cymru mewn gorchymyn a wneir drwy offeryn statudol.
- (3) Caiff gorchymyn o dan is-adran (2) wneud darpariaeth drosiannol neu ddarpariaeth arbed.

30 Enw byr

Enw byr y Ddeddf hon yw Deddf Iechyd a Gofal Cymdeithasol (Cymru) 2025.

- (3) A statutory instrument containing regulations made under this section that amend, modify or repeal an enactment contained in primary legislation may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (4) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of Senedd Cymru.
- (5) In subsection (3), “primary legislation” means —
 - (a) an Act of Senedd Cymru;
 - (b) a Measure of the National Assembly for Wales;
 - (c) an Act of the Parliament of the United Kingdom.

29 Coming into force

- (1) The following provisions come into force on the day after the day on which this Act receives Royal Assent —
 - (a) in Part 1 —
 - (i) sections 1, 16, 21 and 22 (in so far as it relates to paragraph 3(b) of Schedule 1);
 - (ii) paragraphs 2(1) and (6), 3(b), 5(1) and (4), 7(1), (3), (4), (14) and (15) of Schedule 1;
 - (b) in Part 2, sections 23 and 26;
 - (c) this Part.
- (2) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (3) An order under subsection (2) may make transitional or saving provision.

30 Short title

The short title of this Act is the Health and Social Care (Wales) Act 2025.

ATODLEN 1

(fel y'i cyflwynir gan adran 22)

GOFAL CYMDEITHASOL: MÂN DDIWYGIADAU A DIWYGIADAU CANLYNIADOL

RHAN 1

DARPARU GWASANAETHAU GOFAL CYMDEITHASOL I BLANT: MÂN DDIWYGIADAU A DIWYGIADAU CANLYNIADOL

Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4)

1 (1) Mae Deddf 2014 wedi ei diwygio fel a ganlyn.

(2) Yn adran 82 –

(a) yn is-adran (1), yn lle “adran 81(6)(d)” rhodder “adran 81A(3)(d)”;

(b) yn is-adran (2), yn lle “adran 81(6)(d)” rhodder “adran 81A(3)(d)”.

(3) Yn adran 89 –

(a) yn y pennawd, yn lle “adran 81(6)(d)” rhodder “adran 81A(3)(d)”;

(b) yn is-adran (1), yn lle “adran 81(6)(d)” rhodder “adran 81A(3)(d)”.

(4) Yn adran 92(2), yn lle “adran 81(11)” rhodder “adran 81C(2)”.

(5) Yn adran 94A(1)(a), yn lle “adran 81” rhodder “adrannau 81 i 81D”.

(6) Yn adran 174(3)(e), yn lle “adran 81(11)” rhodder “adran 81C(2)”.

(7) Yn adran 186(4)(c), yn lle “adran 81” rhodder “adrannau 81 i 81D”.

(8) Yn adran 197(1), yn y lleoedd priodol mewnosoder –

“mae i “darparwr er elw” (“for-profit provider”) yr ystyr a roddir gan adran 75A(4);”;

“mae i “darparwr preifat” (“private provider”) yr ystyr a roddir gan adran 75A(5);”.

Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 (dccc 2)

2 (1) Mae Deddf 2016 wedi ei diwygio fel a ganlyn.

(2) Yn adran 13, yn is-adran (5), yn lle paragraff (a) rhodder –

“(a) yn achos amrywiad –

(i) o dan is-adran (1), (3)(a) neu (c) neu (4)(a), neu

(ii) yn unol â pharagraff 3(4)(a) o Atodlen 1A,

oni bai bod gofynion adrannau 18 a 19 wedi eu bodloni;”.

(3) Yn adran 15, yn is-adran (3), yn lle paragraff (a) rhodder –

“(a) yn achos –

(i) canslo ar y seiliau a nodir yn is-adran (1)(a), (b), (ba) neu (g), neu

SCHEDULE 1
(as introduced by section 22)

SOCIAL CARE: MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

PROVISION OF SOCIAL CARE SERVICES TO CHILDREN: MINOR AND CONSEQUENTIAL
AMENDMENTS

Social Services and Well-being (Wales) Act 2014 (anaw 4)

- 1 (1) The 2014 Act is amended as follows.
- (2) In section 82—
 - (a) in subsection (1), for “section 81(6)(d)” substitute “section 81A(3)(d)”;
 - (b) in subsection (2), for “section 81(6)(d)” substitute “section 81A(3)(d)”.
- (3) In section 89—
 - (a) in the heading, for “section 81(6)(d)” substitute “section 81A(3)(d)”;
 - (b) in subsection (1), for “section 81(6)(d)” substitute “section 81A(3)(d)”.
- (4) In section 92(2), for “section 81(11)” substitute “section 81C(2)”.
- (5) In section 94A(1)(a), for “section 81” substitute “sections 81 to 81D”.
- (6) In section 174(3)(e), for “section 81(11)” substitute “section 81C(2)”.
- (7) In section 186(4)(c), for “section 81” substitute “sections 81 to 81D”.
- (8) In section 197(1), in the appropriate places insert—

““for-profit provider” (“*darparwr er elw*”) has the meaning given by section 75A(4);”;

““private provider” (“*darparwr preifat*”) has the meaning given by section 75A(5);”.

Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)

- 2 (1) The 2016 Act is amended as follows.
- (2) In section 13, in subsection (5), for paragraph (a) substitute—

“(a) in the case of variation—

 - (i) under subsection (1), (3)(a) or (c) or (4)(a), or
 - (ii) in accordance with paragraph 3(4)(a) of Schedule 1A, the requirements of sections 18 and 19 are met;”.
- (3) In section 15, in subsection (3), for paragraph (a) substitute—

“(a) in the case of—

 - (i) cancellation on the grounds set out in subsection (1)(a), (b), (ba) or (g), or

- (ii) canslo yn unol â pharagraff 3(4)(b) o Atodlen 1A, oni bai bod gofynion adrannau 18 a 19 wedi eu bodloni;”.
- (4) Yn adran 64, yn y lleoedd priodol mewnosoder –
 - “mae i “gwasanaeth cartref plant” (“*children’s home service*”) yr ystyr a roddir gan adran 2A;”;
 - “mae i “gwasanaeth plant o dan gyfyngiad” (“*restricted children’s service*”) yr ystyr a roddir gan adran 2A;”.
- (5) Yn adran 187, yn is-adran (2) –
 - (a) ar ôl paragraff (c) mewnosoder –
 - “(ca) adran 6A(3)(b) (rheoliadau sy’n rhagnodi buddion cyhoeddus y mae rhaid i amcanion neu ddibenion person ymwneud yn anad dim â hwy);”;
 - (b) ar ôl paragraff (w) mewnosoder –
 - “(x) paragraffau 1(1)(b) a 3(1) o Atodlen 1A (rheoliadau mewn perthynas â’r cyfnod trosiannol ar gyfer gwasanaethau plant o dan gyfyngiad).”
- (6) Yn Atodlen 1 –
 - (a) ym mharagraff 1(1) –
 - (i) yn lle’r geiriau “mewn man” rhodder “,”;
 - (ii) ar ôl y geiriau “yng Nghymru” hepgorer “,”;
 - (b) ym mharagraff 1(4), yn lle’r geiriau o “gan riant” hyd at y diwedd rhodder “yn gyfystyr â gwasanaeth cartref gofal os yw’r llety a’r gofal yn cael eu darparu gan –
 - (a) person, ac eithrio awdurdod lleol, sydd â chyfrifoldeb rhiant dros y plentyn;
 - (b) perthynas i’r plentyn;
 - (c) rhiant maeth mewn perthynas â’r plentyn (ond gweler hefyd baragraff 5A(3) o Atodlen 7 i Ddeddf Plant 1989 (p. 41).”;
 - (c) yn lle paragraff 1(6) rhodder –
 - “(6) Yn is-baragraff (4), mae i “cyfrifoldeb rhiant” yr ystyr a roddir i “parental responsibility” gan adran 3 o Ddeddf Plant 1989 (p. 41).”

RHAN 2

DIWYGIADAU AMRYWIOL MEWN PERTHYNAS Â GWASANAETHAU GOFAL CYMDEITHASOL
ETC.: MÂN DDIWYGIADAU A DIWYGIADAU CANLYNIADOL

Deddf Iechyd Meddwl 1983 (p. 20)

- 3 Yn Neddf Iechyd Meddwl 1983 (p. 20), yn adran 117(2C) –
 - (a) ym mharagraff (a)(ii) –
 - (i) yn lle “sections 50, 51 and 53 of” rhodder “Schedule A1 to”;
 - (ii) hepgorer y geiriau mewn cromfachau;

- (ii) cancellation in accordance with paragraph 3(4)(b) of Schedule 1A,

the requirements of sections 18 and 19 are met;”.
- (4) In section 64, in the appropriate places insert –
 - ““children’s home service” (“*gwasanaeth cartref plant*”) has the meaning given by section 2A;”;
 - ““restricted children’s service” (“*gwasanaeth plant o dan gyfyngiad*”) has the meaning given by section 2A;”.
- (5) In section 187, in subsection (2) –
 - (a) after paragraph (c) insert –
 - “(ca) section 6A(3)(b) (regulations prescribing public goods to which a person’s objects or purposes must primarily relate);”;
 - (b) after paragraph (w) insert –
 - “(x) paragraphs 1(1)(b) and 3(1) of Schedule 1A (regulations in relation to transitional period for restricted children’s services).”
- (6) In Schedule 1 –
 - (a) in paragraph 1(1) –
 - (i) for the words “at a place” substitute “,”;
 - (ii) after the words “in Wales” omit “,”;
 - (b) in paragraph 1(4), for the words “by a” to the end substitute “does not constitute a care home service if the accommodation and care is provided by –
 - (a) a person, other than a local authority, who has parental responsibility for the child;
 - (b) a relative of the child;
 - (c) a foster parent in relation to the child (but see also paragraph 5A(3) of Schedule 7 to the Children Act 1989 (c. 41).”;
 - (c) for paragraph 1(6) substitute –
 - “(6) In sub-paragraph (4), “parental responsibility” has the meaning given by section 3 of the Children Act 1989 (c. 41).”

PART 2

MISCELLANEOUS AMENDMENTS IN RELATION TO SOCIAL CARE SERVICES ETC.: MINOR AND CONSEQUENTIAL AMENDMENTS

Mental Health Act 1983 (c. 20)

- 3 In the Mental Health Act 1983 (c.20), in section 117(2C) –
 - (a) in paragraph (a)(ii) –
 - (i) for “sections 50, 51 and 53 of” substitute “Schedule A1 to”;
 - (ii) omit the words in parentheses;

- (b) ym mharagraff (b), yn lle'r geiriau o "be provided" hyd at y diwedd rhodder "otherwise be provided under this section".

Deddf Diogelu Grwpiau Hyglwyf 2006 (p. 47)

- 4 (1) Mae Deddf Diogelu Grwpiau Hyglwyf 2006 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 6, ar ôl is-adran (8G) (fel y'i mewnosodir gan baragraff 4(2) o Atodlen 2) mewnosoder —
- “(8H) A local authority does not make arrangements for another to engage in a regulated activity by virtue of anything the authority does under regulations under section 49A of, or Schedule A1 to, the Social Services and Well-being (Wales) Act 2014 (anaw 4);
- (8I) A person (P) who is authorised as mentioned in subsection (5)(a) of section 50 of, or paragraph 4(5)(a) of Schedule A1 to, the Social Services and Well-being (Wales) Act 2014 does not make arrangements for another to engage in a regulated activity by virtue of anything that P does under subsection (5)(b) or (6)(b) of section 50 or paragraph 4(5)(b) or (6)(b) of Schedule A1.”
- (3) Yn adran 30(8), yn lle "sections 50 to 53 of" rhodder "section 49A of, or Schedule A1 to,".

Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (dccc 4)

- 5 (1) Mae Deddf 2014 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 49(1)(a), yn lle "adrannau 50 i 53" rhodder "adrannau 49A i 53A".
- (3) Yn adran 53 —
- (a) yn lle "50, 51 neu 52", ym mhob lle y mae'n digwydd, rhodder "49A";
- (b) yn is-adran (1)(k), yn lle "50" rhodder "49A";
- (c) yn is-adran (7), yn lle "51" rhodder "49A(1)(b)";
- (d) hepgorer is-adran (11).
- (4) Yn adran 124(9), yn y testun Cymraeg, ar ôl "Nid yw'r adran hon yn gymwys" mewnosoder —
- (a) i awdurdod lleol sy'n lleoli plentyn mewn llety diogel yn yr Alban o dan adran 25 o Ddeddf Plant 1989, na
- (b) ”.
- (5) Yn adran 187(2), yn lle "adran 50 neu 51" rhodder "adran 49A nac Atodlen A1".
- (6) Yn adran 189 —
- (a) yn is-adran (5)(a)(ii), yn lle "adran 50 neu 52" rhodder "adran 49A(1)(a) neu (c)";
- (b) yn is-adran (7)(b), yn lle "adran 50 neu 52" rhodder "adran 49A(1)(a) neu (c)".

Deddf Cyfiawnder Troseddol a'r Llysoedd 2015 (p. 2)

- 6 (1) Mae Deddf Cyfiawnder Troseddol a'r Llysoedd 2015 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 21, yn is-adran (8), yn lle paragraff (d) rhodder —

- (b) in paragraph (b), for the words from “be provided” to the end substitute “otherwise be provided under this section”.

Safeguarding Vulnerable Groups Act 2006 (c. 47)

- 4 (1) The Safeguarding Vulnerable Groups Act 2006 is amended as follows.
- (2) In section 6, after subsection (8G) (as inserted by paragraph 4(2) of Schedule 2) insert —
- “(8H) A local authority does not make arrangements for another to engage in a regulated activity by virtue of anything the authority does under regulations under section 49A of, or Schedule A1 to, the Social Services and Well-being (Wales) Act 2014 (anaw 4);
- (8I) A person (P) who is authorised as mentioned in subsection (5)(a) of section 50 of, or paragraph 4(5)(a) of Schedule A1 to, the Social Services and Well-being (Wales) Act 2014 does not make arrangements for another to engage in a regulated activity by virtue of anything that P does under subsection (5)(b) or (6)(b) of section 50 or paragraph 4(5)(b) or (6)(b) of Schedule A1.”
- (3) In section 30(8), for “sections 50 to 53 of” substitute “section 49A of, or Schedule A1 to,”.

Social Services and Well-being (Wales) Act 2014 (anaw 4)

- 5 (1) The 2014 Act is amended as follows.
- (2) In section 49(1)(a), for “sections 50 to 53” substitute “sections 49A to 53A”.
- (3) In section 53 —
- (a) for “50, 51 or 52” each time it appears, substitute “49A”;
- (b) in subsection (1)(k), for “50” substitute “49A”;
- (c) in subsection (7), for “51” substitute “49A(1)(b)”;
- (d) omit subsection (11).
- (4) In section 124(9), in the Welsh language text, after “Nid yw’r adran hon yn gymwys” insert “ —
- (a) i awdurdod lleol sy’n lleoli plentyn mewn llety diogel yn yr Alban o dan adran 25 o Ddeddf Plant 1989, na
- (b) ”.
- (5) In section 187(2), for “section 50 or 51” substitute “section 49A or Schedule A1”.
- (6) In section 189 —
- (a) in subsection (5)(a)(ii), for “section 50 or 52” substitute “section 49A(1)(a) or (c)”;
- (b) in subsection (7)(b), for “section 50 or 52” substitute “section 49A(1)(a) or (c)”.

Criminal Justice and Courts Act 2015 (c. 2)

- 6 (1) The Criminal Justice and Courts Act 2015 is amended as follows.
- (2) In section 21, in subsection (8), for paragraph (d) substitute —

- “(d) Schedule A1 to the Social Services and Well-being (Wales) Act 2014 (anaw 4) (direct payments for after-care made by local authorities);
- (e) regulations under section 49A of the Social Services and Well-being (Wales) Act 2014 (direct payments for care and support) where the payment is made towards the cost of meeting the needs of an adult or a carer who is an adult.”

Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 (dccc 2)

- 7 (1) Mae Deddf 2016 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 1, ym mharagraff (c), ar y diwedd mewnosoder “ac ymchwiliadau”.
- (3) Yn adran 16, yn is-adran (1) –
- (a) ym mharagraff (a), yn lle “adran 15” rhodder “adran 15(1)(c), (d), (e) neu (f)”;
 - (b) ym mharagraff (b), yn lle “adran 13(3) neu (4)” rhodder “adran 13(3)(b) neu (4)(b), (ba) neu (c)”.
- (4) Yn adran 18, yn is-adran (1) –
- (a) ar ddiwedd paragraff (b) hepgorer “neu”;
 - (b) ym mharagraff (c)(ii), yn lle “adran 13(3) neu (4), 23(1)(b) neu 25(2)(a).” rhodder “adran 13(3)(b) neu (4)(b), (ba) neu (c), 23(1)(b) neu 25(2)(a), neu”;
 - (c) ar ôl paragraff (c) mewnosoder –
 - “(d) canslo cofrestriad darparwr gwasanaeth ac eithrio o dan adran 15(1)(c), (d), (e) ac (f).”
- (5) Ym mhennawd Pennod 3, yn lle’r geiriau “ac arolygiadau” rhodder “, arolygiadau ac ymchwiliadau”.
- (6) Ym mhennawd adran 33, ar ôl y gair “arolygiadau” mewnosoder “, ymchwiliadau”.
- (7) Ym mhennawd adran 34, yn lle “ac arolygu mangreoedd” rhodder “i fangreoedd”.
- (8) Ym mhennawd adran 50, ar y diwedd mewnosoder “ac ymchwiliadau”.
- (9) Yn adran 144, yn is-adran (6), yn lle’r geiriau “; gweler adran 148 (estyn gorchymyn interim gan y tribiwnlys)” rhodder “gan y tribiwnlys o dan adran 148”.
- (10) Yn adran 146, yn is-adran (9), ym mharagraff (a) hepgorer “gan y tribiwnlys”.
- (11) Yn adran 149, yn is-adran (4)(a), yn lle “gan y tribiwnlys” rhodder “(pa un ai gan banel neu gan y tribiwnlys)”.
- (12) Yn adran 161, yn is-adran (6)(b), yn lle “neu amrywio” rhodder “, amrywio neu estyn”.
- (13) Yn adran 163, yn is-adran (1)(d), yn lle “neu a amrywir” rhodder “, a amrywir neu a estynnir”.
- (14) Yn Atodlen 2, ym mharagraff 15(3)(d), yn lle “y Cynulliad Cenedlaethol” rhodder “Senedd Cymru”.
- (15) Yn y darpariaethau a ganlyn, ym mhob lle y maent yn ymddangos, yn lle “Cynulliad Cenedlaethol Cymru” a “Gynulliad Cenedlaethol Cymru” rhodder “Senedd Cymru” –
- (a) adran 10(6);

- “(d) Schedule A1 to the Social Services and Well-being (Wales) Act 2014 (anaw 4) (direct payments for after-care made by local authorities);
- (e) regulations under section 49A of the Social Services and Well-being (Wales) Act 2014 (direct payments for care and support) where the payment is made towards the cost of meeting the needs of an adult or a carer who is an adult.”

Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2)

- 7 (1) The 2016 Act is amended as follows.
- (2) In section 1, in paragraph (c), at the end insert “and investigations”.
 - (3) In section 16, in subsection (1) –
 - (a) in paragraph (a), for “section 15” substitute “section 15(1)(c), (d), (e) or (f)”;
 - (b) in paragraph (b), for “section 13(3) or (4)” substitute “section 13(3)(b) or (4)(b), (ba) or (c)”.
 - (4) In section 18, in subsection (1) –
 - (a) at the end of paragraph (b) omit “or”;
 - (b) in paragraph (c)(ii), for “section 13(3) or (4), 23(1)(b) or 25(2)(a).” substitute “section 13(3)(b) or (4)(b), (ba) or (c), 23(1)(b) or 25(2)(a), or”;
 - (c) after paragraph (c) insert –
 - “(d) cancel the registration of a service provider other than under section 15(1)(c), (d), (e) and (f).”
 - (5) In the heading of Chapter 3, for the words “and inspections” substitute “, inspections and investigations”.
 - (6) In the heading of section 33, after the word “inspections” insert “, investigations”.
 - (7) In the heading of section 34, omit “and inspect”.
 - (8) In the heading of section 50, at the end insert “and investigations”.
 - (9) In section 144, in subsection (6), for the words “; see section 148 (extension of interim order by the tribunal)” substitute “by the tribunal under section 148”.
 - (10) In section 146, in subsection (9), in paragraph (a) omit “by the tribunal”.
 - (11) In section 149, in subsection (4)(a), for “by the tribunal” substitute “(whether by a panel or the tribunal)”
 - (12) In section 161, in subsection (6)(b), for “or vary” substitute “, vary or extend”.
 - (13) In section 163, in subsection (1)(d), for “or varied” substitute “, varied or extended”.
 - (14) In Schedule 2, in paragraph 15(3)(d), for “of the National Assembly” substitute “of Senedd Cymru”.
 - (15) In the following provisions, in each place that it appears, for “the National Assembly for Wales” substitute “Senedd Cymru” –
 - (a) section 10(6);

- (b) adran 27(5);
- (c) adran 41(4);
- (d) adran 42(5);
- (e) adran 186(4), (5) a (6);
- (f) adran 187(2) a (3);
- (g) Atodlen 2, paragraffau 15(3)(d) ac 16(4)(b).

Rheoliadau Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (Diwygiadau Canlyniadol) 2016 (O.S. 2016/413 (Cy. 131))

- 8 (1) Mae Rheoliadau Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (Diwygiadau Canlyniadol) 2016 wedi eu diwygio fel a ganlyn.
- (2) Hepgorer –
- (a) rheoliad 2(5);
 - (b) rheoliad 253.

- (b) section 27(5);
- (c) section 41(4);
- (d) section 42(5);
- (e) section 186(4), (5) and (6);
- (f) section 187(2) and (3);
- (g) Schedule 2, paragraphs 15(3)(d) and 16(4)(b).

Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (S.I. 2016/413 (W. 131))

- 8 (1) The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 are amended as follows.
- (2) Omit—
- (a) regulation 2(5);
 - (b) regulation 253.

ATODLEN 2

*(fel y'i cyflwynir gan adran 25)*TALIADAU UNIONGYRCHOL AM OFAL IECHYD: MÂN DDIWYGIADAU A
DIWYGIADAU CANLYNIADOL*Deddf Iechyd Meddwl 1983 (p. 20)*

- 1 (1) Mae Deddf Iechyd Meddwl 1983 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 117(2C) —
- (a) ar ddiwedd paragraff (a)(ii) hepgorer “or”;
 - (b) ar ddiwedd paragraff (a)(iii), yn lle “and” rhodder “or”;
 - (c) ar ôl paragraff (a)(iii) mewnosoder —
 - “(iv) regulations under section 10B(6) of the National Health Service (Wales) Act 2006, and”.

Deddf Personau Anabl (Gwasanaethau, Ymgynghori a Chynrychioli) 1986 (p. 33)

- 2 (1) Mae Deddf Personau Anabl (Gwasanaethau, Ymgynghori a Chynrychioli) 1986 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 2(5), ar ôl paragraff (aa) mewnosoder —
- “(ab) in hospital accommodation in Wales or in England in respect of the provision of which direct payments are made under section 10B(1) of the National Health Service (Wales) Act 2006, or”.

Deddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p. 42)

- 3 (1) Mae Deddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 wedi ei diwygio fel a ganlyn.
- (2) Yn adran 184 —
- (a) yn is-adran (2) —
 - (i) ym mharagraff (b), ar ôl “local NHS bodies” mewnosoder “, direct payment service providers”;
 - (ii) ym mharagraff (c), ar ôl “local NHS bodies” mewnosoder “or direct payment service providers”;
 - (iii) ym mharagraff (d), ar ôl “local NHS bodies” mewnosoder “or direct payment service providers”;
 - (iv) ym mharagraff (e), ar ôl “local NHS body” mewnosoder “or a direct payment service provider”;
 - (v) ym mharagraff (f), ar ôl “local NHS body” mewnosoder “or a direct payment service provider”;
 - (b) ar ôl is-adran (3) mewnosoder —

SCHEDULE 2
(as introduced by section 25)

DIRECT PAYMENTS FOR HEALTH CARE: MINOR AND CONSEQUENTIAL
AMENDMENTS

Mental Health Act 1983 (c. 20)

- 1 (1) The Mental Health Act 1983 is amended as follows.
- (2) In section 117(2C) –
- (a) at the end of paragraph (a)(ii) omit “or”;
 - (b) at the end of paragraph (a)(iii), for “and” substitute “or”;
 - (c) after paragraph (a)(iii) insert –
 - “(iv) regulations under section 10B(6) of the National Health Service (Wales) Act 2006, and”.

Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)

- 2 (1) The Disabled Persons (Services, Consultation and Representation) Act 1986 is amended as follows.
- (2) In section 2(5), after paragraph (aa) insert –
- “(ab) in hospital accommodation in Wales or in England in respect of the provision of which direct payments are made under section 10B(1) of the National Health Service (Wales) Act 2006, or”.

National Health Service (Wales) Act 2006 (c. 42)

- 3 (1) The National Health Service (Wales) Act 2006 is amended as follows.
- (2) In section 184 –
- (a) in subsection (2) –
 - (i) in paragraph (b), after “local NHS bodies” insert “, direct payment service providers”;
 - (ii) in paragraph (c), after “local NHS bodies” insert “or direct payment service providers”;
 - (iii) in paragraph (d), after “local NHS bodies” insert “or direct payment service providers”;
 - (iv) in paragraph (e), after “local NHS body” insert “or a direct payment service provider”;
 - (v) in paragraph (f), after “local NHS body” insert “or a direct payment service provider”;
 - (b) after subsection (3) insert –

“(3A) For the purposes of subsection (2) and section 186, “direct payment service provider” in relation to an overview and scrutiny committee of a local authority means a person who provides services to any person residing in the authority’s area in respect of which direct payments have been made under section 10B(1), or under regulations made under section 10B(6).”

(3) Yn adran 186(3) –

(a) ar ddiwedd paragraff (a) hepgorer “or”;

(b) ar ôl paragraff (a) mewnosoder –

“(ab) by adding any description or other provision in connection with a direct payment service provider or services provided by, or under arrangements made by, a direct payment service provider, or”.

(4) Yn adran 187 –

(a) yn is-adran (2) –

(i) ym mharagraff (a), o flaen “health service body” mewnosoder “direct payment service provider,”;

(ii) ym mharagraff (ca), o flaen “health service body” mewnosoder “direct payment service provider,”;

(b) yn is-adran (3), yn y lle priodol mewnosoder –

““direct payment service provider” means a person who provides services to any person in respect of which direct payments have been made under section 10B(1), or under regulations made under section 10B(6),”.

(5) Yn adran 207, yn y lle priodol mewnosoder –

“direct payment service provider	section 187(3)”
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Deddf Diogelu Grwpiau Hyglwyf 2006 (p. 47)

4 (1) Mae Deddf Diogelu Grwpiau Hyglwyf 2006 wedi ei diwygio fel a ganlyn.

(2) Yn adran 6, ar ôl is-adran (8E) mewnosoder –

“(8F) The Welsh Ministers do not make arrangements for another to engage in a regulated activity by virtue of anything the Welsh Ministers do under section 10B, or under regulations under section 10C, of the National Health Service (Wales) Act 2006.

(8G) A Local Health Board does not make arrangements for another to engage in a regulated activity by virtue of anything it does under regulations under section 10B(6) of the National Health Service (Wales) Act 2006.”

Deddf Cyfiawnder Troseddol a’r Llysoedd 2015 (p. 2)

5 (1) Mae Deddf Cyfiawnder Troseddol a’r Llysoedd 2015 wedi ei diwygio fel a ganlyn.

“(3A) For the purposes of subsection (2) and section 186, “direct payment service provider” in relation to an overview and scrutiny committee of a local authority means a person who provides services to any person residing in the authority’s area in respect of which direct payments have been made under section 10B(1), or under regulations made under section 10B(6).”

(3) In section 186(3) –

(a) at the end of paragraph (a) omit “or”;

(b) after paragraph (a) insert –

“(ab) by adding any description or other provision in connection with a direct payment service provider or services provided by, or under arrangements made by, a direct payment service provider, or”.

(4) In section 187 –

(a) in subsection (2) –

(i) in paragraph (a), before “health service body” insert “direct payment service provider,”;

(ii) in paragraph (ca), before “health service body” insert “direct payment service provider,”;

(b) in subsection (3), in the appropriate place insert –

““direct payment service provider” means a person who provides services to any person in respect of which direct payments have been made under section 10B(1), or under regulations made under section 10B(6),”.

(5) In section 207, in the appropriate place insert –

“direct payment service provider	section 187(3)”
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Safeguarding Vulnerable Groups Act 2006 (c. 47)

4 (1) The Safeguarding Vulnerable Groups Act 2006 is amended as follows.

(2) In section 6, after subsection (8E) insert –

“(8F) The Welsh Ministers do not make arrangements for another to engage in a regulated activity by virtue of anything the Welsh Ministers do under section 10B, or under regulations under section 10C, of the National Health Service (Wales) Act 2006.

(8G) A Local Health Board does not make arrangements for another to engage in a regulated activity by virtue of anything it does under regulations under section 10B(6) of the National Health Services (Wales) Act 2006.”

Criminal Justice and Courts Act 2015 (c. 2)

5 (1) The Criminal Justice and Courts Act 2015 is amended as follows.

(2) Yn adran 21, yn is-adran (8), ar ôl paragraff (b) mewnosoder –

- “(ba) section 10B of the National Health Service (Wales) Act 2006 (c. 42) (direct payments for health care);
- (bb) regulations under section 10B(5) of the National Health Service (Wales) Act 2006 (direct payments for after-care made by Local Health Boards);”.

Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2019 (dccc 3)

6 (1) Mae Deddf Ombwdsmon Gwasanaethau Cyhoeddus (Cymru) 2019 wedi ei diwygio fel a ganlyn.

(2) Yn adran 1(5) –

- (a) ym mharagraff (a), yn lle “a darparwyr gofal lliniarol” rhodder “, darparwyr gofal lliniarol a darparwyr gwasanaethau taliadau uniongyrchol”;
- (b) ym mharagraff (b), yn lle “a gofal lliniarol” rhodder “, gofal lliniarol a gwasanaethau taliadau uniongyrchol”;
- (c) ym mharagraff (c), yn lle “y materion gofal cymdeithasol a gofal lliniarol” rhodder “y materion sy’n ymwneud â gofal cymdeithasol, gofal lliniarol a gwasanaethau taliadau uniongyrchol”;
- (d) ym mharagraff (d), yn lle “a gofal lliniarol” rhodder “, gofal lliniarol a gwasanaethau taliadau uniongyrchol”;
- (e) ym mharagraff (e), yn lle “a gofal lliniarol” rhodder “, gofal lliniarol a gwasanaethau taliadau uniongyrchol”.

(3) Ym mhennawd Rhan 5, yn lle “a gofal lliniarol” rhodder “, gofal lliniarol a gwasanaethau taliadau uniongyrchol”.

(4) Yn adran 42 –

(a) yn is-adran (1), ar ôl paragraff (c) mewnosoder –

- “(d) camau gweithredu a gymerwyd gan ddarparwr gwasanaeth taliadau uniongyrchol mewn cysylltiad â darparu gwasanaethau taliadau uniongyrchol.”;

(b) yn is-adran (6) –

- (i) yn lle “64” rhodder “64A”;
- (ii) yn y lleoedd priodol mewnosoder –
 - ““darparwr gwasanaeth taliadau uniongyrchol” (“direct payment service provider”);”;
 - ““gwasanaeth taliadau uniongyrchol” (“direct payment service”);”.

(5) Yn adran 47(2) –

- (a) ar ddiwedd paragraff (c) hepgorer “neu”;
- (b) ar ôl “awdurdod rhestredig” mewnosoder “, neu
- (e) darparwr gwasanaeth taliadau uniongyrchol.”

(2) In section 21, in subsection (8), after paragraph (b) insert —

- “(ba) section 10B of the National Health Service (Wales) Act 2006 (c. 42) (direct payments for health care);
- (bb) regulations under section 10B(6) of the National Health Service (Wales) Act 2006 (direct payments for after-care made by Local Health Boards);”.

Public Services Ombudsman (Wales) Act 2019 (anaw 3)

6 (1) The Public Services Ombudsman (Wales) Act 2019 is amended as follows.

(2) In section 1(5) —

- (a) in paragraph (a), for “and palliative care providers” substitute “, palliative care providers and direct payment service providers”;
- (b) in paragraph (b), for “and palliative care” substitute “, palliative care and direct payment services”;
- (c) in paragraph (c), for “the social care and palliative care matters” substitute “the matters relating to social care, palliative care and direct payment services”;
- (d) in paragraph (d), for “and palliative care” substitute “, palliative care and direct payment services”;
- (e) in paragraph (e), for “and palliative care” substitute “, palliative care and direct payment services”.

(3) In the heading of Part 5, for “and palliative care” substitute “, palliative care and direct payment services”.

(4) In section 42 —

(a) in subsection (1), after paragraph (c) insert —

“(d) action taken by a direct payment service provider in connection with the provision of direct payment services.”;

(b) in subsection (6) —

- (i) for “64” substitute “64A”;
- (ii) in the appropriate places insert —

““direct payment service” (“*gwasanaeth taliadau uniongyrchol*”);”;

““direct payment service provider” (“*darparwr gwasanaeth taliadau uniongyrchol*”);”.

(5) In section 47(2) —

- (a) at the end of paragraph (c) omit “or”;
- (b) after “a listed authority” insert “, or
- (e) a direct payment service provider.”

(6) Ar ôl adran 64 mewnosoder –

“64A Ystyr “gwasanaeth taliadau uniongyrchol” a “darparwr gwasanaeth taliadau uniongyrchol”

- (1) Mae’r adran hon yn gymwys at ddibenion y Ddeddf hon.
- (2) Ystyr “gwasanaeth taliadau uniongyrchol” yw gwasanaeth a ddarperir yng Nghymru neu yn Lloegr y mae taliadau uniongyrchol wedi cael eu gwneud mewn cysylltiad ag ef o dan adran 10B(1) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 (p. 42), neu o dan reoliadau a wneir o dan adran 10B(6) o’r Ddeddf honno.
- (3) Ystyr “darparwr gwasanaeth taliadau uniongyrchol” yw person sy’n darparu gwasanaethau taliadau uniongyrchol, ond nid yw’n cynnwys unigolyn –
 - (a) sydd yn cyflawni gweithgaredd sy’n ymwneud â darparu gofal cartref yng Nghymru neu yn Lloegr y mae taliadau uniongyrchol wedi cael eu gwneud mewn cysylltiad ag ef o dan adran 10B(1) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006, neu o dan reoliadau a wneir o dan adran 10B(6) o’r Ddeddf honno,
 - (b) sydd yn cyflawni’r gweithgaredd heblaw mewn partneriaeth ag eraill,
 - (c) nad yw’n cael ei gyflogi gan gorff corfforaethol neu gymdeithas anghorfforedig i’w gyflawni,
 - (d) nad yw’n cyflogi unrhyw berson arall i gyflawni’r gweithgaredd, ac
 - (e) sydd yn darparu neu’n trefnu i ddarparu gofal cartref i lai na phedwar o bobl.
- (4) Mae camau gweithredu i gael eu trin yn gamau gweithredu a gymerir gan ddarparwr gwasanaeth taliadau uniongyrchol os ydynt yn cael eu cymryd gan –
 - (a) person a gyflogir gan y darparwr hwnnw,
 - (b) person sy’n gweithredu ar ran y darparwr hwnnw, neu
 - (c) person y mae’r darparwr hwnnw wedi dirprwyo unrhyw swyddogaethau iddo.
- (5) Hefyd, mae camau gweithredu i gael eu trin yn gamau gweithredu a gymerir gan ddarparwr gwasanaeth taliadau uniongyrchol –
 - (a) os yw’r darparwr hwnnw yn darparu gwasanaethau taliadau uniongyrchol drwy drefniant gyda pherson arall, a
 - (b) os yw’r camau gweithredu yn cael eu cymryd gan y person arall neu ar ran y person arall wrth roi’r trefniant ar waith.”
- (7) Yn adran 71(1)(d)(i), yn lle “neu ddarparwr gofal lliniarol annibynnol” rhodder “, darparwr gofal lliniarol annibynnol neu ddarparwr gwasanaeth taliadau uniongyrchol”.

(6) After section 64 insert –

“64A Meaning of “direct payment service” and “direct payment service provider”

- (1) This section applies for the purposes of this Act.
- (2) “Direct payment service” means a service provided in Wales or in England in respect of which direct payments have been made under section 10B(1), or under regulations made under section 10B(6), of the National Health Service (Wales) Act 2006 (c. 42).
- (3) “Direct payment service provider” means a person who provides direct payment services but does not include an individual who –
 - (a) carries on an activity that involves the provision of domiciliary care in Wales or in England in respect of which direct payments have been made under section 10B(1), or under regulations made under section 10B(6), of the National Health Service (Wales) Act 2006,
 - (b) carries on the activity otherwise than in partnership with others,
 - (c) is not employed by a body corporate or unincorporated association to carry it on,
 - (d) does not employ any other person to carry out the activity, and
 - (e) provides or arranges the provision of domiciliary care to fewer than four people.
- (4) Action is to be treated as action taken by a direct payment service provider if it is taken by –
 - (a) a person employed by that provider,
 - (b) a person acting on behalf of that provider, or
 - (c) a person to whom that provider has delegated any functions.
- (5) Action is also to be treated as action taken by a direct payment service provider if –
 - (a) that provider provides direct payment services by means of an arrangement with another person, and
 - (b) the action is taken by or on behalf of the other person in carrying out the arrangement.”
- (7) In section 71(1)(d)(i), for “or independent palliative care provider” substitute “, independent palliative care provider or direct payment service provider”.

(8) Yn adran 78(1), yn y lleoedd priodol mewnosoder –

“mae i “darparwr gwasanaeth taliadau uniongyrchol” (“*direct payment service provider*”) yr ystyr a roddir gan adran 64A(3);”;

“mae i “gwasanaeth taliadau uniongyrchol” (“*direct payment service*”) yr ystyr a roddir gan adran 64A(2);”.

(9) Yn adran 79 –

(a) ar ôl is-adran (1)(f) mewnosoder –

“(g) yn gyn-ddarparwyr gwasanaethau taliadau uniongyrchol.”;

(b) ar ôl is-adran (7) mewnosoder –

“(7A) Ystyr “cyn-ddarparwr gwasanaeth taliadau uniongyrchol” yw person –

(a) a oedd, ar yr adeg berthnasol, yn darparu gwasanaethau taliadau uniongyrchol o ddisgrifiad penodol, a

(b) sydd, ar ôl hynny, wedi peidio â gwneud hynny (pa un a yw’r person wedi dechrau gwneud hynny eto’n ddiweddarach ai peidio).”

(10) Yn Atodlen 1 –

(a) ym mharagraff 6(1)(f), yn lle “neu’n ddarparwr gofal lliniarol annibynnol,” rhodder “, yn ddarparwr gofal lliniarol annibynnol neu’n ddarparwr gwasanaeth taliadau uniongyrchol;”;

(b) ym mharagraff 15(7)(a), yn lle “neu ddarparwr gofal lliniarol annibynnol” rhodder “, darparwr gofal lliniarol annibynnol neu ddarparwr gwasanaeth taliadau uniongyrchol”.

(8) In section 78(1), in the appropriate places insert –

““direct payment service” (*“gwasanaeth taliadau uniongyrchol”*) has the meaning given by section 64A(2);”

““direct payment service provider” (*“darparwr gwasanaeth taliadau uniongyrchol”*) has the meaning given by section 64A(3);”.

(9) In section 79 –

(a) after subsection (1)(f) insert –

“(g) former direct payment service providers.”;

(b) after subsection (7) insert –

“(7A) “Former direct payment service provider” means a person who –

(a) at the relevant time, provided direct payment services of a particular description, and

(b) subsequently ceased to do so (whether or not the person has later started to do so again).”

(10) In Schedule 1 –

(a) in paragraph 6(1)(f) for “or independent palliative care provider;” substitute “, independent palliative care provider or direct payment service provider;”;

(b) in paragraph 15(7)(a) for “or independent palliative care provider” substitute “, independent palliative care provider or direct payment service provider”.

