



**HYSBYSIAD YNGHYLCH  
GWELLIANNAU**

**NOTICE OF AMENDMENTS**

**Cyflwynwyd ar 24 Tachwedd 2009**

**Tabled on 24 November 2009**

**Mesur Arfaethedig ynghylch Codi Ffioedd am Wasanaethau  
Gofal Cymdeithasol (Cymru)**

**Proposed Social Care Charges (Wales) Measure**

**Gwenda Thomas**

**1**

Section 1, page 2, line 5, leave out 'The general rule is that a local authority in Wales providing a service to which this Measure applies' and insert 'A local authority in Wales which provides, or makes arrangements for the provision of, a chargeable service'.

Adran 1, tudalen 2, llinell 5, gadewch allan 'Y rheol gyffredinol yw y caiff awdurdod lleol yng Nghymru sy'n darparu gwasanaeth y mae'r Mesur hwn yn gymwys iddo' a rhowch yn ei le 'Caiff awdurdod lleol yng Nghymru sy'n darparu, neu'n gwneud trefniadau ar gyfer darparu, gwasanaeth y caniateir codi ffioedd amdano'.

**Gwenda Thomas**

**2**

Section 1, page 2, line 10, leave out 'the general rule is' and insert 'subsections (1) and (2) are'.

Adran 1, tudalen 2, llinell 10, gadewch allan 'mae'r rheol gyffredinol' a rhowch yn ei le 'mae is-adrannau (1) a (2)'.

**Gwenda Thomas** 3

Section 1, page 2, line 12, leave out 'may' and insert 'must'.

Adran 1, tudalen 2, llinell 12, gadewch allan 'na chaniateir' a rhowch yn ei le 'y mae'n rhaid peidio â'.

**Gwenda Thomas** 4

Section 1, page 2, line 14, leave out '4 (means testing)' and insert '[ ](1) (effect of determinations as to ability to pay)'.

Adran 1, tudalen 2, llinell 14, gadewch allan '4 (profi modd)' a rhowch yn ei le '[ ](1) (effaith penderfyniadau sy'n ymwneud â gallu i dalu)'.

**Gwenda Thomas** 5

Section 2, page 2, line 22, leave out 'service to which this Measure applies' and insert 'chargeable service'.

Adran 2, tudalen 2, llinell 22, gadewch allan 'wasanaeth y mae'r Mesur hwn yn gymwys iddo' a rhowch yn ei le 'wasanaeth y caniateir codi ffioedd amdano'.

**Gwenda Thomas** 6

Section 2, page 2, line 23, leave out 'comply' and insert 'act in accordance'.

Adran 2, tudalen 2, llinell 23, gadewch allan 'gydymffurfio' a rhowch yn ei le 'weithredu yn unol'.

**Gwenda Thomas** 7

Section 2, page 2, line 31, leave out 'service, or combination of services, to which this Measure applies' and insert 'chargeable service, or combination of chargeable services'.

Adran 2, tudalen 2, llinell 31, gadewch allan 'wasanaeth, neu gyfuniad o wasanaethau, y mae'r Mesur hwn yn gymwys iddo neu iddynt' a rhowch yn ei le 'wasanaeth y caniateir codi ffioedd amdano, neu gyfuniad o wasanaethau y caniateir codi ffioedd amdanynt'.

**Gwenda Thomas** 8

Section 2, page 3, line 2, leave out 'service, or combination of services, to which this Measure applies' and insert 'chargeable service, or combination of chargeable services'.

Adran 2, tudalen 3, llinell 2, gadewch allan 'wasanaeth, neu gyfuniad o wasanaethau, y mae'r Mesur hwn yn gymwys iddo neu iddynt' a rhowch yn ei le 'wasanaeth y caniateir codi ffioedd amdano, neu gyfuniad o wasanaethau y caniateir codi ffioedd amdanynt'.

**Gwenda Thomas**

9

Section 2, page 3, line 4, after 'specified', insert 'chargeable'.

Adran 2, tudalen 3, llinell 4, ar ôl 'penodedig', ychwanegwch 'y caniateir codi ffioedd amdano'.

**Gwenda Thomas**

10

Section 2, page 3, line 4, after 'of' at the second place where it appears, insert 'chargeable'.

Adran 2, tudalen 3, llinell 5, ar ôl 'wasanaethau', ychwanegwch 'y caniateir codi ffioedd amdanynt'.

**Gwenda Thomas**

11

Section 2, page 3, line 6, leave out 'specified under' and insert 'referred to in paragraph'.  
Adran 2, tudalen 3, llinell 7, gadewch allan 'a bennir o dan' a rhowch yn ei le 'y cyfeirir ati ym mharagraff'.

**Gwenda Thomas**

12

Section 2, page 3, line 8, leave out 'specified under' and insert 'referred to in paragraph'.

Adran 2, tudalen 3, llinell 9, gadewch allan 'a bennir o dan' a rhowch yn ei le 'y cyfeirir ati ym mharagraff'.

**Gwenda Thomas**

13

Section 3, page 3, line 12, leave out 'specify' and insert 'make provision specifying'.

Adran 3, tudalen 3, llinell 12, gadewch allan 'bennu' a rhowch yn ei le 'wneud darpariaeth sy'n pennu'.

**Gwenda Thomas**

14

Section 3, page 3, line 12, after 'person,', insert 'chargeable'.

Adran 3, tudalen 3, llinell 12, ar ôl 'gwasanaeth', ychwanegwch 'y caniateir codi ffioedd amdano'.

**Gwenda Thomas**

**15**

Section 3, page 3, line 13, after 'of' at the first place where it appears insert 'chargeable'.

Adran 3, tudalen 3, llinell 13, ar ôl 'wasanaethau' ychwanegwch 'y caniateir codi ffioedd amdanynt'.

**Gwenda Thomas**

**16**

Section 3, page 3, line 16, leave out 'power under subsection (1) includes (but is not limited to) power' and insert 'provision that may be made in the regulations includes (but is not limited to) provision'.

Adran 3, tudalen 3, llinell 16, gadewch allan 'pŵer o dan is-adran (1) yn cynnwys pŵer (ond heb fod yn gyfyngedig i hynny)' a rhowch yn ei le 'ddarpariaeth y caniateir ei gwneud yn y rheoliadau yn cynnwys darpariaeth (ond nid yw'n gyfyngedig i hynny)'.

**Gwenda Thomas**

**17**

Section 3, page 3, line 17, leave out 'to specify' and insert 'specifying'.

Adran 3, tudalen 3, llinell 18, gadewch allan 'i bennu' a rhowch yn ei le 'sy'n pennu'.

**Gwenda Thomas**

**18**

Section 3, page 3, line 20, leave out 'to specify' and insert 'specifying'.

Adran 3, tudalen 3, llinell 21, gadewch allan 'i bennu' a rhowch yn ei le 'sy'n pennu'.

**Gwenda Thomas**

**19**

Section 3, page 3, line 21, leave out 'to specify' and insert 'specifying'.

Adran 3, tudalen 3, llinell 22, gadewch allan 'i bennu' a rhowch yn ei le 'sy'n pennu'.

**Gwenda Thomas**

**20**

Section 3, page 3, after line 22, insert—

‘(3) Accordingly, sections [ ] to [ ] do not apply to—

- (a) services or combinations of services specified in regulations under subsection (1), or
- (b) services received by persons so specified.’.

Adran 3, tudalen 3, ar ôl llinell 23, ychwanegwch—

‘(3) Yn unol â hynny, nid yw adrannau [ ] i [ ] yn gymwys i—

- (a) gwasanaethau neu gyfuniadau o wasanaethau a bennir mewn rheoliadau o dan is-adran (1), neu
- (b) gwasanaethau a dderbynnir gan bersonau a bennir felly.’.

**Gwenda Thomas**

**21**

Page 3, line 24, leave out section 4.

Tudalen 3, llinell 25, gadewch allan adran 4.

**Gwenda Thomas**

**22**

To insert a new Section—

**‘[ ] Invitation to request means assessment**

- (1) A local authority must invite a person to request a means assessment under section [ ](1)—
  - (a) if it is reasonably practicable to do so, when the authority offers the person a chargeable service;
  - (b) if it has not been reasonably practicable to give an invitation as mentioned in paragraph (a), as soon as reasonably practicable after the offer was made;
  - (c) if an invitation has not been given under paragraph (a) or (b) prior to provision of a service commencing, as soon as reasonably practicable thereafter; or
  - (d) in relation to a person who is being provided with a chargeable service, in such cases as may be specified in regulations made by the Welsh Ministers.
- (2) Where an invitation is required to be given to a person under subsection (1), the local authority must not—
  - (a) impose, or

- (b) in a case where regulations under subsection (1)(d) impose a duty in a case where a charge has already been imposed, alter,
- a charge for the service in question under section 1(1) unless the requirements set out in subsection (3) have been satisfied.
- (3) The requirements are that—
- (a) the invitation has been given; and
  - (b) where the person responds to the invitation in accordance with, and by the time specified in, regulations made by the Welsh Ministers, the authority has complied with its obligations under sections [ ] and [ ].
- (4) The Welsh Ministers may by regulations make provision—
- (a) as to the form and content of invitations under subsection (1); and
  - (b) as to the manner in which such invitations are to be given.’.

I ychwanegu Adran newydd—

**[ ] Gwahoddiad i ofyn am asesiad modd**

- (1) Rhaid i awdurdod lleol wahodd person i ofyn am asesiad o’i fodd o dan adran [ ](1)—
- (a) os yw’n rhesymol ymarferol i wneud hynny, pan fydd yr awdurdod yn cynnig gwasanaeth y caniateir codi ffioedd amdano i’r person;
  - (b) os na fu’n rhesymol ymarferol i roi gwahoddiad fel y’i crybwyllwyd ym mharagraff (a), cyn gynted ag y bo’n rhesymol ymarferol ar ôl i’r cynnig gael ei wneud;
  - (c) os na roddwyd gwahoddiad o dan baragraff (a) neu (b) cyn darparu bod gwasanaeth yn dechrau, cyn gynted ag y bo’n rhesymol ymarferol ar ôl hynny; neu
  - (d) o ran person y darperir iddo wasanaeth y caniateir codi ffioedd amdano, yn yr achosion y caniateir eu pennu mewn rheoliadau a wneir gan Weinidogion Cymru.
- (2) Pan fo’n ofynnol i roi gwahoddiad i berson o dan is-adran (1), rhaid i’r awdurdod lleol beidio â—
- (a) gosod, na
  - (b) mewn achos pan fo rheoliadau o dan is-adran (1)(d) yn gosod dyletswydd mewn achos pan fo ffi eisoes wedi ei gosod, newid,
  - (c) ffi am y gwasanaeth dan sylw o dan adran 1(1) oni bai bod y gofynion a osodir yn is-adran (3) wedi eu bodloni.
- (3) Dyma’r gofynion—
- (a) bod y gwahoddiad wedi ei roi; a

- (b) pan fo'r person yn ymateb i'r gwahoddiad yn unol â rheoliadau a wnaed gan Weinidogion Cymru ac erbyn yr amser a bennwyd yn y rheoliadau hynny, bod yr awdurdod wedi cydymffurfio â'i rwymedigaethau o dan adrannau [ ] a [ ].
- (4) Caiff Gweinidogion Cymru drwy reoliadau ddarparu –
  - (a) ar gyfer ffurf a chynnwys gwahoddiadau o dan is-adran (1); a
  - (b) ar gyfer y dull o roi'r gwahoddiadau hynny.'

## **Gwenda Thomas**

23

To insert a new Section –

### **[ ] Duty to carry out a means assessment**

- (1) Where each of the conditions in section [ ] is met, a local authority must carry out an assessment of the financial means of a person who requests such an assessment.
- (2) But a local authority is under no duty to carry out a means assessment under subsection (1) –
  - (a) in such cases as may be specified in regulations made by the Welsh Ministers; or
  - (b) if the authority is relieved of that duty under subsection (5).
- (3) A means assessment under subsection (1) must be carried out in accordance with regulations made by the Welsh Ministers.
- (4) The provision that may be made by regulations under subsection (3) includes (but is not limited to) provision applying any other statutory means testing regime as it has effect from time to time, subject to any modifications specified in the regulations.
- (5) Unless regulations made by the Welsh Ministers make provision to the contrary, a local authority has no duty to carry out a means assessment under subsection (1) if –
  - (a) a determination made by the authority under section [ ](1) or [ ](1) has effect;
  - (b) the person who is the subject of the determination requests that the authority carry out a means assessment under subsection (1);
  - (c) the request relates to a service to which the determination relates; and
  - (d) the authority reasonably considers that there has been no relevant change of circumstance since the determination was made.'

I ychwanegu Adran newydd –

### **[ ] Dyletswydd i gynnal asesiad modd**

- (1) Pan fo pob un o'r amodau yn adran [ ] wedi eu bodloni, rhaid i awdurdod lleol gynnal asesiad o fodd ariannol person sy'n gofyn am yr asesiad hwnnw.
- (2) Ond nid yw awdurdod lleol o dan unrhyw ddyletswydd i gynnal asesiad modd o dan is-adran (1) –

- (a) mewn achosion a bennir mewn rheoliadau a wneir gan Weinidogion Cymru; na
  - (b) os rhyddheir yr awdurdod o'r ddyletswydd honno o dan is-adran (5).
- (3) Rhaid cynnal asesiad modd o dan is-adran (1) yn unol â rheoliadau a wneir gan Weinidogion Cymru.
- (4) Mae'r ddarpariaeth y caniateir ei gwneud drwy reoliadau o dan is-adran (3) yn cynnwys darpariaeth (ond nid yw'n gyfyngedig i hynny) sy'n cymhwyso unrhyw gyfundrefn profi modd statudol arall fel y mae iddi effaith o dro i dro, yn ddarostyngedig i unrhyw addasiadau a bennir yn y rheoliadau.
- (5) Oni bai bod rheoliadau a wneir gan Weinidogion Cymru yn darparu i'r gwrthwyneb, nid oes ar awdurdod lleol ddyletswydd i gynnal asesiad modd o dan is-adran (1) os—
- (a) oes effaith i benderfyniad a wneir gan yr awdurdod o dan adran [ ](1) neu [ ](1);
  - (b) yw'r person sy'n destun y penderfyniad yn gofyn am i'r awdurdod gynnal asesiad modd o dan is-adran (1);
  - (c) yw'r cais yn ymwneud â gwasanaeth y mae'r penderfyniad yn ymwneud ag ef; a
  - (d) yw'r awdurdod yn barnu yn rhesymol na fu unrhyw newid sylweddol mewn amgylchiadau ers gwneud y penderfyniad.'.

**Gwenda Thomas**

24

To insert a new Section—

**[ ] Conditions giving rise to the duty to carry out a means assessment**

- (1) This section contains the conditions referred to in section [ ](1) (duty to carry out a means assessment).
- (2) Condition 1 is that—
  - (a) a person is offered a chargeable service; or
  - (b) a person is being provided with a chargeable service.
- (3) Condition 2 is that the person requests that the authority which made the offer, or is responsible for the provision of the service, carry out a means assessment under section [ ].
- (4) Condition 3 is that the person provides the authority with any information or documents in the person's possession, or under the person's control, which the authority reasonably requires in order to carry out a means assessment under that section.
- (5) The Welsh Ministers may by regulations make provision as to who may make the request mentioned in subsection (3), or provide the information or documents mentioned in subsection (4), on behalf of a person who is offered or is being provided with a service.'.

I ychwanegu Adran newydd –

**[ ] Amodau sy'n arwain at y ddyletswydd i gynnal asesiad modd**

- (1) Mae'r adran hon yn cynnwys yr amodau y cyfeirir atynt yn adran [ ](1) (dyletswydd i gynnal asesiad modd).
- (2) Amod 1 yw bod –
  - (a) gwasanaeth y caniateir codi ffioedd amdano yn cael ei gynnig i berson; neu
  - (b) gwasanaeth y caniateir codi ffioedd amdano yn cael ei ddarparu i berson.
- (3) Amod 2 yw bod y person hwnnw yn gofyn am i'r awdurdod a wnaeth y cynnig, neu sy'n gyfrifol am ddarparu'r gwasanaeth, gynnal asesiad modd o dan adran [ ].
- (4) Amod 3 yw bod y person yn rhoi i'r awdurdod unrhyw wybodaeth neu ddogfennau sydd ym meddiant y person, neu o dan reolaeth y person, sy'n rhesymol ofynnol gan yr awdurdod er mwyn cynnal asesiad modd o dan yr adran honno.
- (5) Caiff Gweinidogion Cymru ddarparu drwy reoliadau pwy a gaiff wneud y cais a grybwyllir yn is-adran (3), neu roi'r wybodaeth neu'r dogfennau a grybwyllir yn is-adran (4), ar ran person y cynigir gwasanaeth iddo neu y darperir gwasanaeth iddo.'.

**Gwenda Thomas**

25

To insert a new Section –

**[ ] Determinations as to ability to pay**

- (1) Where a local authority has carried out a means assessment of a person under section [ ](1), the authority must, in the light of that assessment –
  - (a) determine whether it is reasonably practicable for the person to pay the standard charge for the service that the person has been offered or is being provided with; and
  - (b) if the authority determines that it is not reasonably practicable for the person to pay the standard charge, determine the amount (if any) which it is reasonably practicable for the person to pay for that service.
- (2) A local authority must discharge its duty under subsection (1) in accordance with provision in regulations made by the Welsh Ministers.
- (3) The provision that may be made by regulations under subsection (2) includes (but is not limited to) provision –
  - (a) specifying cases in which it is not reasonably practicable for persons of specified means, or of means falling within a specified range, to pay for a particular service, or combination of services;
  - (b) specifying the maximum amount that it is reasonably practicable for persons of specified means, or of means falling within a specified range, to pay for a particular service, or combination of services;

- (c) specifying amounts which the local authority must disregard when assessing a person's means;
  - (d) specifying amounts below which a person's income or assets must not be reduced (after payment of the charge to be imposed).
- (4) In subsection (1) and section 5 "standard charge" means the amount which a person would be required to pay for a service if no determination under this Measure as to the person's ability to pay had effect.'

I ychwanegu Adran newydd –

**[ ] Penderfyniadau sy'n ymwneud â gallu i dalu**

- (1) Pan fo awdurdod lleol wedi asesu modd person o dan adran [ ](1), rhaid i'r awdurdod, yng ngoleuni'r asesiad hwnnw –
- (a) penderfynu a yw'n rhesymol ymarferol i'r person dalu'r ffi safonol am y gwasanaeth a gynigiwyd i'r person neu a ddarperir iddo; a
  - (b) os yw'r awdurdod yn penderfynu nad yw'n rhesymol ymarferol i'r person dalu'r ffi safonol, penderfynu'r swm (os oes un) y mae'n rhesymol ymarferol i'r person ei dalu am y gwasanaeth hwnnw.
- (2) Rhaid i awdurdod lleol gyflawni ei ddyletswydd o dan is-adran (1) yn unol â darpariaeth mewn rheoliadau a wneir gan Weinidogion Cymru.
- (3) Mae'r ddarpariaeth y caniateir ei gwneud drwy reoliadau o dan is-adran (2) yn cynnwys darpariaeth (ond nid yw'n gyfyngedig i hynny) sy'n –
- (a) pennu achosion pan na fo'n rhesymol ymarferol i bersonau ac iddynt fodd penodedig, neu ac iddynt fodd sy'n dod o fewn ystod benodedig, dalu am wasanaeth penodol, neu gyfuniad o wasanaethau penodol;
  - (b) pennu'r uchafswm sy'n rhesymol ymarferol i bersonau ac iddynt fodd penodedig, neu ac iddynt fodd sy'n dod o fewn ystod benodedig, dalu am wasanaeth penodol, neu gyfuniad o wasanaethau penodol;
  - (c) pennu symiau y mae'n rhaid i'r awdurdod lleol eu diystyru wrth asesu modd person;
  - (d) pennu symiau islaw iddynt y mae'n rhaid peidio â gostwng incwm nac asedau person (ar ôl talu'r ffi sydd i'w gosod).
- (4) Yn is-adran (1) ac adran 5 ystyr "ffi safonol" yw'r swm y byddai'n ofynnol i berson ei dalu am wasanaeth pe na bai effaith i benderfyniad o dan y Mesur hwn a oedd yn ymwneud â gallu person i dalu.'

**Gwenda Thomas**

26

To insert a new Section –

**[ ] Effect of determinations as to ability to pay**

- (1) In imposing charges under section 1(1), a local authority must give effect to any determination made under section [ ](1) or [ ](1).

- (2) Subject to any regulations made under subsection (3), a determination is to have effect from such date as the local authority concerned considers reasonable (which may be a date before that on which the determination was made).
- (3) The Welsh Ministers may by regulations make provision as to the date from which a determination is to have effect (including provision for a determination to have effect from a date before that on which it was made).
- (4) Where a determination replaces an existing determination, the existing determination continues to have effect until the new determination has effect.
- (5) For the purposes of subsection (4), a determination replaces an existing determination if it relates to the same person and the same chargeable service as that determination.’

I ychwanegu Adran newydd—

**[ ] Effaith penderfyniadau sy’n ymwneud â’r gallu i dalu**

- (1) Wrth osod ffioedd o dan adran 1(1), rhaid i awdurdod lleol roi effaith i unrhyw benderfyniad a wneir o dan adran [ ](1) neu [ ](1).
- (2) Yn ddarostyngedig i unrhyw reoliadau a wneir o dan is-adran (3), mae penderfyniad i gael effaith o’r dyddiad sy’n rhesymol ym marn yr awdurdod lleol dan sylw (a gall y dyddiad hwnnw fod yn ddyddiad cyn y dyddiad pan wnaed y penderfyniad).
- (3) Caiiff Gweinidogion Cymru ddarparu drwy reoliadau o ba ddyddiad y mae penderfyniad i gael effaith (gan gynnwys darparu bod penderfyniad i gael effaith o ddyddiad cyn y dyddiad pan y’i gwnaed).
- (4) Pan fo penderfyniad yn disodli penderfyniad sydd eisoes yn bod, bydd y penderfyniad sydd eisoes yn bod yn parhau i gael effaith hyd nes y bydd y penderfyniad newydd yn effeithiol.
- (5) At ddibenion is-adran (4), mae penderfyniad yn disodli penderfyniad sydd eisoes yn bod os yw’n ymwneud â’r un person a’r un gwasanaeth y caniateir codi ffi amdano â’r penderfyniad hwnnw.’

**Gwenda Thomas**

27

To insert a new Section—

**[ ] Replacement by authority of determinations as to ability to pay**

- (1) If a local authority reasonably considers that any one or more of the conditions in subsection (4) are met, the authority may in accordance with this section replace a determination given under section [ ](1), or under this subsection, with a new determination.
- (2) In a case where regulations under section [ ](1)(d) impose a duty in respect of the service to which the determination relates, the authority’s power under subsection (1) is subject to section [ ](2).

- (3) A determination under subsection (1) may differ from the determination which it replaces only to the extent considered appropriate by the authority in the light of the condition or conditions in subsection (4) which the authority considers to be met.
- (4) The conditions referred to in subsection (1) are that—
  - (a) there has been a change in the income or capital of the person who is the subject of the determination;
  - (b) there has been a change in the cost of providing the service to which the determination relates (including a change resulting from a change in the level at which or degree to which the service is provided);
  - (c) the authority has changed its policy about the exercise of its power to charge under section 1;
  - (d) there has been some other change of circumstance which falls within a description specified in regulations made by the Welsh Ministers;
  - (e) a mistake was made when the determination was made.’.

I ychwanegu Adran newydd—

**[ ] Awdurdod yn disodli penderfyniadau sy’n ymwneud â gallu i dalu**

- (1) Os yw awdurdod lleol yn barnu’n rhesymol bod un neu ragor o’r amodau yn is-adran (4) wedi eu bodloni, caiff yr awdurdod yn unol â’r adran hon ddisodli penderfyniad a roddwyd o dan adran [ ](1), neu o dan yr adran hon, â phenderfyniad newydd.
- (2) Mewn achos pan fo rheoliadau o dan adran [ ](1)(d) yn gosod dyletswydd ynglŷn â’r gwasanaeth y mae’r penderfyniad yn ymwneud ag ef, mae pŵer yr awdurdod o dan is-adran (1) yn ddarostyngedig i adran [ ](2).
- (3) Ni chaiff penderfyniad o dan is-adran (1) fod yn wahanol i’r penderfyniad y mae yn ei ddisodli ond i’r graddau y mae’r awdurdod yn barnu eu bod yn briodol yng ngoleuni’r amod neu amodau yn is-adran (4) sydd wedi eu bodloni ym marn yr awdurdod.
- (4) Dyma’r amodau y cyfeirir atynt yn is-adran (1)—
  - (a) bu newid yn incwm neu gyfalaf y person sy’n destun y penderfyniad;
  - (b) bu newid yng nghost darparu’r gwasanaeth y mae’r penderfyniad yn ymwneud ag ef (gan gynnwys newid o ganlyniad i newid yn y lefel neu i’r graddau y darperir y gwasanaeth iddi neu iddynt);
  - (c) bu i’r awdurdod newid ei bolisi ynghylch arfer ei bŵer i godi ffi o dan adran 1;
  - (d) bu newid arall mewn amgylchiadau sy’n dod o fewn disgrifiad a bennir mewn rheoliadau a wneir gan Weinidogion Cymru;
  - (e) gwnaed camgymeriad pan wnaed y penderfyniad.’.

**Gwenda Thomas**

28

Section 5, page 4, line 25, leave out 'service to which this Measure applies' and insert 'chargeable service'.

Adran 5, tudalen 4, llinell 27, gadewch allan 'gwasanaeth y mae'r Mesur hwn yn gymwys iddo' a rhowch yn ei le 'gwasanaeth y caniateir codi ffioedd amdano'.

**Gwenda Thomas**

29

Section 5, page 4, line 29, leave out 'that is the charges that would be imposed if there were no means testing applied under section 4' and insert 'for the meaning of "standard charge", see section [ ](4)'.

Adran 5, tudalen 4, llinell 32, gadewch allan 'hynny yw, y ffioedd a fyddai'n cael eu gosod pe na bai profi modd yn gymwys o dan adran 4' a rhowch yn ei le 'am ystyr "ffi safonol", gweler adran [ ](4)'.

**Gwenda Thomas**

30

Section 5, page 4, line 32, leave out 'section 4' and insert 'sections [ ] to [ ]'.

Adran 5, tudalen 4, llinell 35, gadewch allan 'adran 4' a rhowch yn ei le 'adrannau [ ] i [ ]'.

**Gwenda Thomas**

31

Section 5, page 4, line 36, leave out 'that subsection' and insert 'subsection (1)'.

Adran 5, tudalen 4, llinell 39, gadewch allan 'yr is-adran honno' a rhowch yn ei le 'is-adran (1)'.

**Gwenda Thomas**

32

Section 5, page 5, line 1, leave out 'decides to impose' and insert 'has imposed (or altered)'.

Adran 5, tudalen 5, llinell 1, gadewch allan 'yn penderfynu gosod' a rhowch yn ei le 'wedi gosod (neu newid)'.

**Gwenda Thomas**

33

Section 5, page 5, line 1, after '1', insert '(1)'.

Adran 5, tudalen 5, llinell 1, ar ôl '1', ychwanegwch '(1)'.

**Gwenda Thomas**

34

Section 5, page 5, line 5, leave out 'describes' and insert 'sets out'.

Adran 5, tudalen 5, llinell 7, gadewch allan 'disgrifio'r' ac ychwanegu 'nodi'r'.

**Gwenda Thomas**

35

Section 5, page 5, line 6, leave out 'that is the charges that would be imposed if there were no means testing under section 4' and insert 'for the meaning of "standard charge", see section [ ](4)'.

Adran 5, tudalen 5, llinell 8, gadewch allan 'hynny yw, y ffioedd a fyddai'n cael eu gosod pe na bai profi modd o dan adran 4' a rhowch yn ei le 'am ystyr "ffi safonol", gweler adran [ ](4)'.

**Gwenda Thomas**

36

Section 5, page 5, after line 7, insert –

'( ) if the charge imposed in the case of that person is not the standard charge, sets out the charge imposed;'

Adran 5, tudalen 5, ar ôl llinell 9, ychwanegwch –

'( ) os nad y ffi safonol yw'r ffi a osodir yn achos y person hwnnw, yn nodi 'r ffi a osodir;'

**Gwenda Thomas**

37

Section 5, page 5, line 8, leave out 'assessment of the person's means under section 4' and insert 'means assessment under section [ ](1)'.

Adran 5, tudalen 5, llinell 10, gadewch allan 'asesiad o fodd person o dan adran 4' a rhowch yn ei le 'asesiad modd o dan adran [ ](1)'.

**Gwenda Thomas**

38

Section 5, page 5, line 17, after 'imposed', insert '(or altered)'.

Adran 5, tudalen 5, llinell 18 ar ôl 'gosodwyd', ychwanegwch '(neu newidiwyd)'.

**Gwenda Thomas**

39

Section 6, page 5, line 23, leave out 'has been provided under section 5(5)' and insert 'must be provided under section 5(4)'.

Adran 6, tudalen 5, llinell 26, gadewch allan 'y rhoddwyd datganiad iddo o dan adran 5(5)' a rhowch yn ei le 'y mae'n rhaid rhoi datganiad iddo o dan adran 5(4)'.

**Gwenda Thomas**

40

Section 6, page 5, line 25, after 'provided', insert ', or should have provided,'.

Adran 6, tudalen 5, llinell 27, ar ôl 'roddodd', ychwanegwch ', neu a ddylasai roi,'.

**Gwenda Thomas**

41

Section 6, page 5, after line 30, insert –

'() as to who may request a review on behalf of another person;'

Adran 6, tudalen 5, ar ôl llinell 33, ychwanegwch –

'() sy'n ymwneud â phwy a gaiff ofyn am adolygiad ar ran person arall;'

**Gwenda Thomas**

42

To insert a new Section –

**[ ] Direct payments**

- (1) This section applies where regulations under section 57 of the Health and Social Care Act 2001 make provision for the making of direct payments by a local authority in Wales in respect of the securing of chargeable services.
- (2) The Welsh Ministers may by regulations make provision, in relation to those payments, which corresponds to the provision which is made by, or may be made under, sections 1 to 6 of this Measure.
- (3) For the purposes of subsection (2), provision corresponds to that which is made by or under sections 1 to 6 if it makes, in relation to reimbursements or contributions, provision which is in the opinion of the Welsh Ministers equivalent in effect to the provision made by or under those sections in relation to charges for services imposed under section 1(1).
- (4) The provision that may be made under this section includes (but is not limited to) –
  - (a) provision permitting a local authority to determine such amount as it considers reasonable by way of reimbursement or contribution;
  - (b) provision controlling or limiting the determinations that a local authority may make of those amounts;
  - (c) provision specifying categories of person, chargeable services or combinations of chargeable services (or categories of person in respect of a particular service or combination of services) in respect of which the reimbursement or contribution must be nil;

- (d) provision that a local authority which is making or proposes to make direct payments to a person must, in such circumstances as may be specified in the regulations, invite the person to request an assessment of the person's financial means;
- (e) provision that, where such an invitation is required to be given to a person, the local authority must not determine or (in a case where regulations under that section impose a duty in a case where direct payments are already being made) alter the reimbursement or contribution unless requirements specified in the regulations have been satisfied;
- (f) provision requiring a local authority, in such circumstances as may be specified in the regulations, to carry out an assessment of the financial means of a person who requests such an assessment (including provision as to who may make such a request on behalf of another person);
- (g) provision requiring a local authority which has carried out such a means assessment—
  - (i) to determine whether it is reasonably practicable, in the case of that person, for the reimbursement or contribution to be the amount which it would be in the absence of a determination as to the person's ability to pay, and
  - (ii) if the authority determines that it is not reasonably practicable for the reimbursement or contribution to be that amount, to determine what amount (if any) it is reasonably practicable for the reimbursement or contribution to be;
- (h) provision as to the manner in which a local authority must discharge a duty imposed under paragraph (g), including provision controlling or limiting the determinations to be made by the authority;
- (i) provision requiring a local authority, in making a determination as to reimbursement or contribution, to give effect to any determination as to ability to pay made as mentioned in paragraph (g) or (k);
- (j) provision as to the date from which a determination as to reimbursement or contribution is to have effect (including provision for a determination to have effect from a date before that on which it was made);
- (k) provision permitting a local authority, in such circumstances as may be specified in the regulations, to replace a determination as to ability to pay with a new determination;
- (l) provision requiring local authorities to make arrangements to bring to the attention of persons who receive or may receive direct payments information about—
  - (i) the services in respect of which direct payments may be made subject to reimbursement or contribution,
  - (ii) the amount which the reimbursement or contribution in respect of different types of service would be in the absence of a determination as to a person's ability to pay, and
  - (iii) the operation of regulations under this section;

- (m) provision requiring a local authority which has made a determination as to a person's reimbursement or contribution to provide that person with a statement in such form and containing such matters as are specified in the regulations;
  - (n) provision for and in connection with the review of decisions taken by local authorities under regulations under this section.
- (5) In this section –
- “contribution” means an amount determined by way of contribution as mentioned in section 57(5)(a) of the Health and Social Care Act 2001;
- “reimbursement” means an amount determined by way of reimbursement as mentioned in section 57(4)(b) of that Act.’.

I ychwanegu Adran newydd –

#### **[1] Taliadau uniongyrchol**

- (1) Mae'r adran hon yn gymwys pan fo rheoliadau o dan adran 57 o Ddeddf Iechyd a Gofal Cymdeithasol 2001 yn darparu ar gyfer gwneud taliadau uniongyrchol gan awdurdod lleol yng Nghymru o ran sicrhau gwasanaethau y caniateir codi ffioedd amdanynt.
- (2) Caiff Gweinidogion Cymru wneud darpariaeth, drwy reoliadau, mewn perthynas â'r taliadau hynny, sy'n cyfateb i'r ddarpariaeth a wneir gan, neu y caniateir ei gwneud o dan, adrannau 1 i 6 o'r Mesur hwn.
- (3) At ddibenion is-adran (2), mae darpariaeth yn cyfateb i'r ddarpariaeth a wneir gan neu o dan adrannau 1 i 6 os yw'n gwneud darpariaeth, mewn perthynas ag ad-daliadau neu gyfraniadau, sydd ym marn Gweinidogion Cymru ag effaith gyfatebol i'r ddarpariaeth a wneir gan neu o dan yr adrannau hynny mewn perthynas â ffioedd am wasanaethau a osodir o dan adran 1(1).
- (4) Mae'r ddarpariaeth y caniateir ei gwneud o dan yr adran hon yn cynnwys (ond nid yw'n gyfyngedig i) –
  - (a) darpariaeth sy'n caniatáu i awdurdod lleol benderfynu unrhyw swm sydd yn ei farn ef yn rhesymol fel ad-daliad neu gyfraniad;
  - (b) darpariaeth sy'n rheoli neu'n cyfyngu ar y penderfyniadau y caiff awdurdod lleol eu gwneud ar y symiau hynny;
  - (c) darpariaeth sy'n pennu categorïau o berson, gwasanaethau y caniateir codi ffioedd amdanynt neu gyfuniadau o wasanaethau y caniateir codi ffioedd amdanynt (neu gategorïau o berson mewn cysylltiad â gwasanaeth penodol neu gyfuniad o wasanaethau penodol) mewn cysylltiad â hwy y mae'n rhaid i'r ad-daliad neu'r cyfraniad fod yn ddim;
  - (d) darpariaeth bod rhaid i awdurdod lleol sy'n gwneud neu'n cynnig gwneud taliadau uniongyrchol i berson, o dan amgylchiadau a bennir yn y rheoliadau, wahodd y person i ofyn am asesiad o fodd ariannol y person;
  - (e) darpariaeth, pan fo'n ofynnol rhoi'r cyfryw wahoddiad i berson, bod rhaid i'r awdurdod lleol beidio â phenderfynu na (mewn achos pan fo rheoliadau o dan yr adran honno yn gosod dyletswydd mewn achos pan fo taliadau

uniongyrchol eisoes yn cael eu gwneud) newid yr ad-daliad neu'r cyfraniad oni bai bod gofynion a bennir yn y rheoliadau wedi eu bodloni;

- (f) darpariaeth sy'n ei gwneud yn ofynnol i awdurdod lleol, mewn amgylchiadau a bennir yn y rheoliadau, gynnal asesiad o fodd ariannol person sy'n gofyn am y cyfryw asesiad (gan gynnwys darpariaeth sy'n ymwneud â phwy a gaiff wneud y cyfryw gais ar ran person arall);
- (g) darpariaeth sy'n ei gwneud yn ofynnol i awdurdod lleol sydd wedi cynnal y cyfryw asesiad modd –
  - (i) benderfynu a yw'n rhesymol ymarferol, yn achos y person hwnnw, i'r ad-daliad neu'r cyfraniad fod yr un â'r swm a fyddai'r swm yn absenoldeb penderfyniad a oedd yn ymwneud â gallu'r person i dalu, a
  - (ii) os yw'r awdurdod yn penderfynu nad yw'n rhesymol ymarferol i'r ad-daliad na'r cyfraniad fod yr un â'r swm hwnnw, benderfynu pa swm (os oes un) sy'n rhesymol ymarferol i'r ad-daliad neu'r cyfraniad fod;
- (h) darpariaeth sy'n ymwneud â'r dull y mae'n rhaid i awdurdod lleol gyflawni dyletswydd a osodir o dan baragraff (g), gan gynnwys darpariaeth sy'n rheoli neu'n cyfyngu ar y penderfyniadau sydd i'w gwneud gan yr awdurdod;
- (i) darpariaeth sy'n ei gwneud yn ofynnol i awdurdod lleol, wrth wneud penderfyniad sy'n ymwneud ag ad-daliad neu gyfraniad, roi effaith i unrhyw benderfyniad sy'n ymwneud â gallu i dalu a wnaed fel y'i crybwyllir ym mharagraff (g) neu (k);
- (j) darparu o ba ddyddiad y mae penderfyniad sy'n ymwneud ag ad-daliad neu gyfraniad i gael effaith (gan gynnwys darparu i benderfyniad gael effaith o ddyddiad cyn y dyddiad pan y'i gwnaed);
- (k) darpariaeth sy'n caniatáu i awdurdod lleol, o dan amgylchiadau a bennir yn y rheoliadau, ddisodli penderfyniad sy'n ymwneud â gallu i dalu â phenderfyniad newydd;
- (l) darpariaeth sy'n ei gwneud yn ofynnol i awdurdodau lleol wneud trefniadau i ddwyn i sylw personau sy'n derbyn neu a gaiff dderbyn taliadau uniongyrchol wybodaeth am –
  - (i) y gwasanaethau mewn cysylltiad â hwy y caniateir gwneud taliadau uniongyrchol yn ddarostyngedig i ad-daliad neu gyfraniad,
  - (ii) swm yr ad-daliad neu'r cyfraniad mewn cysylltiad â mathau gwahanol o wasanaeth yn absenoldeb penderfyniad sy'n ymwneud â gallu person i dalu, a
  - (iii) gweithrediad rheoliadau o dan yr adran hon;
- (m) darpariaeth sy'n ei gwneud yn ofynnol i awdurdod lleol sydd wedi gwneud penderfyniad sy'n ymwneud ag ad-daliad neu gyfraniad person roi datganiad i'r person hwnnw a'r datganiad hwnnw ar unrhyw ffurf ac yn cynnwys unrhyw faterion a bennir yn y rheoliadau;
- (n) darpariaeth mewn cysylltiad ag ac ar gyfer adolygu penderfyniadau a gymerir gan awdurdodau lleol o dan reoliadau o dan yr adran hon.

(5) Yn yr adran hon –

ystyr “ad-daliad” yw swm a benderfynir fel ad-daliad fel y’i crybwyllir yn adran 57(4)(b) o Ddeddf Iechyd a Gofal Cymdeithasol 2001;

ystyr “cyfraniad” yw swm a benderfynir fel cyfraniad fel y’i crybwyllir yn adran 57(5)(a) o’r Ddeddf honno.’.

**Gwenda Thomas**

**43**

Section 7, page 6, line 2, leave out subsection (1) and insert –

‘(1) For the purposes of this Measure, a chargeable service is a service falling within subsection (2).’.

Adran 7, tudalen 6, llinell 2, gadewch allan is-adran (1) a rhowch yn ei le –

‘(1) At ddibenion y Mesur hwn, mae gwasanaeth y caniateir codi ffioedd amdano yn wasanaeth sy’n dod o fewn is-adran (2).’.

**Gwenda Thomas**

**44**

Section 7, page 6, line 4, leave out ‘enactments’ and insert ‘services’.

Adran 7, tudalen 6, llinell 4, gadewch allan ‘deddfiadau’ a rhowch yn ei le ‘gwasanaethau’.

**Gwenda Thomas**

**45**

Section 7, page 6, at the beginning of line 5, insert ‘a service provided under’.

Adran 7, tudalen 6, ar ddechrau llinell 5, ychwanegwch ‘gwasanaeth a ddarperir o dan’.

**Gwenda Thomas**

**46**

Section 7, page 6, line 6, after ‘etc’’, insert ‘unless the service is one for which payment may be required under section 22 or 26 of that Act’.

Adran 7, tudalen 6, llinell 6, ar ôl ‘etc’’, ychwanegwch ‘oni bai bod y gwasanaeth yn un y caniateir ei gwneud yn ofynnol codi tâl amdano o dan adran 22 neu 26 o’r Ddeddf honno’.

**Gwenda Thomas**

**47**

Section 7, page 6, at the beginning of line 7, insert ‘a service provided under’.

Adran 7, tudalen 6, ar ddechrau llinell 7, ychwanegwch ‘gwasanaeth a ddarperir o dan’.

**Gwenda Thomas** 48

Section 7, page 6, at the beginning of line 9, insert 'a service provided under'.

Adran 7, tudalen 6, ar ddechrau llinell 9, ychwanegwch 'gwasanaeth a ddarperir o dan'.

**Gwenda Thomas** 49

Section 7, page 6, at the beginning of line 12, insert 'a service provided under'.

Adran 7, tudalen 6, ar ddechrau llinell 12, ychwanegwch 'gwasanaeth a ddarperir o dan'.

**Gwenda Thomas** 50

Section 7, page 6, line 14, leave out 'other than the provision of services' and insert 'unless the service is one'.

Adran 7, tudalen 6, llinell 14, gadewch allan 'ac eithrio darparu gwasanaethau y gall fod taliad yn ofynnol amdanynt' a rhowch yn ei le 'oni bai bod y gwasanaeth yn un y gall fod taliad yn ofynnol amdano'.

**Gwenda Thomas** 51

Section 7, page 6, at the beginning of line 16, insert 'a service provided under'.

Adran 7, tudalen 6, ar ddechrau llinell 17, ychwanegwch 'gwasanaeth a ddarperir o dan'.

**Gwenda Thomas** 52

Section 7, page 6, line 17, after 'carers)', insert 'unless the service is provided in the form of residential care'.

Adran 7, tudalen 6, llinell 18, ar ôl 'gofalwyr)', ychwanegwch 'oni bai i'r gwasanaeth gael ei ddarparu ar ffurf gofal preswyl'.

**Gwenda Thomas** 53

Section 7, page 6, after line 17, insert—

'(3) The Welsh Ministers may by order amend subsection (2) so as to add a service of any description or to amend or remove the description of a service which is for the time being included there.'

Adran 7, tudalen 6, ar ôl llinell 18, ychwanegwch—

- '(3) Caiff Gweinidogion Cymru ddiwygio drwy orchymyn is-adran (2) er mwyn ychwanegu gwasanaeth o unrhyw ddisgrifiad neu ddiwygio neu ddileu'r disgrifiad o wasanaeth sydd wedi ei gynnwys yno am y tro.'

**Gwenda Thomas**

**54**

Section 8, page 6, line 26, leave out 'to which this section applies' and insert 'under section 2 of the Carers and Disabled Children Act 2000'.

Adran 8, tudalen 6, llinell 27, gadewch allan 'to which this section applies' a rhowch yn ei le 'under section 2 of the Carers and Disabled Children Act 2000'.

**Gwenda Thomas**

**55**

Section 9, page 6, line 34, column 1, leave out '4, 5 and 6' and insert 'and [ ] to [ ]'.

Adran 9, tudalen 6, llinell 36, colofn 1, gadewch allan '4, 5 and 6' a rhowch yn ei le 'and [ ] to [ ]'.

**Gwenda Thomas**

**56**

To insert a new Section—

**'[ ] Amendment to the Health and Social Care Act 2001**

- (1) Section 57 of the Health and Social Care Act 2001 (c. 15) (direct payments) is amended as follows.
- (2) After subsection (7A) insert—

“(7B) Section [ ] of the Social Care Charges (Wales) Measure 2010 makes further provision for and in connection with the determination of amounts by way of reimbursement as mentioned in subsection (4)(b) or contribution as mentioned in subsection (5)(a) in respect of chargeable services within the meaning of that Measure.”.

I ychwanegu Adran newydd—

**'[ ] Diwygio Deddf Iechyd a Gofal Cymdeithasol 2001**

- (1) Diwygier adran 57 o Ddeddf Iechyd a Gofal Cymdeithasol 2001 (p. 15) (taliadau uniongyrchol) fel a ganlyn.

(2) Ar ôl is-adran (7A) mewnosoder –

“(7B) Section [ ] of the Social Care Charges (Wales) Measure 2010 makes further provision for and in connection with the determination of amounts by way of reimbursement as mentioned in subsection (4)(b) or contribution as mentioned in subsection (5)(a) in respect of chargeable services within the meaning of that Measure.”.

**Gwenda Thomas**

57

Section 10, page 7, line 23, leave out ‘provision (alone or with other provisions) mentioned in subsection (4)(a)’ and insert ‘(alone or with other provision) –

- (a) an order under section 7(3), or
- (b) an order under subsection (3) including provision mentioned in subsection (4)(a).’.

Adran 10, tudalen 7, llinell 27, gadewch allan ‘darpariaeth (unigol neu ynghyd â darpariaethau eraill) a grybwyllir yn is-adran (4)(a)’ a rhowch yn ei le ‘(yn unigol neu ynghyd â darpariaeth arall) –

- (a) gorchymyn o dan adran 7(3), neu
- (b) gorchymyn o dan is-adran (3) gan gynnwys darpariaeth a grybwyllir yn is-adran (4)(a).’.

**Gwenda Thomas**

58

Section 11, page 7, line 31, after ‘Measure’, insert ‘are to’.

Adran 11, tudalen 7, llinell 37, gadewch allan ‘Daw gweddill darpariaethau’r Mesur hwn’ a rhowch yn ei le ‘Mae gweddill darpariaethau’r Mesur hwn i ddod’.

**Gwenda Thomas**

59

Section 11, page 7, line 32, leave out ‘Different days may be appointed for different purposes.’.

Adran 11, tudalen 7, llinell 38, gadewch allan ‘Caniateir penodi diwrnodau gwahanol ar gyfer dibenion gwahanol.’.

**Gwenda Thomas**

**60**

Section 11, page 7, after line 33, insert—

‘(4) An order under subsection (3) may provide for provisions of the Measure to come into force on different days for different purposes.’

Adran 11, tudalen 7, ar ôl llinell 39, ychwanegwch—

‘(4) Caiff gorchymyn o dan is-adran (3) ddarparu i ddarpariaethau’r Mesur ddod i rym ar ddiwrnodau gwahanol at ddibenion gwahanol.’