



# Social Care Charges (Wales) Measure 2010

2010 nawm 2

## 12 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 11 of this Measure.
- (3) For the purposes of subsection (2), provision corresponds to that which is made by or under sections 1 to 11 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 this section impose a duty in a case where direct payments are already being

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*Status: This is the original version (as it was originally enacted).*

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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.