O F F E R Y N N A U S T A T U D O L C Y M R U

2026 Rhif 104

Rheoliadau'r Gwasanaeth Iechyd Gwladol (Taliadau Uniongyrchol) (Cymru) 2026

Gwnaed *25 Mawrth 2026*

Yn dod i rym yn unol â rheoliad 1(2) a (3)

W E L S H S T A T U T O R Y I N S T R U M E N T S

2026 No. 104

The National Health Service (Direct Payments) (Wales) Regulations 2026

Made *25 March 2026*

Coming into force in accordance with regulation 1(2) and (3)

£14.80

OFFERYNNAU STATUDOL CYMRU

2026 Rhif 104

Y GWASANAETH IECHYD GWLADOL, CYMRU

Rheoliadau'r Gwasanaeth Iechyd Gwladol (Taliadau Uniongyrchol) (Cymru) 2026

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn gwneud darpariaeth ar gyfer gwneud taliadau uniongyrchol gan Weinidogion Cymru am ofal iechyd at ddibenion darparu gwasanaethau iechyd penodol o dan Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006.

Mae rheoliad 1 yn gwneud darpariaeth ynghylch dod â'r Rheoliadau hyn i rym. Mae rheoliad 1(2) yn darparu bod y mwyafrif o'r darpariaethau yn dod i rym ar 1 Ebrill 2026 ac mae'n cynnwys yn benodol y diffiniad o "plentyn" yn rheoliad 2(1) sy'n ofynnol i nodi pa ddarpariaethau a fydd yn dod i rym ar 1 Hydref 2027.

Mae rheoliad 1(3) yn darparu bod rheoliad 4 (taliadau uniongyrchol mewn cysylltiad â phlentyn) ac unrhyw ddarpariaeth arall, i'r graddau y mae'n ymwneud â phlentyn, yn dod i rym ar 1 Hydref 2027.

Mae rheoliadau 3 i 5 yn pennu'r cleifion y caniateir gwneud taliadau uniongyrchol iddynt neu mewn cysylltiad â hwy, ac mae'r Atodlen yn pennu'r personau na chaniateir gwneud taliadau uniongyrchol iddynt neu mewn cysylltiad â hwy (personau a eithrir). Mae rheoliad 6 yn cynnwys darpariaeth ynghylch cleifion yr oedd ganddynt alluedd meddyliol i gydsynio i daliadau uniongyrchol gael eu gwneud, ond nad oes ganddynt y galluedd hwnnw mwyach, ac mae rheoliad 7 yn cynnwys darpariaeth ynghylch cleifion sy'n ennill neu'n adennill galluedd meddyliol.

Mae rheoliad 8 yn darparu ar gyfer enwebu person (enwebai) i gael a gweinyddu taliadau uniongyrchol ar ran claf.

Mae rheoliadau 9 i 12 yn gosod camau sy'n galluogi Gweinidogion Cymru i gasglu'r wybodaeth y mae ei hangen arnynt er mwyn gwneud penderfyniad (yn unol â rheoliad 13) ynghylch pa un ai i wneud taliadau uniongyrchol i glaf neu mewn cysylltiad ag ef.

Mae rheoliad 9 yn cynnwys darpariaeth ynghylch y personau perthnasol y caiff Gweinidogion Cymru ymgynghori â hwy cyn penderfynu pa un ai i wneud taliad uniongyrchol ai peidio.

Mae rheoliad 10 yn pennu'r wybodaeth y mae ei hangen ar Weinidogion Cymru er mwyn asesu gallu claf, ei gynrychiolydd neu ei enwebai i reoli taliadau uniongyrchol, ac mae rheoliad 11 yn pennu'r gofynion ar gyfer cynllun gofal ac yn nodi rôl y cydgysylltydd gofal.

Mae rheoliad 12 yn manylu ar yr wybodaeth, y cyngor neu'r cymorth arall y mae rhaid i Weinidogion Cymru ei darparu neu ei ddarparu cyn i benderfyniad gael ei wneud mewn cysylltiad â thaliad uniongyrchol. Mae hefyd yn nodi'r gofynion ar gyfer darparu gwybodaeth, cyngor neu gymorth arall mewn achosion pan fo Gweinidogion Cymru yn penderfynu gwneud taliadau uniongyrchol.

Rhaid i Weinidogion Cymru wneud penderfyniad ynghylch pa un ai i wneud taliadau uniongyrchol yn unol â rheoliad 13.

Mae rheoliadau 14 a 15 yn gwneud darpariaeth ynghylch yr amodau y caniateir eu gosod ar y person sy'n cael ac yn rheoli'r taliad uniongyrchol (y talai); caiff hwn fod y claf, neu ei gynrychiolydd neu ei enwebai.

Mae rheoliad 16 yn gwneud darpariaeth ynghylch cyflenwi gwybodaeth y mae'n ofynnol i Weinidogion Cymru ei chael ac mae rheoliad 17 yn gwneud darpariaeth ynghylch swm taliadau uniongyrchol.

Mae rheoliad 18 yn gwneud darpariaeth ynghylch monitro ac adolygu taliadau uniongyrchol ac mae rheoliadau 19 i 21 yn darparu ar gyfer ad-dalu, adennill a stopio taliadau uniongyrchol.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth: Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ ac ar y wefan ar https://www.llyw.cymru.

2026 Rhif 104

Y GWASANAETH IECHYD GWLADOL, CYMRU

Rheoliadau'r Gwasanaeth Iechyd Gwladol (Taliadau Uniongyrchol) (Cymru) 2026

Gwnaed *25 Mawrth 2026*

Yn dod i rym yn unol â rheoliad 1(2) a (3)

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir iddynt gan adrannau 10C(1) i (4), a 203(9) a (10) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006(**1**), yn gwneud y Rheoliadau a ganlyn(**2**).

Yn unol â gweithdrefn gymeradwyo'r Senedd a gymhwysir gan adran 203(6) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006, gosodwyd drafft o'r offeryn statudol Cymreig hwn gerbron Senedd Cymru ac fe'i cymeradwywyd ganddi drwy benderfyniad.

Enwi a dod i rym

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Taliadau Uniongyrchol) (Cymru) 2026.

(2) Daw'r darpariaethau a ganlyn o'r Rheoliadau hyn i rym ar 1 Ebrill 2026—

(a) rheoliad 2(1) i'r graddau y mae'n diffinio "plentyn", a

(b) yn ddarostyngedig i baragraff (3), y darpariaethau sy'n weddill o'r Rheoliadau hyn (gan gynnwys gweddill rheoliad 2).

(3) Daw'r darpariaethau a ganlyn o'r Rheoliadau hyn i rym ar 1 Hydref 2027—

(a) rheoliad 4 (taliadau uniongyrchol mewn cysylltiad â phlentyn), a

(b) unrhyw ddarpariaeth arall o'r Rheoliadau hyn i'r graddau y mae'n ymwneud â phlentyn.

Dehongli

2.—(1) Yn y Rheoliadau hyn—

ystyr "awdurdod lleol" ("*local authority*") yw cyngor sir neu gyngor bwrdeistref sirol yng Nghymru;

(**1**) 2006 p. 42 ("Deddf 2006"); mewnosodwyd adran 10C yn Neddf 2006 gan adran 24(2) o Ddeddf Iechyd a Gofal Cymdeithasol (Cymru) 2025 (dsc 1). *Gweler* adran 206(1) o Ddeddf 2006 am y diffiniad o "regulations".

(**2**) Mae'r cyfeiriad yn adran 203(6) o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 at Gynulliad Cenedlaethol Cymru bellach yn cael effaith fel cyfeiriad at Senedd Cymru yn rhinwedd adran 150A(2) o Ddeddf Llywodraeth Cymru 2006 (p. 32).

ystyr “claf” (“*patient*”) yw person y caniateir gwneud taliadau uniongyrchol iddo neu mewn cysylltiad ag ef yn unol â rheoliadau 3 i 7;

ystyr “cyfrif a reolir” (“*managed account*”) yw cyfrif a weinyddir gan berson heblaw'r talai at ddiben—

(a) dal y taliadau uniongyrchol ar ran y talai, a

(b) cymhwyso'r taliadau uniongyrchol yn unol â chyfarwyddiadau'r talai;

mae i “cyfrifoldeb rhiant” yr ystyr a roddir i “parental responsibility” yn adran 3 o Ddeddf Plant 1989 (ystyr cyfrifoldeb rhiant)(**3**);

ystyr “cynllun gofal” (“*care plan*”) yw cynllun a lunnir yn unol â rheoliad 11 (cynllun gofal a chydgysylltydd gofal);

ystyr “cynrychiolydd” (“*representative*”) yw—

(a) yn achos claf y mae unrhyw ddirprwy wedi ei benodi mewn cysylltiad ag ef gan y Llys Gwarchod o dan adran 16(2)(b) o Ddeddf Galluedd Meddyliol 2005(**4**) (pwerau i benodi dirprwyon) i wneud penderfyniadau ar ran y claf hwnnw mewn perthynas â materion y caniateir gwneud taliadau uniongyrchol mewn cysylltiad â hwy, unrhyw ddirprwy o'r fath,

(b) yn achos claf sydd wedi penodi unrhyw roddai atwrneiaeth arhosol o fewn ystyr adran 9 o Ddeddf Galluedd Meddyliol 2005 (atwrneiaethau arhosol) i wneud penderfyniadau ar ran y claf hwnnw mewn perthynas â materion y caniateir gwneud taliadau uniongyrchol mewn cysylltiad â hwy, unrhyw roddai o'r fath,

(c) yn achos claf a greodd atwrneiaeth barhaus o fewn ystyr Atodlen 4 i Ddeddf Galluedd Meddyliol 2005 (darpariaethau sy'n gymwys i atwrneiaethau parhaus presennol), sydd wedi ei chofrestru yn unol â pharagraffau 4 a 13 o'r Atodlen honno, neu y mae cais ar gyfer cofrestriad o'r fath wedi ei wneud mewn cysylltiad â hi, unrhyw atwrnai y mae'r atwrneiaeth wedi ei breinio mewn cysylltiad ag ef(**5**),

(d) yn achos plentyn, unrhyw berson sydd â chyfrifoldeb rhiant dros y plentyn,

(e) yn achos claf 16 oed neu drosodd ond sydd heb alluedd ac y mae person â chyfrifoldeb rhiant mewn cysylltiad ag ef, unrhyw berson o'r fath sydd â chyfrifoldeb rhiant, neu

(f) yn achos claf y mae person wedi ei benodi mewn cysylltiad ag ef o dan reoliad 5(4) (taliadau uniongyrchol mewn cysylltiad â chleifion sydd heb alluedd), y person hwnnw;

ystyr “cynrychiolydd personol” (“*personal representative*”) yw ysgutor neu weinyddwr, am y tro, glaf ymadawedig;

ystyr “Deddf 2006” (“*the 2006 Act*”) yw Deddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006;

(**3**) 1989 p. 41 (“Deddf 1989”). Caiff person fod â chyfrifoldeb rhiant dros berson nad yw'n blentyn at ddibenion y Rheoliadau hyn; *gweler* adran 105 o Ddeddf 1989; yn rhinwedd yr adran honno, ystyr “child” (“*plentyn*”), at ddibenion Deddf 1989, yn ddarostyngedig i baragraff 16 o Atodlen 1 i'r Ddeddf honno, yw person o dan 18 oed.

(**4**) 2005 p. 9.

(**5**) Nid yw'n bosibl gwneud atwrneiaeth barhaus mwyach; mae hyn wedi bod yn wir ers 1 Hydref 2007. Fodd bynnag, mae'r rhai sy'n cael eu defnyddio ar hyn o bryd neu sydd wedi eu gwneud ond nad ydynt wedi eu cofrestru ar hyn o bryd yn parhau i fod yn ddilys.

ystyr "Deddf 2014" ("*the 2014 Act*") yw Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(**6**);

mae i "enwebai" ("*nominee*") yr ystyr a roddir yn rheoliad 8 (person enwebedig);

mae i "gwasanaeth rheoleiddiedig" ("*regulated service*") yr ystyr a roddir yn adran 2 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016(**7**), ac Atodlen 1 iddi;

ystyr "person a eithrir" ("*excluded person*") yw person y mae'r Atodlen yn gymwys iddo (personau na chaniateir gwneud taliadau uniongyrchol iddynt neu mewn cysylltiad â hwy);

ystyr "plentyn" ("*child*") yw claf nad yw wedi cyrraedd 16 oed;

ystyr "Rhaglen Mesur Plant Cymru" ("*Child Measurement Programme for Wales*") yw'r rhaglen a sefydlwyd i fesur taldra a phwysau plant 4 i 5 oed at ddiben monitro cyffredinrwydd bod o dan bwysau, bod dros bwysau a gordewdra yn y boblogaeth yn unol ag Atodlen 1 i Ddeddf 2006(**8**);

ystyr "rheoli" ("*manage*"), mewn perthynas â thaliad uniongyrchol, yw cael a dal y taliad a sicrhau y darperir y gwasanaethau a bennir yng nghynllun gofal y claf, yn unol ag unrhyw amodau a gymhwysir o dan y Rheoliadau hyn;

ystyr "talai" ("*payee*") yw person sy'n gyfrifol am reoli taliadau uniongyrchol, sef naill ai'r claf neu gynrychiolydd neu enwebai sy'n gweithredu ar ran y claf;

ystyr "taliad uniongyrchol gofal cymdeithasol" ("*social care direct payment*") yw taliad i sicrhau gwasanaethau i ddiwallu angen am ofal a chymorth a wneir—

(a) hyd nes y daw adran 49A o Ddeddf 2014(**9**) i rym, yn rhinwedd rheoliadau a wneir o dan adrannau 50 i 53 o'r Ddeddf honno, a

(b) ar ôl i adran 49A o Ddeddf 2014 ddod i rym, yn rhinwedd rheoliadau a wneir o dan yr adran honno;

ystyr "taliadau uniongyrchol" ("*direct payments*") yw taliadau y caiff Gweinidogion Cymru eu gwneud i glaf, neu mewn cysylltiad â'r claf, i gynrychiolydd neu enwebai at ddiben sicrhau bod unrhyw beth y mae adran 10B(3) o Ddeddf 2006(**10**) yn cyfeirio ato yn cael ei ddarparu i'r claf.

(2) Mae cyfeiriadau yn y Rheoliadau hyn at berson heb alluedd yn gyfeiriadau at berson sydd heb alluedd o fewn ystyr Deddf Galluedd Meddyliol 2005(**11**).

Cleifion y caniateir gwneud taliadau uniongyrchol iddynt

3.—(1) Caiff Gweinidogion Cymru wneud taliadau uniongyrchol i glaf—

(a) nad yw'n berson a eithrir, a

(**6**) 2014 dccc 4.
(**7**) 2016 dccc 2. *Gweler* O.S. 2017/1264 (Cy. 295), 2019/165 (Cy. 41), 2019/757 (Cy. 142), 2019/762 (Cy. 145) a 2023/1327 (Cy. 238) am eithriadau.
(**8**) *Gweler* paragraffau 7A a 7B o Atodlen 1 i Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006; mewnosodwyd paragraffau 7A a 7B gan Ddeddf Iechyd a Gofal Cymdeithasol 2008 (p. 14), adran 144; ac fe'u diwygiwyd gan Fesur Plant a Theuluoedd (Cymru) 2010 (mccc 1), adran 72 ac Atodlen 1, paragraff 26, a chan Ddeddf Diogelu Data 2018 (p. 12), adran 211 ac Atodlen 19, paragraff 119, yn y drefn honno.
(**9**) Mae adran 49A wedi ei mewnosod yn rhagolygol yn Neddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 gan adran 20(2) o Ddeddf Iechyd a Gofal Cymdeithasol (Cymru) 2025.
(**10**) Mewnosodwyd adran 10B yn Neddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 gan adran 24(2) o Ddeddf Iechyd a Gofal Cymdeithasol (Cymru) 2025.
(**11**) 2005 p. 9.

(b) sy'n cydsynio i daliadau uniongyrchol gael eu gwneud iddo.

(2) Wrth benderfynu a ddylid gwneud taliadau uniongyrchol i glaf sy'n dod o fewn paragraff (1), rhaid i Weinidogion Cymru roi sylw i—

(a) a yw taliadau uniongyrchol yn briodol ar gyfer claf sydd â chyflwr y claf hwnnw,

(b) effaith y cyflwr hwnnw ar fywyd y claf hwnnw, ac

(c) a yw taliadau uniongyrchol yn rhoi gwerth am arian.

(3) Ni chaniateir gwneud taliadau uniongyrchol i glaf sy'n dod o fewn paragraff (1) ond—

(a) os yw'r claf yn 16 oed neu drosodd, a

(b) os oes gan y claf alluedd i gydsynio i daliadau uniongyrchol gael eu gwneud iddo.

Taliadau uniongyrchol mewn cysylltiad â phlentyn

4.—(1) Caniateir gwneud taliadau uniongyrchol mewn cysylltiad â phlentyn—

(a) os nad yw'r plentyn yn berson a eithrir, a

(b) os oes gan y plentyn gynrychiolydd sy'n cydsynio i daliadau uniongyrchol gael eu gwneud mewn cysylltiad â'r plentyn.

(2) Wrth benderfynu a ddylid gwneud taliadau uniongyrchol mewn cysylltiad â phlentyn sy'n dod o fewn paragraff (1), rhaid i Weinidogion Cymru roi sylw i—

(a) a yw taliadau uniongyrchol yn briodol ar gyfer plentyn sydd â chyflwr y plentyn hwnnw,

(b) effaith y cyflwr hwnnw ar fywyd y plentyn, ac

(c) a yw taliadau uniongyrchol yn rhoi gwerth am arian.

(3) Rhaid i gynrychiolydd y caniateir gwneud taliadau uniongyrchol iddo mewn cysylltiad â phlentyn—

(a) cytuno i weithredu ar ran y plentyn mewn perthynas â'r taliadau uniongyrchol,

(b) gweithredu er lles pennaf y plentyn wrth sicrhau darpariaeth gwasanaethau y gwneir y taliadau uniongyrchol mewn cysylltiad â hwy,

(c) bod yn gyfrifol fel y parti contractio am yr holl drefniadau contractiol yr ymrwymir iddynt er budd y plentyn ac a sicrheir drwy gyfrwng y taliadau uniongyrchol, a

(d) defnyddio'r taliadau uniongyrchol yn unol â chynllun gofal y plentyn.

(4) Mae'r paragraff hwn yn gymwys pan fo claf yn cyrraedd 16 oed.

(5) Pan fo paragraff (4) yn gymwys, rhaid i Weinidogion Cymru, cyn gynted ag y bo'n rhesymol bosibl, adolygu'r arfer o wneud y taliadau uniongyrchol yn unol â rheoliad 18.

(6) Pan fo paragraff (4) yn gymwys, caiff Gweinidogion Cymru barhau i wneud taliadau uniongyrchol i'r cynrychiolydd neu'r enwebai yn unol â chynllun gofal y claf—

(a) os yw'r claf yn cydsynio i'r taliadau uniongyrchol barhau i gael eu gwneud, a

(b) os yw'r claf a'r cynrychiolydd neu'r enwebai yn cytuno y bydd y cynrychiolydd neu'r enwebai yn parhau i reoli'r taliadau uniongyrchol ar ran y claf.

(7) Pan fo paragraff (4) yn gymwys ac na fo'r claf yn cydsynio i daliadau uniongyrchol barhau i gael eu gwneud, rhaid i Weinidogion Cymru stopio gwneud y taliadau uniongyrchol.

Taliadau uniongyrchol mewn cysylltiad â chleifion sydd heb alluedd

5.—(1) Caniateir gwneud taliadau uniongyrchol mewn cysylltiad â chlaf, heblaw plentyn, sydd heb alluedd i gydsynio i daliad uniongyrchol gael ei wneud—

(a) os nad yw'r claf hwnnw'n berson a eithrir, a

(b) os oes gan y claf hwnnw gynrychiolydd sy'n cydsynio i daliadau uniongyrchol gael eu gwneud mewn cysylltiad â'r claf hwnnw.

(2) Wrth benderfynu a ddylid gwneud taliadau uniongyrchol mewn cysylltiad â chlaf sy'n dod o fewn paragraff (1), rhaid i Weinidogion Cymru roi sylw i—

(a) a yw taliadau uniongyrchol yn briodol ar gyfer claf sydd â chyflwr y claf hwnnw,

(b) effaith y cyflwr hwnnw ar fywyd y claf hwnnw, ac

(c) a yw taliadau uniongyrchol yn rhoi gwerth am arian.

(3) Mae'r paragraff hwn yn gymwys i glaf, heblaw plentyn, sydd heb alluedd i gydsynio i daliadau uniongyrchol gael eu gwneud iddo ond sy'n glaf nad oes cynrychiolydd mewn cysylltiad ag ef.

(4) Pan fo paragraff (3) yn gymwys, caiff Gweinidogion Cymru benodi person y maent yn ystyried ei fod yn addas i weithredu fel cynrychiolydd ar gyfer y claf hwnnw.

(5) Rhaid i gynrychiolydd y gwneir taliadau uniongyrchol iddo mewn cysylltiad â chlaf—

(a) cytuno i weithredu ar ran y claf mewn perthynas â'r taliad uniongyrchol,

(b) gweithredu er lles pennaf y claf wrth sicrhau darpariaeth gwasanaethau y gwneir y taliadau uniongyrchol mewn cysylltiad â hwy,

(c) bod yn gyfrifol fel y parti contractio am yr holl drefniadau contractiol yr ymrwymir iddynt er budd y claf ac a sicrheir drwy gyfrwng y taliadau uniongyrchol, a

(d) defnyddio'r taliadau uniongyrchol yn unol â chynllun gofal y claf.

(6) Wrth benderfynu, at ddibenion y rheoliad hwn, beth sydd er lles pennaf claf, heblaw plentyn, rhaid i'r cynrychiolydd gydymffurfio â'r gofynion a bennir yn is-adrannau (1) i (7) o adran 4 o Ddeddf Galluedd Meddyliol 2005 (lles pennaf).

Taliadau uniongyrchol ar gyfer cleifion yr oedd ganddynt alluedd ond nad oes ganddynt alluedd mwyach

6.—(1) Pan fo claf wedi bod yn cael taliadau uniongyrchol ar y sail ei fod yn gymwys i wneud hynny o dan reoliad 3, ond bod Gweinidogion Cymru yn credu'n rhesymol nad oes gan y claf y galluedd angenrheidiol mwyach i gydsynio i daliadau uniongyrchol gael eu gwneud, mae paragraff (2) yn gymwys.

(2) Pan fo'r paragraff hwn yn gymwys, caiff Gweinidogion Cymru barhau i wneud taliadau uniongyrchol mewn cysylltiad â'r claf hwnnw—

(a) os ydynt wedi eu bodloni bod diffyg galluedd y claf yn debygol o fod dros dro, a

(b) naill ai—

(i) os yw cynrychiolydd neu enwebai yn cytuno, yn unol â rheoliad 5(5)(a) (cynrychiolwyr) neu reoliad 8(4)(a) (enwebeion), i weithredu ar ran y claf mewn cysylltiad â'r taliadau uniongyrchol neu i gael y taliadau uniongyrchol ar ran y claf, neu

(ii) os yw enwebai, a benodir gan Weinidogion Cymru gan roi sylw i arwydd a roddir gan y claf o dan reoliad 8(2), yn cytuno i gael y taliadau uniongyrchol ar ran y claf, ac

(c) os yw'r taliadau uniongyrchol yn cael eu gwneud yn ddarostyngedig i'r amod bod rhaid i'r cynrychiolydd neu'r enwebai ganiatáu i'r claf reoli'r taliadau uniongyrchol ei hun am unrhyw gyfnod y mae Gweinidogion Cymru wedi eu bodloni mewn cysylltiad ag ef—

(i) bod gan y claf alluedd i gydsynio i'r taliadau uniongyrchol gael eu gwneud, a

(ii) bod y claf yn gallu rheoli'r taliadau uniongyrchol ei hun neu gyda'r cynhorthwy sydd ar gael iddo.

Cleifion sy'n ennill neu'n adennill galluedd: cydsynio ac adolygu

7.—(1) Mae'r paragraff hwn yn gymwys pan fo taliadau uniongyrchol yn cael eu gwneud mewn cysylltiad â chlaf o dan reoliad 5 neu reoliad 6 a bo'r claf yn ennill neu'n adennill galluedd i gydsynio i daliadau uniongyrchol gael eu gwneud.

(2) Pan fo paragraff (1) yn gymwys, rhaid i Weinidogion Cymru, cyn gynted ag y bo'n rhesymol bosibl, adolygu'r arfer o wneud y taliadau uniongyrchol yn unol â rheoliad 18.

(3) Pan fo paragraff (1) yn gymwys, caiff Gweinidogion Cymru barhau i wneud taliadau uniongyrchol i'r cynrychiolydd neu'r enwebai yn unol â chynllun gofal y claf—

(a) os yw'r claf yn cydsynio i'r taliadau uniongyrchol barhau i gael eu gwneud, a

(b) os yw'r claf a'r cynrychiolydd neu'r enwebai yn cytuno y bydd y cynrychiolydd neu'r enwebai yn parhau i reoli'r taliadau uniongyrchol ar ran y claf.

(4) Pan fo paragraff (1) yn gymwys ac na fo'r claf yn cydsynio i daliadau uniongyrchol gael eu gwneud, rhaid i Weinidogion Cymru stopio gwneud y taliadau uniongyrchol.

Personau enwebedig

8.—(1) Caiff y personau a ganlyn enwebu person arall ("enwebai") i gael taliadau uniongyrchol ar ran claf—

(a) claf, nad yw'n blentyn, y mae ganddo alluedd i gydsynio i daliadau uniongyrchol gael eu gwneud;

(b) cynrychiolydd claf.

(2) Pan fo claf wedi colli galluedd a, thra oedd ganddo alluedd, wedi dangos ei fod yn dymuno i berson penodol weithredu fel ei enwebai pe bai'n colli galluedd, caniateir penodi'r person hwnnw fel yr enwebai.

(3) Rhaid i enwebai y gwneir taliadau uniongyrchol iddo mewn cysylltiad â chlaf—

(a) bod yn gyfrifol fel y parti contractio am yr holl drefniadau contractiol yr ymrwymir iddynt er budd y claf ac a sicrheir drwy gyfrwng y taliadau uniongyrchol, a

(b) defnyddio'r taliadau uniongyrchol yn unol â chynllun gofal y claf.

(4) Cyn gwneud taliadau uniongyrchol i enwebai—

(a) rhaid i'r enwebai gytuno i reoli'r taliadau uniongyrchol ar ran y claf, a

(b) rhaid i Weinidogion Cymru fod wedi eu bodloni bod yr enwebai yn berson addas i reoli'r taliadau uniongyrchol ar ran y claf.

(5) Os yw person sydd wedi enwebu enwebai yn unol â pharagraff (1) yn hysbysu Gweinidogion Cymru yn ysgrifenedig ei fod yn dymuno tynnu'r enwebiad yn ôl neu ei newid, rhaid i Weinidogion Cymru ystyried pa un ai i stopio gwneud y taliadau uniongyrchol.

(6) Pan fo paragraff (5) yn gymwys, rhaid i Weinidogion Cymru, cyn gynted ag y bo'n rhesymol bosibl, adolygu'r arfer o wneud y taliadau uniongyrchol yn unol â rheoliad 18.

Ymgynghori cyn penderfyniad i wneud taliadau uniongyrchol

9.—(1) Cyn penderfynu pa un ai i wneud taliadau uniongyrchol i glaf, caiff Gweinidogion Cymru ymgynghori ag un neu ragor o'r personau a ganlyn—

(a) unrhyw un a nodwyd gan y claf fel person i ymgynghori ag ef at y diben;

(b) os yw'r claf yn berson 16 oed neu drosodd ond o dan 18 oed, person sydd â chyfrifoldeb rhiant dros y claf;

(c) y person sy'n ymwneud yn bennaf â gofal y claf;

(d) unrhyw berson arall sy'n darparu gofal ar gyfer y claf;

(e) unrhyw eiriolwr galluedd meddyliol annibynnol neu eiriolwr iechyd meddwl annibynnol a benodwyd ar gyfer y claf;

(f) unrhyw dîm gofal cymdeithasol mewn awdurdod lleol sy'n gyfrifol am sicrhau bod anghenion gofal cymdeithasol y claf yn cael eu diwallu;

(g) unrhyw berson arall y mae'n ymddangos i Weinidogion Cymru ei fod yn gallu darparu gwybodaeth berthnasol.

(2) Cyn penderfynu pa un ai i wneud taliadau uniongyrchol i gynrychiolydd, caiff Gweinidogion Cymru ymgynghori ag un neu ragor o'r personau a ganlyn—

(a) y claf;

(b) unrhyw ddirprwy a benodwyd mewn cysylltiad â'r claf gan y Llys Gwarchod o dan adran 16(2)(b) o Ddeddf Galluedd Meddyliol 2005 sydd heb awdurdod i wneud penderfyniadau ar ran y claf mewn perthynas â'r materion y caniateir i daliadau uniongyrchol fod yn daladwy mewn cysylltiad â hwy;

(c) unrhyw roddai atwrneiaeth arhosol o fewn ystyr adran 9 o Ddeddf Galluedd Meddyliol 2005 mewn cysylltiad â'r claf ond sydd heb awdurdod i wneud penderfyniadau ar ran y claf mewn perthynas â materion y caniateir gwneud taliadau uniongyrchol mewn cysylltiad â hwy;

(d) unrhyw un a enwyd gan y claf, pan oedd gan y claf alluedd, fel person i ymgynghori ag ef at y diben;

(e) unrhyw un neu ragor o'r personau a grybwyllir ym mharagraff (1)(c) i (g).

(3) Cyn penderfynu pa un ai i wneud taliadau uniongyrchol i enwebai, caiff Gweinidogion Cymru ymgynghori ag un neu ragor o'r personau a grybwyllir ym mharagraff (1)(a) i (g) a pharagraff (2)(a) i (c) a, phan fo'n berthnasol, (d).

(4) Yn y rheoliad hwn—

(a) mae i "eiriolwr galluedd meddyliol annibynnol" yr ystyr a roddir i "independent mental capacity advocate" yn adran 35(1) o Ddeddf Galluedd Meddyliol 2005(**12**), a

(b) mae i "eiriolwr iechyd meddwl annibynnol" yr ystyr a roddir i "independent mental health advocate" yn adran 130E o Ddeddf Iechyd Meddwl 1983(**13**).

(**12**) 2005 p. 9. Mae adran 35 wedi ei diwygio gan Ddeddf Iechyd Meddwl 2007 (p. 12), adran 50 ac Atodlen 9, paragraff 3; Deddf Iechyd a Gofal Cymdeithasol 2012 (p. 7), adran 55(2) ac Atodlen 5, paragraff 134; ac O.S. 2018/195 (Cy. 44), rheoliad 28.

(**13**) 1983 p. 20; mewnosodwyd adran 130E gan Fesur Iechyd Meddwl (Cymru) 2010 (mccc 7), adran 31.

Gwybodaeth sy'n ofynnol ar gyfer asesu gallu i reoli taliadau uniongyrchol

10.—(1) Cyn penderfynu pa un ai i wneud taliadau uniongyrchol i glaf, o ran Gweinidogion Cymru—

(a) cânt ei gwneud yn ofynnol i'r claf ddarparu gwybodaeth sy'n ymwneud ag—

(i) stad iechyd y claf,

(ii) unrhyw gyflwr iechyd y mae taliadau uniongyrchol yn cael eu hystyried mewn cysylltiad ag ef, a

(iii) unrhyw gyfrif banc, cyfrif cymdeithas adeiladu, cyfrif Swyddfa'r Post neu gyfrif arall y cynigir caniatáu talu taliadau uniongyrchol iddo, a

(b) rhaid iddynt fod wedi eu bodloni bod y claf yn gallu rheoli (gweler paragraff (7)) daliadau uniongyrchol ar ei ben ei hun neu gyda'r cynhorthwy sydd ar gael iddo.

(2) Cyn penderfynu pa un ai i wneud taliadau uniongyrchol i gynrychiolydd, o ran Gweinidogion Cymru—

(a) cânt ei gwneud yn ofynnol i'r cynrychiolydd ddarparu gwybodaeth sy'n ymwneud ag unrhyw gyfrif banc, cyfrif cymdeithas adeiladu, cyfrif Swyddfa'r Post neu gyfrif arall y cynigir caniatáu talu taliadau uniongyrchol iddo, a

(b) rhaid iddynt fod wedi eu bodloni bod y cynrychiolydd yn gallu rheoli taliadau uniongyrchol ar ei ben ei hun neu gyda'r cynhorthwy sydd ar gael iddo.

(3) Cyn penderfynu pa un ai i wneud taliadau uniongyrchol i gynrychiolydd, caiff Gweinidogion Cymru, yn benodol, ystyried—

(a) a yw'r claf yn y gorffennol, pan oedd gan y claf alluedd, wedi mynegi yn ysgrifenedig, neu drwy unrhyw ddulliau eraill sy'n ddealladwy, ddymuniad i daliadau uniongyrchol gael eu gwneud iddo neu er budd iddo,

(b) i'r graddau y mae modd canfod yn rhesymol, y credoau a'r gwerthoedd a fyddai'n debygol o ddylanwadu ar benderfyniad y claf ynghylch pa un ai i gydsynio i gael taliadau uniongyrchol ai peidio pe bai gan y claf alluedd, ac

(c) unrhyw wybodaeth neu dystiolaeth arall a allai gynorthwyo Gweinidogion Cymru wrth iddynt ystyried a fyddai'r claf yn debygol o gydsynio i daliadau uniongyrchol gael eu gwneud pe bai'n gallu gwneud hynny, gan gynnwys dymuniadau a theimladau'r claf yn y gorffennol.

(4) Cyn penderfynu pa un ai i wneud taliadau uniongyrchol i enwebai, caiff Gweinidogion Cymru—

(a) ei gwneud yn ofynnol i glaf sydd â galluedd ddarparu gwybodaeth sy'n ymwneud â stad iechyd y claf neu unrhyw gyflwr iechyd y mae taliadau uniongyrchol yn cael eu hystyried mewn cysylltiad â hi neu ag ef, a

(b) ei gwneud yn ofynnol i'r enwebai ddarparu gwybodaeth sy'n ymwneud ag unrhyw gyfrif banc, cyfrif cymdeithas adeiladu, cyfrif Swyddfa'r Post neu gyfrif arall y cynigir caniatáu talu taliadau uniongyrchol iddo.

(5) Cyn penderfynu pa un ai i wneud taliadau uniongyrchol i enwebai, rhaid i Weinidogion Cymru—

(a) bod wedi eu bodloni bod yr enwebai yn gallu rheoli taliadau uniongyrchol ar ei ben ei hun neu gyda'r cynhorthwy a allai fod ar gael iddo;

(b) pan fo'r enwebai yn unigolyn, ei gwneud yn ofynnol i'r enwebai wneud cais am dystysgrif cofnod troseddol fanwl a ddyroddir o dan adran 113B o Ddeddf yr

Heddlu 1997(**14**) gan gynnwys gwybodaeth addasrwydd sy'n ymwneud ag oedolion hyglwyf o dan adran 113BB o'r Ddeddf honno(**15**), oni bai bod yr enwebai yn unigolyn sy'n byw ar yr un aelwyd ag—

(i) y claf,

(ii) aelod o'r teulu a grybwyllir ym mharagraff (6), neu

(iii) cyfaill sy'n ymwneud â darpariaeth gofal y claf;

(c) pan fo'r enwebai yn gorff corfforedig neu'n gorff anghorfforedig o bersonau, ei gwneud yn ofynnol i'r unigolyn y mae'r enwebai wedi penderfynu y bydd ganddo gyfrifoldeb cyffredinol am reoli'r taliadau uniongyrchol o ddydd i ddydd ar ran yr enwebai, wneud cais am dystysgrif cofnod troseddol a ddyroddir o dan adran 113B o Ddeddf yr Heddlu 1997 gan gynnwys gwybodaeth addasrwydd sy'n ymwneud ag oedolion hyglwyf o dan adran 113BB o'r Ddeddf honno.

(6) Yr aelodau o'r teulu y cyfeirir atynt ym mharagraff (5)(b)(ii) yw—

(a) priod neu bartner sifil y claf;

(b) person sy'n byw gyda'r claf fel pe bai'n briod neu'n bartner sifil iddo;

(c) person sy'n un o'r canlynol i'r claf—

(i) rhiant, llys-riant neu riant-yng-nghyfraith,

(ii) mab neu ferch,

(iii) mab-yng-nghyfraith neu ferch-yng-nghyfraith,

(iv) llysfab neu lysferch,

(v) brawd neu chwaer,

(vi) modryb neu ewythr, neu

(vii) tad-cu/taid neu fam-gu/nain;

(d) priod neu bartner sifil unrhyw berson a bennir yn is-baragraff (c);

(e) unrhyw berson sy'n byw gydag unrhyw berson a bennir yn is-baragraff (c) fel pe bai'n briod neu'n bartner sifil i'r person hwnnw.

(7) Wrth benderfynu a yw claf, cynrychiolydd neu enwebai yn gallu rheoli taliadau uniongyrchol, caiff Gweinidogion Cymru ystyried, yn benodol—

(a) a fyddai'r claf, y cynrychiolydd neu'r enwebai yn berson addas i drefnu gydag unrhyw berson neu gorff i ddarparu, neu gynorthwyo i ddarparu, unrhyw wasanaethau a sicrheir drwy gyfrwng taliadau uniongyrchol ar gyfer y claf;

(b) a yw'r claf, y cynrychiolydd neu'r enwebai wedi gallu rheoli taliadau uniongyrchol neu daliad uniongyrchol gofal cymdeithasol;

(c) a yw'r claf, y cynrychiolydd neu'r enwebai yn gallu cymryd pob cam rhesymol i atal defnydd twyllodrus o'r taliadau uniongyrchol.

(**14**) 1997 p. 50 ("Deddf 1997"); mewnosodwyd adran 113B yn Neddf 1997 gan Ddeddf Troseddu Cyfundrefnol Difrifol a'r Heddlu 2005 (p. 15), adran 163; fe'i diwygiwyd gan Ddeddf Diogelu Grwpiau Hyglwyf 2006 (p. 47), adran 63 ac Atodlen 9, paragraff 14(3); gan Ddeddf y Lluoedd Arfog 2006 (p. 52), adran 378 ac Atodlen 16, paragraff 149; gan Ddeddf Plismona a Throsedd 2009 (p. 26), adran 112 a Rhan 8 o Atodlen 8; gan Ddeddf Diogelu Rhyddidau 2012 (p. 9), adrannau 80(1) a 82(1) i (3), ac adran 115(2) a Rhan 5 o Atodlen 10; gan Ddeddf Troseddu a'r Llysoedd 2013 (p. 22), adran 15 ac Atodlen 8, paragraff 60; gan Ddeddf y Lluoedd Arfog 2021 (p. 35), adran 12 ac Atodlen 5, paragraff 10; gan O.S. 2009/203, erthygl 4; a chan O.S. 2012/3006, erthygl 37(c).

(**15**) Mewnosodwyd adran 113BB yn Neddf yr Heddlu 1997 gan Ddeddf Diogelu Grwpiau Hyglwyf 2006, adran 63 ac Atodlen 9, paragraff 14(4); ac fe'i diwygiwyd gan Ddeddf Diogelu Rhyddidau 2012, adran 115(2) a chan Ran 5 o Atodlen 10.

Cynllun gofal a chydgysylltydd gofal

11.—(1) Ni chaiff Gweinidogion Cymru wneud taliadau uniongyrchol oni bai eu bod—

(a) wedi llunio cynllun gofal—

(i) sy'n nodi anghenion iechyd y claf, a

(ii) sy'n pennu'r gwasanaethau sydd i'w sicrhau drwy daliadau uniongyrchol,

(b) wedi cynghori'r claf a, phan fo'n berthnasol, gynrychiolydd neu enwebai'r claf—

(i) a oes unrhyw risgiau sylweddol posibl yn codi mewn perthynas â gwneud taliadau uniongyrchol i'r claf neu mewn cysylltiad ag ef,

(ii) beth fyddai canlyniadau posibl unrhyw risgiau o'r fath, a

(iii) a oes unrhyw ddulliau cymesur o liniaru'r risgiau,

(c) wedi cytuno â'r claf a, phan fo'n berthnasol, gynrychiolydd neu enwebai'r claf, ar weithdrefn ar gyfer rheoli pob un o'r risgiau a nodir yn unol ag is-baragraff (b) ac wedi cynnwys y weithdrefn y cytunwyd arni yn y cynllun gofal, a

(d) wedi eu bodloni—

(i) y gall yr anghenion iechyd a nodir yng nghynllun gofal y claf gael eu diwallu gan y gwasanaethau a bennir yn y cynllun gofal, a

(ii) y bydd y swm a gynrychiolir gan y taliadau uniongyrchol yn ddigonol i ddarparu ar gyfer cost lawn pob un o'r gwasanaethau a bennir yn y cynllun gofal.

(2) Caiff y risgiau a grybwyllir ym mharagraff (1)(b) gynnwys, yn benodol—

(a) risgiau i iechyd y claf;

(b) risgiau meddygol neu lawfeddygol sy'n deillio o sicrhau math penodol o wasanaeth;

(c) risgiau sy'n deillio o'r berthynas gyflogaeth pan ddefnyddir taliadau uniongyrchol i sicrhau gwasanaethau gan berson a gyflogir gan y claf neu ar ei ran;

(d) risgiau sy'n deillio o ddarparwr gwasanaethau, a sicrhawyd drwy gyfrwng taliadau uniongyrchol, yn gweithredu gyda gweithdrefn annigonol, neu heb weithdrefn, ar gyfer ymchwilio i gwynion sy'n deillio o ddarparu'r gwasanaethau;

(e) risgiau sy'n deillio o ddarparwr gwasanaethau, a sicrhawyd drwy gyfrwng taliadau uniongyrchol, yn gweithredu gyda sicrwydd yswiriant neu indemniad annigonol, neu heb sicrwydd yswiriant neu indemniad, ar gyfer y gwasanaethau a ddarperir;

(f) risgiau y gallai arian sy'n cael ei dalu drwy daliadau uniongyrchol fynd ar goll, cael ei gamddefnyddio neu fod yn agored i dwyll.

(3) Rhaid i Weinidogion Cymru enwebu cydgysylltydd gofal sydd i fod yn gyfrifol am y swyddogaethau a ganlyn mewn cysylltiad â'r claf—

(a) rheoli'r asesiad o anghenion iechyd y claf ar gyfer y cynllun gofal;

(b) sicrhau—

(i) bod cytundeb y claf neu ei gynrychiolydd wedi ei gael mewn perthynas â'r materion a bennir ym mharagraff (12)(a),

(ii) bod cadarnhad wedi ei gael bod y claf neu ei gynrychiolydd yn cydnabod y mater a bennir ym mharagraff (12)(b), a

(iii) yr adroddir am gytundeb a chadarnhad o'r fath i Weinidogion Cymru;

(c) monitro, neu drefnu ar gyfer monitro—

(i) gwneud taliadau uniongyrchol, a

(ii) cyflyrau iechyd y claf y mae'r taliadau uniongyrchol yn cael eu gwneud mewn cysylltiad â hwy;

(d) trefnu ar gyfer adolygu'r taliadau uniongyrchol;

(e) cadw cysylltiad rhwng y claf, neu gynrychiolydd neu enwebai'r claf, a Gweinidogion Cymru mewn perthynas â'r taliadau uniongyrchol.

(4) Rhaid i Weinidogion Cymru bennu pob un o'r canlynol yn y cynllun gofal—

(a) yr anghenion iechyd sydd i'w diwallu gan wasanaethau a sicrheir drwy gyfrwng taliadau uniongyrchol a'r canlyniadau iechyd y bwriedir iddynt gael eu cyflawni drwy ddarparu'r gwasanaethau;

(b) y gwasanaethau sydd i'w sicrhau drwy gyfrwng taliadau uniongyrchol y mae Gweinidogion Cymru yn ystyried eu bod yn angenrheidiol i ddiwallu anghenion iechyd y claf;

(c) y swm sydd i'w dalu drwy daliadau uniongyrchol a'r ysbeidiau y mae arian i'w dalu arnynt;

(d) enw'r person sy'n gydgysylltydd gofal mewn cysylltiad â'r claf;

(e) enw'r person sydd i fod yn gyfrifol am fonitro pob un o gyflyrau iechyd y claf y caniateir gwneud taliadau uniongyrchol mewn cysylltiad â hwy;

(f) dyddiad disgwyliedig yr adolygiad cyntaf a grybwyllir yn rheoliad 18(2)(a) (monitro ac adolygu taliadau uniongyrchol) a manylion sut y bydd yr adolygiad yn cael ei gynnal;

(g) y cyfnod hysbysu sydd i fod yn gymwys, os bydd Gweinidogion Cymru, ar ôl adolygiad o dan reoliad 18(2)(a), yn penderfynu gostwng swm y taliadau uniongyrchol, neu'n penderfynu stopio eu gwneud.

(5) Nid yw'r gwasanaethau y caniateir eu sicrhau drwy gyfrwng taliadau uniongyrchol yn cynnwys—

(a) gwasanaethau a drefnir neu a ddarperir o dan yr adrannau a ganlyn o Ddeddf 2006—

(i) adran 41 (gwasanaethau meddygol sylfaenol)(**16**),

(ii) adran 42 (contractau gwasanaethau meddygol cyffredinol), neu

(iii) adran 50 (trefniadau gan fyrddau iechyd lleol ar gyfer darparu gwasanaethau meddygol sylfaenol);

(b) gwasanaethau y mae ffi fel arall yn daladwy mewn cysylltiad â hwy yn rhinwedd yr adrannau a ganlyn o Ddeddf 2006—

(i) adran 121 (ffioedd am gyffuriau, meddyginiaethau neu declynnau neu wasanaethau fferyllol),

(ii) adran 125 (ffioedd deintyddol), a

(iii) adran 128 (ffioedd am declynnau optegol);

(c) gweithdrefnau llawfeddygol wedi eu cynllunio;

(d) gwasanaethau a ddarperir mewn cysylltiad â brechu, imiwneiddio neu sgrinio (gan gynnwys rhaglenni i'r boblogaeth gyfan);

(e) cymryd rhan yn Rhaglen Mesur Plant Cymru;

(f) gwasanaethau sy'n cynnwys cyflenwi neu gaffael alcohol neu dybaco;

(**16**) Diwygiwyd adran 41 o Ddeddf y Gwasanaeth Iechyd Gwladol (Cymru) 2006 gan Ddeddf Iechyd a Gofal Cymdeithasol 2012 (p. 7), adran 306(4) ac Atodlen 21, paragraff 26.

(g) darparu gwasanaethau neu gyfleusterau mewn perthynas â gamblo.

(6) Ni chaniateir defnyddio taliadau uniongyrchol at ddiben ad-dalu dyled, pa un ai a aed i'r ddyled honno mewn cysylltiad â gwasanaeth a bennir yn y cynllun gofal neu cyn dechrau'r trefniant taliadau uniongyrchol ai peidio.

(7) Ni chaiff Gweinidogion Cymru ganiatáu i wasanaeth a bennir mewn cynllun gofal gael ei ddarparu gan berson cysylltiedig a enwir yn y cynllun gofal ond os ydynt wedi eu bodloni bod hynny'n angenrheidiol—

(a) i ddiwallu angen y claf am y gwasanaeth hwnnw, neu

(b) i hybu lles plentyn.

(8) Ym mharagraff (7), ystyr "person cysylltiedig" yw rhywun sy'n byw ar yr un aelwyd â'r claf (pa un a yw'r person hwnnw'n enwebai ai peidio) ac sydd naill ai—

(a) yn aelod o'r teulu a grybwyllir yn rheoliad 10(6), neu

(b) yn gyfaill i'r claf.

(9) Os yw Gweinidogion Cymru wedi ystyried cynnwys gwasanaeth yn y cynllun gofal fel gwasanaeth sydd i'w sicrhau drwy gyfrwng taliadau uniongyrchol ond yn penderfynu peidio â'i gynnwys—

(a) caiff claf neu gynrychiolydd—

(i) gofyn i Weinidogion Cymru ailystyried eu penderfyniad, a

(ii) cyflwyno tystiolaeth neu wybodaeth berthnasol i Weinidogion Cymru ei hystyried fel rhan o'r ailystyriaeth honno;

(b) os gwneir cais o dan is-baragraff (a)(i), rhaid i Weinidogion Cymru—

(i) ailystyried eu penderfyniad, a

(ii) ystyried unrhyw dystiolaeth neu wybodaeth berthnasol a gyflwynir o dan is-baragraff (a)(ii).

(10) Rhaid i Weinidogion Cymru roi gwybod i'r claf ac unrhyw gynrychiolydd yn ysgrifenedig am ganlyniad yr ailystyriaeth a datgan y rhesymau dros eu penderfyniad.

(11) Ni chaiff Gweinidogion Cymru ailystyried mwy nag unwaith yn unol â pharagraff (9).

(12) Cyn penderfynu gwneud taliadau uniongyrchol, rhaid i Weinidogion Cymru—

(a) cael cytundeb y claf neu ei gynrychiolydd—

(i) y bydd anghenion iechyd y claf a bennir yn y cynllun gofal yn cael eu diwallu gan y gwasanaethau a bennir yn y cynllun gofal, a

(ii) bod swm y taliad uniongyrchol yn ddigonol i dalu cost lawn y gwasanaethau hynny, a

(b) cael cadarnhad bod y claf neu ei gynrychiolydd yn cydnabod y bydd gofynion y claf yn ddarostyngedig i adolygiad o dan reoliad 18(2).

Gwybodaeth, cyngor neu gymorth arall

12.—(1) Rhaid i Weinidogion Cymru wneud trefniadau i sicrhau bod gwybodaeth, cyngor neu gymorth arall ynghylch taliadau uniongyrchol, gan gynnwys y cyfrifoldebau sy'n gysylltiedig â chael taliadau uniongyrchol, ar gael i'r claf, neu ei gynrychiolydd neu ei enwebai, cyn i Weinidogion Cymru wneud penderfyniad i wneud taliadau uniongyrchol.

(2) Rhaid i Weinidogion Cymru hefyd wneud trefniadau i sicrhau bod gwybodaeth, cyngor neu gymorth arall ar gael i'r claf, neu ei gynrychiolydd neu ei enwebai, ar ôl i benderfyniad gael ei wneud i wneud taliadau uniongyrchol.

(3) Caiff y trefniadau ar gyfer gwybodaeth, cyngor neu gymorth arall a grybwyllir ym mharagraffau (1) a (2) gynnwys, yn benodol—

(a) pennu swm taliad uniongyrchol claf a sut y mae'r taliad hwn yn cael ei gyfrifo;

(b) sut y gall claf, cynrychiolydd neu enwebai ofyn am adolygiad o daliadau uniongyrchol a chynllun gofal y claf;

(c) yr amgylchiadau pryd na chaiff claf fod yn gymwys mwyach i gael taliadau uniongyrchol;

(d) y cyfyngiadau ar sut y caniateir gwario taliadau uniongyrchol;

(e) y broses sydd ynghlwm wrth lunio cynllun gofal a chytuno arno;

(f) darpariaeth ar gyfer gwasanaethau eirioli, lle y mae trydydd parti yn cynorthwyo claf, cynrychiolydd neu enwebai mewn perthynas â thelerau cynllun gofal, neu â rheoli unrhyw gontract y darperir gwasanaethau a sicrheir drwy gyfrwng taliadau uniongyrchol odano, neu fel arall;

(g) darpariaeth ar gyfer comisiynu gwasanaethau, lle y mae person yn cynorthwyo'r claf, y cynrychiolydd neu'r enwebai i gaffael gwasanaethau y caniateir eu sicrhau drwy gyfrwng taliadau uniongyrchol;

(h) darpariaeth ar gyfer gwasanaethau cyflogres, gwasanaethau hyfforddiant, gwasanaethau salwch neu wasanaethau eraill sy'n gysylltiedig â chyflogaeth i gynorthwyo claf, cynrychiolydd neu enwebai mewn perthynas â chyflogai y mae'r claf, y cynrychiolydd neu'r enwebai yn ei gyflogi i ddarparu gwasanaethau a sicrheir drwy gyfrwng taliadau uniongyrchol ar gyfer y claf;

(i) pan fo'r claf hefyd yn cael taliad uniongyrchol gofal cymdeithasol, wybodaeth am integreiddio'r ddau daliad uniongyrchol a'r trefniadau rhwng Gweinidogion Cymru ac awdurdod lleol ar gyfer cydweithio a chydweithredu.

(4) Os yw'r cynllun gofal yn pennu gofyniad ar gyfer gwybodaeth, cyngor neu gymorth arall, caiff y cymorth hwnnw fod yn wasanaeth y caniateir gwneud taliadau uniongyrchol mewn cysylltiad ag ef.

Penderfyniad i wneud taliadau uniongyrchol

13.—(1) Ni chaiff Gweinidogion Cymru benderfynu gwneud taliad uniongyrchol i glaf neu mewn cysylltiad ag ef ond os ydynt—

(a) wedi rhoi sylw i'r materion a bennir yn rheoliadau 3 i 12, a

(b) wedi eu bodloni bod gofynion y rheoliadau hynny wedi eu bodloni mewn cysylltiad â'r claf.

(2) Nid oes dim yn y rheoliad hwn yn gosod dyletswydd ar Weinidogion Cymru i wneud taliad uniongyrchol.

(3) Pan fo Gweinidogion Cymru yn gwneud penderfyniad o dan baragraff (1), rhaid iddynt—

(a) rhoi gwybod i'r claf ac unrhyw gynrychiolydd neu enwebai yn ysgrifenedig am y penderfyniad, a

(b) os peidio â gwneud taliad uniongyrchol yw'r penderfyniad, ddatgan y rhesymau dros y penderfyniad hwnnw.

(4) Pan fo Gweinidogion Cymru yn gwneud penderfyniad o dan baragraff (1) i beidio â gwneud taliad uniongyrchol—

(a) caiff claf, unrhyw gynrychiolydd neu unrhyw enwebai—

(i) gofyn i Weinidogion Cymru ailystyried eu penderfyniad, a

(ii) cyflwyno tystiolaeth neu wybodaeth berthnasol i Weinidogion Cymru ei hystyried fel rhan o'r ailystyriaeth honno;

(b) os gwneir cais o dan is-baragraff (a)(i), rhaid i Weinidogion Cymru—

(i) ailystyried eu penderfyniad, a

(ii) ystyried unrhyw dystiolaeth neu wybodaeth berthnasol a gyflwynir o dan is-baragraff (a)(ii).

(5) Rhaid i Weinidogion Cymru roi gwybod i'r claf ac unrhyw gynrychiolydd neu enwebai yn ysgrifenedig am ganlyniad yr ailystyriaeth a datgan y rhesymau dros eu penderfyniad.

(6) Ni chaiff Gweinidogion Cymru ailystyried mwy nag unwaith yn unol â pharagraff (4).

Amodau ar ôl penderfyniad i wneud taliadau uniongyrchol: cyfrifon a gofynion archwilio

14.—(1) Mae'r rheoliad hwn yn gymwys pan fo Gweinidogion Cymru wedi penderfynu gwneud taliadau uniongyrchol i glaf neu mewn cysylltiad ag ef.

(2) Ni chaiff Gweinidogion Cymru wneud taliadau uniongyrchol i gyfrif a nodir gan dalai ond os ydynt wedi eu bodloni bod y cyfrif yn bodloni'r gofynion a bennir—

(a) pan fo'r cyfrif yn gyfrif sy'n cael ei ddal yn enw'r talai gyda banc, cymdeithas adeiladu neu Swyddfa'r Post, ym mharagraff (3), neu

(b) pan fo'r cyfrif yn gyfrif a reolir, ym mharagraff (4).

(3) O ran cyfrif a grybwyllir ym mharagraff (2)(a)—

(a) ni chaiff fod yn gyfrif ar y cyd, oni bai bod Gweinidogion Cymru wedi rhoi cymeradwyaeth ymlaen llaw;

(b) ni chaniateir ei ddefnyddio ond at ddiben dal arian sydd wedi ei adneuo drwy daliadau uniongyrchol;

(c) ni chaniateir mynediad ato ond i bersonau a enwir sydd wedi eu cymeradwyo gan Weinidogion Cymru;

(d) rhaid iddo allu cael ei archwilio (drwy gyfeirio at gyfriflenni sy'n nodi ffynhonnell arian a adneuir a chyrchfan arian a godir o'r cyfrif) gan—

(i) Gweinidogion Cymru, neu

(ii) unrhyw berson sydd wedi ei awdurdodi'n ysgrifenedig gan Weinidogion Cymru;

(e) rhaid iddo alluogi'r monitro a'r adolygu a grybwyllir yn rheoliad 18(1)(a) a (7)(c) i gael eu cynnal.

(4) O ran cyfrif a grybwyllir ym mharagraff (2)(b)—

(a) rhaid iddo allu cael ei archwilio (drwy gyfeirio at gyfriflenni sy'n nodi ffynhonnell arian a adneuir a chyrchfan arian a godir o'r cyfrif) gan—

(i) Gweinidogion Cymru, neu

(ii) unrhyw berson sydd wedi ei awdurdodi'n ysgrifenedig gan Weinidogion Cymru;

(b) rhaid iddo alluogi'r monitro a'r adolygu a grybwyllir yn rheoliad 18(1)(a) a (7)(c) i gael eu cynnal.

(5) Caiff Gweinidogion Cymru ei gwneud yn ofynnol i dalai roi mynediad iddynt at wybodaeth ynghylch cyfrif y mae taliad uniongyrchol yn cael ei wneud iddo, neu y caniateir gwneud taliad uniongyrchol iddo.

(6) Nid yw paragraffau (1) i (5) yn gymwys pan wneir taliad uniongyrchol untro i glaf neu mewn cysylltiad ag ef.

(7) Pan fo Gweinidogion Cymru wedi eu bodloni bod taliad uniongyrchol untro yn briodol o dan amgylchiadau achos unigol, caniateir gwneud y taliad hwnnw i gyfrif banc personol y talai.

(8) Yn y rheoliad hwn ac yn rheoliad 15, ystyr "taliad uniongyrchol untro" yw—

(a) taliad am un eitem neu wasanaeth, neu

(b) un taliad a wneir ar gyfer dim mwy na 5 eitem neu wasanaeth pan mai'r taliad hwnnw yw'r unig daliad y byddai claf yn ei gael gan Weinidogion Cymru mewn unrhyw flwyddyn ariannol.

Amodau ar ôl penderfyniad i wneud taliadau uniongyrchol: amodau ar gyfer sicrhau gwasanaethau

15.—(1) O ran talai—

(a) rhaid iddo ddefnyddio'r taliadau uniongyrchol yn unol â chynllun gofal y claf, yn benodol i sicrhau darpariaeth yr holl wasanaethau a bennir yn y cynllun gofal, a

(b) ni chaiff ddefnyddio'r taliadau uniongyrchol at unrhyw ddiben heblaw sicrhau'r gwasanaethau hynny.

(2) Cyn sicrhau gwasanaethau gan ddarparwr gan ddefnyddio taliadau uniongyrchol, rhaid i'r talai ei fodloni ei hun—

(a) bod y darparwr—

(i) os yw'n darparu gwasanaeth rheoleiddiedig, wedi ei gofrestru â Gweinidogion Cymru fel darparwr gwasanaeth mewn cysylltiad â'r gwasanaeth hwnnw, neu

(ii) os yw'n darparu gwasanaeth sy'n ei gwneud yn ofynnol i'r darparwr fod wedi ei gofrestru fel aelod o broffesiwn a reoleiddir gan gorff a grybwyllir yn adran 25(3) o Ddeddf Diwygio'r Gwasanaeth Iechyd Gwladol a Phroffesiynau Gofal Iechyd 2002(**17**), wedi cydymffurfio â'r gofyniad hwnnw, a

(b) os yw'n ofynnol i'r darparwr weithredu o dan sicrwydd yswiriant neu indemniad, fod y sicrwydd yswiriant neu indemniad hwnnw—

(i) yn gymesur â'r risgiau sy'n gysylltiedig â darparu'r gwasanaeth, a

(ii) yn briodol fel arall mewn perthynas â'r gwasanaeth a ddarperir i'r claf.

(3) Os yw'r talai'n gofyn i Weinidogion Cymru ymgymryd â'r camau a grybwyllir ym mharagraff (2) mewn cysylltiad ag unrhyw ddarparwr gwasanaethau penodol, rhaid i Weinidogion Cymru—

(a) cyflawni'r camau hynny, a

(b) cadarnhau i'r talai a yw'r darparwr yn bodloni'r gofynion a nodir ym mharagraff (2).

(**17**) 2002 p. 17 ("Deddf 2002"). Mae adran 25(3) o Ddeddf 2002 wedi ei diwygio gan Ddeddf Iechyd a Gofal Cymdeithasol 2008 (p. 14), adran 127 ac Atodlen 10, paragraff 17(2); gan Ddeddf Iechyd a Gofal Cymdeithasol 2012 (p. 7), adran 230 ac Atodlen 15, paragraff 56(b); gan Ddeddf Plant a Gwaith Cymdeithasol 2017 (p. 16), adran 56 ac Atodlen 4, paragraff 2(2); a chan O.S. 2010/231, erthygl 68 ac Atodlen 4, paragraff 10(2).

(4) Ni chaiff talai ond defnyddio taliadau uniongyrchol i sicrhau gwasanaeth gan berson a grybwyllir yn rheoliad 11(7) (person cysylltiedig) os yw'r cynllun gofal yn pennu y caniateir i'r person hwnnw ddarparu'r gwasanaeth.

(5) Rhaid i dalai, ar gais, neu ar ysbeidiau a bennir gan Weinidogion Cymru, ddarparu gwybodaeth neu dystiolaeth i Weinidogion Cymru yn ymwneud ag—

(a) stad iechyd y claf, neu stad unrhyw gyflwr sydd ganddo, y mae taliadau uniongyrchol yn cael eu gwneud mewn cysylltiad â hi neu ag ef, neu

(b) y canlyniadau iechyd a ddisgwylir o ddarparu unrhyw wasanaeth a sicrheir gan ddefnyddio'r taliadau uniongyrchol.

(6) Rhaid i'r talai, o fewn cyfnod rhesymol, hysbysu Gweinidogion Cymru pan fydd y stad iechyd neu amgylchiad perthnasol arall sy'n ymwneud â'r claf yn newid yn sylweddol.

(7) Ac eithrio yn achos cyfrif a reolir, rhaid i dalai sicrhau, o ran y cyfrif y mae taliadau uniongyrchol yn cael eu gwneud iddo—

(a) nad yw ond yn cael ei ddefnyddio mewn perthynas â sicrhau gwasanaethau drwy gyfrwng taliadau uniongyrchol, a

(b) dim ond personau a enwir sydd wedi eu cymeradwyo gan Weinidogion Cymru sydd â mynediad ato.

(8) Rhaid i dalai, ar gais, neu ar ysbeidiau a bennir gan Weinidogion Cymru, ddarparu gwybodaeth neu dystiolaeth i Weinidogion Cymru yn ymwneud ag—

(a) y cyfrif a grybwyllir ym mharagraff (7), a

(b) y gwasanaethau a sicrheir drwy gyfrwng taliadau uniongyrchol.

(9) Caiff Gweinidogion Cymru osod ar dalai y naill neu'r llall o'r amodau a ganlyn, neu'r ddau, mewn cysylltiad â thalu a rheoli taliadau uniongyrchol—

(a) cyfyngiad sy'n atal y talai rhag sicrhau gwasanaeth gan berson penodol;

(b) gofyniad bod y talai yn darparu unrhyw wybodaeth y mae Gweinidogion Cymru yn ystyried ei bod yn angenrheidiol, fel y'i disgrifir ym mharagraff (6) neu (8), neu yn rheoliad 10(1)(a), (2)(a) neu (4)(b).

(10) Os nad yw unrhyw wybodaeth neu dystiolaeth sy'n ofynnol yn rhinwedd y rheoliad hwn neu reoliad 10 o fewn meddiant neu reolaeth y talai, rhaid i'r talai gymryd pob cam rhesymol i'w chael a'i darparu i Weinidogion Cymru.

(11) Nid yw paragraffau (7) ac (8)(a) yn gymwys pan fo Gweinidogion Cymru yn gwneud taliad uniongyrchol untro a bo'r taliad hwnnw'n cael ei adneuo i gyfrif personol y talai yn unol â rheoliad 14(7).

Darparu gwybodaeth

16.—(1) Pan fo'r Rheoliadau hyn yn ei gwneud yn ofynnol i berson ddarparu gwybodaeth i Weinidogion Cymru, rhaid i'r wybodaeth—

(a) cael ei darparu yn ysgrifenedig, a chaiff hyn gynnwys ffurf electronig;

(b) bod yn glir ac yn ddarllenadwy, ac mewn fformat a bennir gan Weinidogion Cymru;

(c) pan fo'r wybodaeth yn cael ei dal gan drydydd parti, gael ei chyflwyno ar y cyd ag unrhyw awdurdodiad sy'n angenrheidiol i alluogi Gweinidogion Cymru i gael yr wybodaeth honno'n uniongyrchol gan y trydydd parti hwnnw.

(2) Mewn unrhyw achos pan na fo person yn gallu darparu'r wybodaeth ofynnol, rhaid i'r person hwnnw ddarparu, hyd eithaf ei wybodaeth a'i gred, ddatganiad sy'n nodi ble mae'r wybodaeth yn cael ei dal.

Swm y taliadau uniongyrchol

17.—(1) Rhaid i Weinidogion Cymru sicrhau bod swm y taliadau uniongyrchol sy'n cael ei dalu i glaf neu mewn cysylltiad ag ef yn ddigonol i ddarparu ar gyfer cost lawn pob un o'r gwasanaethau a bennir yn y cynllun gofal.

(2) Pan fo Gweinidogion Cymru yn cael eu hysbysu, neu'n dod yn ymwybodol, bod stad iechyd y claf wedi newid yn sylweddol, ond ym marn Gweinidogion Cymru na fo adolygiad a grybwyllir yn rheoliad 18 yn angenrheidiol, rhaid i Weinidogion Cymru fod wedi eu bodloni bod swm y taliadau uniongyrchol yn parhau i fod yn ddigonol yn unol â pharagraff (1).

(3) Caiff Gweinidogion Cymru, ar unrhyw adeg, gynyddu neu ostwng swm y taliadau uniongyrchol os ydynt wedi eu bodloni bod y swm newydd yn ddigonol yn unol â pharagraff (1).

(4) Caiff Gweinidogion Cymru, am unrhyw gyfnod, ostwng y swm sy'n daladwy (gan gynnwys i sero) neu oedi taliadau—

(a) pan fo taliadau uniongyrchol wedi eu cronni ac yn parhau i fod heb eu defnyddio, a

(b) pan fo Gweinidogion Cymru yn ystyried ei bod yn rhesymol gwrthbwyso'r swm cronedig yn erbyn symiau sy'n daladwy fel arall am y cyfnod hwnnw.

(5) Pan fo Gweinidogion Cymru yn penderfynu gostwng swm y taliadau uniongyrchol, rhaid iddynt roi hysbysiad rhesymol yn ysgrifenedig i'r talai yn datgan y rhesymau dros y penderfyniad.

(6) Pan fo Gweinidogion Cymru yn penderfynu o dan baragraff (5) ostwng swm y taliadau uniongyrchol—

(a) caiff talai—

(i) gofyn i Weinidogion Cymru ailystyried eu penderfyniad, a

(ii) cyflwyno tystiolaeth neu wybodaeth berthnasol i Weinidogion Cymru ei hystyried fel rhan o'r ailystyriaeth honno;

(b) os gwneir cais o dan is-baragraff (a)(i), rhaid i Weinidogion Cymru—

(i) ailystyried eu penderfyniad, a

(ii) ystyried unrhyw dystiolaeth neu wybodaeth berthnasol a gyflwynir o dan is-baragraff (a)(ii).

(7) Rhaid i Weinidogion Cymru roi gwybod i'r talai yn ysgrifenedig am ganlyniad yr ailystyriaeth a datgan y rhesymau dros eu penderfyniad.

(8) Ni chaiff Gweinidogion Cymru ailystyried mwy nag unwaith yn unol â pharagraff (6).

Monitro ac adolygu taliadau uniongyrchol

18.—(1) Rhaid i Weinidogion Cymru fonitro—

(a) yr arfer o wneud taliadau uniongyrchol i glaf neu mewn cysylltiad ag ef, a

(b) cyflyrau iechyd y claf y mae taliadau uniongyrchol yn cael eu gwneud mewn cysylltiad â hwy.

(2) Rhaid i Weinidogion Cymru adolygu'r arfer o wneud taliadau uniongyrchol i'r claf neu mewn cysylltiad ag ef ar ysbeidiau y mae Gweinidogion Cymru yn ystyried eu bod yn briodol ac—

(a) o leiaf unwaith o fewn y 3 mis cyntaf, a

(b) wedi hynny, ar ysbeidiau heb fod yn hwy na 12 mis.

(3) Pan fo Gweinidogion Cymru yn cael eu hysbysu, neu'n dod yn ymwybodol, bod stad iechyd y claf wedi newid yn sylweddol, rhaid iddynt ystyried a yw adolygiad yn briodol.

(4) Pan fo Gweinidogion Cymru yn dod yn ymwybodol nad yw'r taliadau uniongyrchol wedi bod yn ddigonol i sicrhau'r gwasanaethau a bennir yn y cynllun gofal, rhaid iddynt gynnal adolygiad.

(5) Pan fo talai, neu, pan nad y claf yw'r talai, y claf, yn gofyn am adolygiad, rhaid i Weinidogion Cymru ystyried a yw'n rhesymol cynnal adolygiad.

(6) Wrth gynnal adolygiad, rhaid i Weinidogion Cymru—

(a) adolygu'r cynllun gofal i ganfod a yw'n parhau i ddarparu'n briodol ar gyfer anghenion iechyd y claf,

(b) ystyried a yw'r taliadau uniongyrchol wedi eu defnyddio'n effeithiol,

(c) ystyried a yw swm y taliadau uniongyrchol yn ddigonol i dalu costau llawn pob un o'r gwasanaethau a bennir yn y cynllun gofal, a

(d) ystyried a yw'r talai wedi cydymffurfio â'r rhwymedigaethau a osodwyd arno yn unol â rheoliad 15.

(7) Wrth gynnal adolygiad, caiff Gweinidogion Cymru—

(a) ailasesu anghenion iechyd y claf ar gyfer gwasanaethau sydd i'w sicrhau drwy daliadau uniongyrchol,

(b) ymgynghori ag unrhyw bersonau perthnasol a grybwyllir yn rheoliad 9,

(c) adolygu derbynebau, cyfriflenni banc neu wybodaeth arall sy'n ymwneud â'r defnydd o'r taliadau uniongyrchol,

(d) ystyried a yw'r taliadau uniongyrchol wedi eu rheoli'n effeithiol, gan gynnwys a yw unrhyw ddarparwr sy'n darparu unrhyw wasanaethau a sicrheir drwy gyfrwng y taliadau uniongyrchol—

(i) os yw'n darparu gwasanaeth rheoleiddiedig, wedi ei gofrestru â Gweinidogion Cymru fel darparwr gwasanaeth mewn cysylltiad â'r gwasanaeth hwnnw, neu

(ii) os yw'n darparu gwasanaeth sy'n ei gwneud yn ofynnol i'r darparwr fod wedi ei gofrestru fel aelod o broffesiwn a reoleiddir gan gorff a grybwyllir yn adran 25(3) o Ddeddf Diwygio'r Gwasanaeth Iechyd Gwladol a Phroffesiynau Gofal Iechyd 2002, wedi cydymffurfio â'r gofyniad hwnnw, ac

(e) os yw'n ofynnol i'r darparwr weithredu o dan sicrwydd yswiriant neu indemniad, ystyried a yw'r sicrwydd yswiriant neu indemniad hwnnw—

(i) yn gymesur â'r risgiau sy'n gysylltiedig â darparu'r gwasanaeth, a

(ii) fel arall yn briodol mewn perthynas â'r gwasanaeth a ddarperir i'r claf.

(8) Ar ôl adolygiad, caiff Gweinidogion Cymru—

(a) diwygio'r cynllun gofal;

(b) amnewid y talai;

(c) cynyddu, cynnal neu ostwng swm y taliadau uniongyrchol;

(d) oedi neu stopio gwneud y taliadau uniongyrchol;

(e) gosod y naill neu'r llall o'r amodau a ganlyn, neu'r ddau, mewn cysylltiad â thalu a rheoli'r taliadau uniongyrchol—

(i) cyfyngiad sy'n atal y talai rhag sicrhau gwasanaeth gan berson penodol, neu

(ii) gofyniad bod y talai'n darparu unrhyw wybodaeth y mae Gweinidogion Cymru yn ystyried ei bod yn angenrheidiol heblaw'r hyn a ddisgrifir yn rheoliad 10(1)(a), (2)(a) neu (4)(b) (gwybodaeth sy'n ofynnol ar gyfer asesu gallu i reoli taliadau uniongyrchol) neu reoliad 15(5), (8) neu (9)(b) (amodau ar ôl penderfyniad i wneud taliadau uniongyrchol: amodau ar gyfer sicrhau gwasanaethau);

(f) cymryd unrhyw gamau gweithredu eraill y mae Gweinidogion Cymru yn ystyried eu bod yn briodol.

(9) Pan fo Gweinidogion Cymru, ar ôl adolygiad, yn penderfynu gostwng swm y taliadau uniongyrchol, neu'n penderfynu stopio eu gwneud, rhaid iddynt roi hysbysiad rhesymol yn ysgrifenedig i'r talai, a, phan nad y claf yw'r talai, y claf, yn datgan y rhesymau dros y penderfyniad.

(10) Ar ôl cael hysbysiad o dan baragraff (9)—

(a) caiff y talai, a, phan nad y claf yw'r talai, y claf—

(i) gofyn i Weinidogion Cymru ailystyried eu penderfyniad, a

(ii) cyflwyno tystiolaeth neu wybodaeth berthnasol i Weinidogion Cymru ei hystyried fel rhan o'r ailystyriaeth honno;

(b) os gwneir cais o dan is-baragraff (a)(i), rhaid i Weinidogion Cymru—

(i) ailystyried eu penderfyniad, a

(ii) ystyried unrhyw dystiolaeth neu wybodaeth berthnasol a gyflwynir o dan is-baragraff (a)(ii).

(11) Rhaid i Weinidogion Cymru roi gwybod i'r talai, a, phan nad y claf yw'r talai, y claf, yn ysgrifenedig am ganlyniad yr ailystyriaeth a datgan y rhesymau dros eu penderfyniad.

(12) Yn dilyn ailystyriaeth o dan baragraff (10), caiff Gweinidogion Cymru, os ydynt yn ystyried ei bod yn briodol, gynnal un adolygiad pellach o'r taliadau uniongyrchol, ond dim mwy.

Ad-dalu taliad uniongyrchol

19.—(1) Caiff Gweinidogion Cymru ei gwneud yn ofynnol i dalai ad-dalu'r cyfan neu ran o daliad uniongyrchol i Weinidogion Cymru.

(2) Wrth benderfynu a yw'n briodol gwneud ad-daliad yn ofynnol, rhaid i Weinidogion Cymru roi sylw i'r holl amgylchiadau perthnasol, gan gynnwys, yn benodol—

(a) a yw'r cynllun gofal wedi newid yn sylweddol (ar ôl adolygiad o dan reoliad 18),

(b) a yw amgylchiadau'r claf wedi newid yn sylweddol,

(c) a yw unrhyw daliadau uniongyrchol a gafodd y talai heb eu defnyddio o fewn cyfnod rhesymol ac, os felly, y swm sydd wedi cronni mewn cysylltiad â thaliadau uniongyrchol sy'n cael ei ddal gan y talai,

(d) a yw'r taliadau uniongyrchol wedi eu defnyddio heblaw at ddiben sicrhau gwasanaethau a bennir yn y cynllun gofal,

(e) a yw'n ymddangos i Weinidogion Cymru y gallai lladrad, twyll neu drosedd arall fod wedi digwydd mewn cysylltiad â'r taliadau uniongyrchol, neu

(f) a yw'r claf wedi marw.

(3) Pan fo Gweinidogion Cymru yn penderfynu ei gwneud yn ofynnol ad-dalu swm o dan baragraff (1), rhaid i Weinidogion Cymru roi hysbysiad rhesymol yn ysgrifenedig i'r talai, a, phan nad y claf yw'r talai, y claf, gan ddatgan—

(a) y rhesymau dros y penderfyniad,

(b) y swm sydd i'w ad-dalu,

(c) y person y mae rhaid iddo ad-dalu'r swm a bennir yn unol ag is-baragraff (b), a

(d) y cyfnod y mae rhaid ad-dalu'r swm ynddo.

(4) Yn achos claf sydd wedi marw, rhaid i'r hysbysiad a grybwyllir ym mharagraff (3) gael ei roi i gynrychiolydd personol y claf.

(5) Ar ôl cael hysbysiad o dan baragraff (3)—

(a) caiff talai, a, phan nad y claf yw'r talai, y claf, neu gynrychiolydd personol—

(i) gofyn i Weinidogion Cymru ailystyried eu penderfyniad, a

(ii) cyflwyno tystiolaeth neu wybodaeth berthnasol i Weinidogion Cymru ei hystyried fel rhan o'r ailystyriaeth honno;

(b) os gwneir cais o dan is-baragraff (a)(i), rhaid i Weinidogion Cymru—

(i) ailystyried eu penderfyniad, a

(ii) ystyried unrhyw dystiolaeth neu wybodaeth berthnasol a gyflwynir o dan is-baragraff (a)(ii).

(6) Rhaid i Weinidogion Cymru roi hysbysiad yn ysgrifenedig i'r talai, a, phan nad y claf yw'r talai, y claf, neu gynrychiolydd personol, am y penderfyniad ar ôl yr ailystyriaeth, gan ddatgan—

(a) y rhesymau dros y penderfyniad,

(b) y swm sydd i'w ad-dalu (os oes swm i'w ad-dalu),

(c) y cyfnod y mae rhaid ad-dalu unrhyw swm ynddo, a

(d) y person y mae rhaid iddo ad-dalu'r swm (os oes swm i'w ad-dalu).

(7) Ni chaiff Gweinidogion Cymru ailystyried mwy nag unwaith ar ôl penderfyniad o dan baragraff (1).

(8) Caiff Gweinidogion Cymru hepgor, yn gyfan gwbl neu'n rhannol, unrhyw ofyniad i ad-dalu swm sy'n deillio o benderfyniad o dan baragraff (1) neu benderfyniad ar ôl ailystyriaeth a wneir o dan baragraff (5).

Adennill symiau sy'n ddyledus fel dyled sifil

20.—(1) Mae'r paragraff hwn yn gymwys—

(a) pan fo Gweinidogion Cymru wedi ei gwneud yn ofynnol ad-dalu swm o dan reoliad 19, a

(b) pan mai'r rheswm dros wneud ad-daliad yn ofynnol yw ei bod yn ymddangos i Weinidogion Cymru y gallai lladrad, twyll neu drosedd arall fod wedi digwydd mewn cysylltiad â rheoli taliadau uniongyrchol.

(2) Pan fo paragraff (1) yn gymwys, caiff Gweinidogion Cymru adennill y swm yn ddiannod fel dyled sifil.

(3) Nid yw paragraff (2) yn effeithio ar unrhyw ddull adennill arall.

Stopio taliadau uniongyrchol

21.—(1) Rhaid i Weinidogion Cymru stopio gwneud taliadau uniongyrchol—

(a) yn achos claf, heblaw plentyn, y mae ganddo alluedd i gydsynio i daliadau uniongyrchol gael eu gwneud, os nad yw'r claf yn cydsynio i daliadau uniongyrchol gael eu gwneud, neu os yw wedi tynnu cydsyniad yn ôl;

(b) yn achos plentyn neu glaf sydd heb alluedd i gydsynio i daliadau uniongyrchol gael eu gwneud—

(i) os yw cynrychiolydd wedi tynnu cydsyniad yn ôl i daliadau uniongyrchol gael eu gwneud, a

(ii) os nad oes unrhyw gynrychiolydd arall sy'n cydsynio yn unol â rheoliad 4(1)(b) neu 5(1)(b);

(c) yn unol â rheoliad 4(7) neu 7(4) (tynnu cydsyniad yn ôl mewn perthynas â gwneud taliadau uniongyrchol).

(2) Caiff Gweinidogion Cymru stopio gwneud taliadau uniongyrchol os ydynt wedi eu bodloni ei bod yn briodol gwneud hynny ac, yn benodol—

(a) os nad yw person y mae taliad uniongyrchol yn cael ei wneud mewn cysylltiad ag ef yn glaf;

(b) os nad yw Gweinidogion Cymru yn ystyried bod y cynrychiolydd neu'r enwebai yn berson addas i gael taliadau uniongyrchol mewn cysylltiad â'r claf;

(c) os nad yw'r enwebai yn cytuno i gael y taliadau uniongyrchol mewn cysylltiad â'r claf;

(d) os yw'r person sydd wedi enwebu'r enwebai (yn unol â rheoliad 8(1)) wedi tynnu'r enwebiad hwnnw yn ôl yn unol â rheoliad 8(5);

(e) os yw'r taliadau uniongyrchol wedi eu defnyddio heblaw at ddiben sicrhau gwasanaethau a bennir yn y cynllun gofal;

(f) os yw'n ymddangos i Weinidogion Cymru y gallai lladrad, twyll neu drosedd arall fod wedi digwydd mewn cysylltiad â rheoli taliadau uniongyrchol;

(g) os yw Gweinidogion Cymru yn ystyried na all anghenion iechyd y claf gael eu diwallu, neu nad ydynt yn cael eu diwallu, gan wasanaethau a sicrheir drwy gyfrwng taliadau uniongyrchol;

(h) os yw'r claf wedi marw.

(3) Rhaid i Weinidogion Cymru roi hysbysiad rhesymol yn ysgrifenedig i'r talai, a, phan nad y claf yw'r talai, i'r claf, yn datgan y rhesymau dros y penderfyniad—

(a) os ydynt o dan rwymedigaeth i stopio gwneud taliadau uniongyrchol o dan baragraff (1), neu

(b) os ydynt yn penderfynu stopio gwneud taliadau uniongyrchol o dan baragraff (2).

(4) Yn achos claf sydd wedi marw, rhaid i'r hysbysiad a grybwyllir ym mharagraff (3) gael ei roi i gynrychiolydd personol y claf.

(5) Ar ôl cael hysbysiad o dan baragraff (3)—

(a) caiff y talai, neu, pan nad y claf yw'r talai, y claf neu'r cynrychiolydd personol—

(i) gofyn i Weinidogion Cymru ailystyried eu penderfyniad, a

(ii) cyflwyno tystiolaeth neu wybodaeth berthnasol i Weinidogion Cymru ei hystyried fel rhan o'r ailystyriaeth honno;

(b) os gwneir cais o dan is-baragraff (a)(i), rhaid i Weinidogion Cymru—

(i) ailystyried eu penderfyniad, a

(ii) ystyried unrhyw dystiolaeth neu wybodaeth berthnasol a gyflwynir o dan is-baragraff (a)(ii) fel rhan o'r ailystyriaeth honno.

(6) Rhaid i Weinidogion Cymru roi gwybod i'r talai, neu, pan nad y claf yw'r talai, y claf neu'r cynrychiolydd personol yn ysgrifenedig am eu penderfyniad ar ôl ailystyriaeth o dan baragraff (5).

(7) Ni chaiff Gweinidogion Cymru ailystyried mwy nag unwaith o dan baragraff (5).

(8) Caiff Gweinidogion Cymru stopio gwneud taliadau uniongyrchol ar ôl hysbysiad rhesymol er bod penderfyniad o dan baragraff (1) neu baragraff (2) yn cael ei ailystyried.

(9) Mae unrhyw hawl neu atebolrwydd sydd gan y claf, y cynrychiolydd personol, y cynrychiolydd neu'r enwebai mewn cysylltiad â pherson arall neu i berson arall ("trydydd parti"), a gaffaelwyd neu a gronnwyd mewn cysylltiad â gwasanaeth a sicrheir drwy gyfrwng taliad uniongyrchol, yn trosglwyddo i Weinidogion Cymru os yw Gweinidogion Cymru yn stopio gwneud taliadau uniongyrchol yn unol â pharagraff (1) neu baragraff (2).

(10) Mae trosglwyddo unrhyw atebolrwydd o dan baragraff (9) yn rhwymo trydydd parti pa un a fyddai cydsyniad y parti hwnnw wedi bod yn ofynnol fel arall ai peidio.

Dawn Bowden
Y Gweinidog Plant a Gofal Cymdeithasol o dan awdurdod Ysgrifennydd y Cabinet dros Iechyd a Gofal Cymdeithasol, un o Weinidogion Cymru
25 Mawrth 2026

Personau na chaniateir gwneud taliadau uniongyrchol iddynt neu mewn cysylltiad â hwy

1. Yn yr Atodlen hon ystyr "Deddf 2003" yw Deddf Cyfiawnder Troseddol 2003(**18**).

2. Mae'r Atodlen hon yn gymwys i berson—

(a) sy'n ddarostyngedig i ofyniad adsefydlu defnyddiwr cyffuriau (o fewn ystyr "drug rehabilitation requirement" ym mharagraff 19 o Atodlen 9 i'r Cod Dedfrydu), a osodwyd—

(i) gan orchymyn cymunedol (o fewn ystyr "community order" yn adran 200 o'r Cod Dedfrydu), neu

(ii) gan orchymyn dedfryd ohiriedig (o fewn ystyr "suspended sentence order" yn adran 286 o'r Cod Dedfrydu);

(b) sy'n ddarostyngedig i ofyniad triniaeth am alcohol (o fewn ystyr "alcohol treatment requirement" ym mharagraff 23 o Atodlen 9 i'r Cod Dedfrydu), a osodwyd gan orchymyn cymunedol (o fewn ystyr "community order" yn adran 200 o'r Cod Dedfrydu);

(c) sydd wedi ei ryddhau o'r carchar ar drwydded o dan Bennod 6 o Ran 12 o Ddeddf 2003 (rhyddhau, trwyddedau, goruchwylio ac adalw) ac sy'n ddarostyngedig i un neu ragor o'r amodau a ganlyn a osodwyd yn unol ag adran 250 o Ddeddf 2003(**19**) (amodau trwydded)—

(i) gofyniad profi am gyffuriau o dan adran 64 o Ddeddf Cyfiawnder Troseddol a Gwasanaethau Llysoedd 2000(**20**);

(ii) gofyniad apwyntiadau cyffuriau o dan adran 64A o'r Ddeddf honno(**21**);

(iii) gofyniad i gymryd rhan mewn rhaglen neu set o weithgareddau, neu i gydweithredu â rhaglen neu set o weithgareddau (i fynd i'r afael ag ymddygiad troseddol sy'n gysylltiedig â chamddefnyddio cyffuriau neu alcohol) o dan erthygl 7 o Orchymyn Cyfiawnder Troseddol (Dedfrydu) (Amodau Trwydded) 2015(**22**);

(**18**) 2003 p. 44.

(**19**) 2003 p. 44 ("Deddf 2003"). Mae adran 250 o Ddeddf 2003 wedi ei diwygio gan Ddeddf Cymorth Cyfreithiol, Dedfrydu a Chosbi Troseddwyr 2012 (p. 10), adran 89 ac Atodlen 10, paragraff 25(a), adran 111 ac Atodlen 4, paragraff 9, adran 117(5), ac adran 125 ac Atodlen 20, paragraff 6(2); gan Ddeddf Adsefydlu Troseddwyr 2014 (p. 11), adrannau 5(5) a 12(2); gan Ddeddf Cyfiawnder Troseddol a'r Llysoedd 2015 (p. 2), adran 6 ac Atodlen 1, paragraff 17, ac adran 7 ac Atodlen 2, paragraff 4; gan Ddeddf Dedfrydu 2020 (p. 17), adran 410 ac Atodlen 24, paragraff 227; gan Ddeddf Gwrthderfysgaeth a Dedfrydu 2021 (p. 11), adran 46 a pharagraffau 9(5), 21(5) a 45(3) o Atodlen 13; a chan Ddeddf yr Heddlu, Troseddu, Dedfrydu a'r Llysoedd 2022 (p. 32), adran 134.

(**20**) 2000 p. 43. Mae adran 64 wedi ei diwygio gan Ddeddf y Lluoedd Arfog 2006 (p. 52), adran 378 ac Atodlen 16, paragraff 185; gan Ddeddf Adsefydlu Troseddwyr 2014 (p. 11), adran 7 ac Atodlen 3, paragraff 13, ac adran 11; gan Ddeddf Dedfrydu 2020 (p. 17), adran 410 ac Atodlen 24, paragraff 175; gan Ddeddf Gwrthderfysgaeth a Dedfrydu 2021 (p. 11), adran 46 ac Atodlen 13, paragraff 18(4); a chan O.S. 2008/912, erthygl 3 ac Atodlen 1, paragraff 18(2).

(**21**) Mewnosodwyd adran 64A yn Neddf Cyfiawnder Troseddol a Gwasanaethau Llysoedd 2000 (p. 43) ("Deddf 2000") gan Ddeddf Adsefydlu Troseddwyr 2014, adran 12(1). Diwygiwyd Deddf 2000 gan Ddeddf Dedfrydu 2020, adran 410 ac Atodlen 24, paragraff 176; a chan Ddeddf Gwrthderfysgaeth a Dedfrydu 2021, adran 46 ac Atodlen 13, paragraff 18(5).

(**22**) O.S. 2015/337. Mae erthygl 7 wedi ei diwygio gan O.S. 2017/985, erthygl 2(b) ac O.S. 2022/459, erthygl 2(3).

(d) sydd wedi ei ryddhau o'r carchar ar drwydded o dan Bennod 2 o Ran 2 o Ddeddf Troseddau (Dedfrydau) 1997(**23**) ("Deddf 1997") (effaith dedfrydau o garchar: dedfrydau oes) ac sy'n ddarostyngedig i un neu ragor o'r amodau a ganlyn a osodwyd yn unol ag adran 31(2) o Ddeddf 1997(**24**)—

(i) gofyniad profi am gyffuriau;

(ii) gofyniad profi am alcohol;

(iii) gofyniad i gymryd rhan mewn rhaglen neu set o weithgareddau, neu i gydweithredu â rhaglen neu set o weithgareddau (i fynd i'r afael ag ymddygiad troseddol sy'n gysylltiedig â chamddefnyddio cyffuriau neu alcohol);

(e) y mae'n ofynnol iddo gydymffurfio â gofyniad profi am gyffuriau o dan adran 256AB(1)(i) neu ofyniad apwyntiadau cyffuriau o dan adran 256AB(1)(j) o Ddeddf 2003(**25**) a bennir mewn hysbysiad a roddir o dan adran 256AA o'r Ddeddf honno(**26**) (goruchwylio ar ôl diwedd dedfryd carcharorion a gafodd ddedfryd o lai na 2 flynedd);

(f) sy'n ddarostyngedig i orchymyn adsefydlu ieuenctid (o fewn ystyr "youth rehabilitation order" yn adran 173 o'r Cod Dedfrydu) sy'n gosod un neu ragor o'r canlynol—

(i) gofyniad profi am gyffuriau yn unol ag adran 174 o'r Cod Dedfrydu a Rhan 13 o Atodlen 6 iddo(**27**);

(ii) gofyniad triniaeth am gyffuriau yn unol ag adran 174 o'r Cod Dedfrydu a Rhan 14 o Atodlen 6 iddo;

(iii) gofyniad triniaeth am sylwedd meddwol yn unol ag adran 174 o'r Cod Dedfrydu a Rhan 15 o Atodlen 6 iddo;

(iv) gofyniad rhaglen yn unol ag adran 174 o'r Cod Dedfrydu a Rhan 4 o Atodlen 6 iddo (i ymgymryd â gwaith ymddygiad troseddol i fynd i'r afael ag ymddygiad sy'n gysylltiedig â chamddefnyddio sylweddau);

(g) sy'n ddarostyngedig i orchymyn ad-dalu cymunedol (o fewn ystyr "community payback order" yn adran 227A o Ddeddf Gweithdrefn Droseddol (Yr Alban) 1995)(**28**) ("Deddf 1995") sy'n gosod un neu ragor o'r canlynol—

(i) gofyniad triniaeth am gyffuriau yn unol ag adrannau 227A(2)(g) a 227U o Ddeddf 1995;

(ii) gofyniad triniaeth am alcohol yn unol ag adrannau 227(2)(h) a 227V o Ddeddf 1995;

(**23**) 1997 p. 43.

(**24**) Mae adran 31 o Ddeddf Troseddau (Dedfrydau) 1997 wedi ei diwygio gan Ddeddf Trosedd ac Anhrefn 1998 (p. 37), adran 119 ac Atodlen 8, paragraff 31; gan Ddeddf Cyfiawnder Troseddol a Gwasanaethau Llysoedd 2000, adran 230 ac Atodlen 18, paragraff 1, adran 304 ac Atodlen 32, paragraff 83(4), ac adran 332 a Rhan 8 o Atodlen 37; gan Ddeddf Plant 2004 (p. 31), adran 64 a Rhan 4 o Atodlen 5; gan Ddeddf Cyfiawnder Troseddol a Mewnfudo 2008 (p. 4), adran 149 a Rhan 2 o Atodlen 28; gan Ddeddf Cyfiawnder Troseddol a'r Llysoedd 2015 (p. 2), adran 7 ac Atodlen 2, paragraff 1; gan Ddeddf Dioddefwyr a Charcharorion 2024 (p. 21), adran 66(2); gan O.S. 2005/886, erthygl 2 a pharagraff 53 o'r Atodlen; a chan O.S. 2008/912, erthygl 3 ac Atodlen 1, paragraff 12(2).

(**25**) Mewnosodwyd adran 256AB yn Neddf Cyfiawnder Troseddol 2003 gan Ddeddf Adsefydlu Troseddwyr 2014, adran 2(4) ac Atodlen 1, paragraff 1; ac mae wedi ei diwygio gan Ddeddf Dedfrydu 2020, adran 410 ac Atodlen 24, paragraff 230.

(**26**) Mewnosodwyd adran 256AA yn Neddf Cyfiawnder Troseddol 2003 gan adran 2(2) o Ddeddf Adsefydlu Troseddwyr 2014; ac mae wedi ei diwygio gan Ddeddf Dedfrydu 2020, adran 410 ac Atodlen 24, paragraff 230.

(**27**) Mae adran 174 o'r Cod Dedfrydu wedi ei diwygio gan Ddeddf yr Heddlu, Troseddu, Dedfrydu a'r Llysoedd 2022 (p. 32), adran 161 ac Atodlen 17, paragraff 4(2), (3) a (4).

(**28**) 1995 p. 46 ("Deddf 1995"). Mewnosodwyd adrannau 227A i 227ZO yn Neddf 1995 gan Ddeddf Cyfiawnder Troseddol a Thrwyddedu (Yr Alban) 2010 (dsa 13), adran 14(1).

(iii) gofyniad rhaglen yn unol ag adrannau 227(2)(d) a 227P o Ddeddf 1995 (i ymgymryd â gwaith ymddygiad troseddol i fynd i'r afael ag ymddygiad sy'n ymwneud â chamddefnyddio sylweddau);

(h) sydd wedi ei ryddhau ar drwydded o dan Ran 1 o Ddeddf Carcharorion ac Achosion Troseddol (Yr Alban) 1993 ac sy'n ddarostyngedig i un neu ragor o'r amodau a ganlyn a bennir yn unol ag adran 12 o'r Ddeddf honno(**29**)—

(i) gofyniad triniaeth am alcohol;

(ii) gofyniad triniaeth am gyffuriau;

(iii) gofyniad rhaglen (i fynd i'r afael ag ymddygiad sy'n gysylltiedig â chamddefnyddio cyffuriau neu alcohol yn unol â rhaglen ymddygiadol).

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Argraffwyd a chyhoeddwyd yn y DU gan Y Llyfrfa Cyf dan awdurdod a goruchwyliaeth Saul Nassé, Rheolwr Llyfrfa Ei Fawrhydi ac Argraffydd y Brenin ar gyfer Cymru.

(**29**) 1993 p. 9. Mae adran 12 wedi ei diwygio gan Ddeddf Cyfiawnder Troseddol a Gwasanaethau Llysoedd 2000 (p. 43), adran 74 ac Atodlen 7, paragraff 4(1)(a) a (2); gan Ddeddf Cyfiawnder Troseddol (Yr Alban) 2003 (dsa 7), adrannau 28(3) a 35(2); gan Ddeddf Rheoli Troseddwyr etc. (Yr Alban) 2005 (dsa 14), adran 15(9); gan Ddeddf Mechnïaeth a Rhyddhau o'r Ddalfa (Yr Alban) 2023 (dsa 4), adran 11(3); gan O.S. 2005/886, erthygl 2 a pharagraff 50(1) o'r Atodlen; a chan O.S. 2008/912, erthygl 3 ac Atodlen 1, paragraff 10(2).

WELSH STATUTORY INSTRUMENTS

2026 No. 104

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Direct Payments) (Wales) Regulations 2026

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the making of direct payments for health care by the Welsh Ministers for the purposes of the provision of certain health services under the National Health Service (Wales) Act 2006.

Regulation 1 makes provision about the coming into force of these Regulations. Regulation 1(2) provides that most of the provisions come into force on 1 April 2026 and specifically includes the definition of “child” in regulation 2(1) which is required to identify which provisions will come into force on 1 October 2027.

Regulation 1(3) provides that regulation 4 (direct payments in respect of a child) and any other provision, in so far as it relates to a child, come into force on 1 October 2027.

Regulations 3 to 5 specify the patients to, or in respect of whom, direct payments may be made, and the Schedule specifies the persons to or in respect of whom direct payments cannot be made (excluded persons). Regulation 6 contains provision about patients who had but no longer have mental capacity to consent to the making of direct payments and regulation 7 contains provision about patients who gain or regain mental capacity.

Regulation 8 provides for the nomination of a person (a nominee) to receive and administer direct payments on behalf of a patient.

Regulations 9 to 12 set steps that enable the Welsh Ministers to gather the information they need in order to make a decision (in accordance with regulation 13) on whether to make direct payments to or in respect of a patient.

Regulation 9 contains provision about the relevant persons whom the Welsh Ministers may consult before deciding whether or not to make a direct payment.

Regulation 10 specifies the information the Welsh Ministers require in order to assess the ability of a patient, their representative or nominee to manage direct payments, and regulation 11 specifies the requirements for a care plan and sets out the role of the care co-ordinator.

Regulation 12 details the information, advice or other support that the Welsh Ministers must provide before a decision is made in respect of direct payment. It also sets out the requirements for the provision of information, advice or other support in cases where the Welsh Ministers decide to make direct payments.

The Welsh Ministers must make a decision on whether to make direct payments in accordance with regulation 13.

Regulations 14 and 15 make provision about the conditions that may be imposed on the person who receives and manages the direct payment (the payee); this may be the patient, or their representative or nominee.

Regulation 16 makes provision about the supply of information required by the Welsh Ministers and regulation 17 makes provision about the amount of direct payments.

Regulation 18 makes provision about the monitoring and review of direct payments and regulations 19 to 21 provide for the repayment, recovery and stopping of direct payments.

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

2026 No. 104

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Direct Payments) (Wales) Regulations 2026

Made *25 March 2026*

Coming into force in accordance with regulation 1(2) and (3)

The Welsh Ministers, in exercise of the powers conferred on them by sections 10C(1) to (4), and 203(9) and (10) of the National Health Service (Wales) Act 2006(**1**), make the following Regulations(**2**).

In accordance with the Senedd approval procedure applied by section 203(6) of the National Health Service (Wales) Act 2006, a draft of this Welsh statutory instrument was laid before, and approved by resolution of, Senedd Cymru.

Title and coming into force

1.—(1) The title of these Regulations is the National Health Service (Direct Payments) (Wales) Regulations 2026.

(2) The following provisions of these Regulations come into force on 1 April 2026—

(a) regulation 2(1) in so far as it defines "child", and

(b) subject to paragraph (3), the remaining provisions of these Regulations (including the remainder of regulation 2).

(3) The following provisions of these Regulations come into force on 1 October 2027—

(a) regulation 4 (direct payments in respect of a child), and

(b) any other provision of these Regulations in so far as it relates to a child.

Interpretation

2.—(1) In these Regulations—

"the 2006 Act" ("*Deddf 2006*") means the National Health Service (Wales) Act 2006;

"the 2014 Act" ("*Deddf 2014*") means the Social Services and Well-being (Wales) Act 2014(**3**);

(**1**) 2006 c. 42 ("the 2006 Act"); section 10C was inserted into the 2006 Act by section 24(2) of the Health and Social Care (Wales) Act 2025 (asc 1). *See* section 206(1) of the 2006 Act for the definition of "regulations".

(**2**) The reference in section 203(6) of the National Health Service (Wales) Act 2006 to the National Assembly for Wales now has effect as a reference to Senedd Cymru by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

(**3**) 2014 anaw 4.

"care plan" ("*cynllun gofal*") means a plan prepared in accordance with regulation 11 (care plan and care co-ordinator);

"child" ("*plentyn*") means a patient who has not attained the age of 16;

"Child Measurement Programme for Wales" ("*Rhaglen Mesur Plant Cymru*") means the programme established to measure the height and weight of children aged 4 to 5 for the purpose of monitoring population-prevalence of underweight, overweight and obesity in accordance with Schedule 1 to the 2006 Act(**4**);

"direct payments" ("*taliadau uniongyrchol*") means payments that the Welsh Ministers may make to a patient or in respect of the patient to a representative or nominee for the purpose of securing the provision to the patient of anything to which section 10B(3) of the 2006 Act (**5**) refers;

"excluded person" ("*person a eithrir*") means a person to whom the Schedule applies (persons to or in respect of whom direct payments may not be made);

"local authority" ("*awdurdod lleol*") means the council of a county or county borough in Wales;

"manage" ("*rheoli*"), in relation to a direct payment, means to receive and hold the payment and to secure the provision of the services specified in the patient's care plan, in accordance with any conditions applied under these Regulations;

"managed account" ("*cyfrif a reolir*") means an account administered by a person other than the payee for the purpose of—

(a) holding the direct payments on behalf of the payee, and

(b) applying the direct payments in accordance with the instructions of the payee;

"nominee" ("*enwebai*") has the meaning given in regulation 8 (nominated person);

"parental responsibility" ("*cyfrifoldeb rhiant*") has the meaning given in section 3 of the Children Act 1989 (meaning of parental responsibility)(**6**);

"patient" ("*claf*") means a person to or in respect of whom direct payments may be made in accordance with regulations 3 to 7;

"payee" ("*talai*") means a person responsible for managing direct payments, being either the patient or a representative or nominee acting for the patient;

"personal representative" ("*cynrychiolydd personol*") means the executor or administrator for the time being of a deceased patient;

"regulated service" ("*gwasanaeth rheoleiddiedig*") has the meaning given in section 2 of, and Schedule 1 to, the Regulation and Inspection of Social Care (Wales) Act 2016(**7**);

"representative" ("*cynrychiolydd*") means—

(**4**) *See* paragraphs 7A and 7B of Schedule 1 to the National Health Service (Wales) Act 2006; paragraphs 7A and 7B were inserted by the Health and Social Care Act 2008 (c. 14) section 144; and have been amended respectively by the Children and Families (Wales) Measure 2010 (nawm 1), section 72 and Schedule 1, paragraph 26 and the Data Protection Act 2018 (c. 12), section 211 and Schedule 19, paragraph 119.

(**5**) Section 10B was inserted into the National Health Service (Wales) Act 2006 by section 24(2) of the Health and Social Care (Wales) Act 2025.

(**6**) 1989 c. 41 ("the 1989 Act"). A person may have parental responsibility for a person who is not a child for the purposes of these Regulations; *see* section 105 of the 1989 Act, by virtue of which "child", for the purposes of the 1989 Act means, subject to paragraph 16 of Schedule 1 to that Act, a person under the age of 18.

(**7**) 2016 anaw 2. *See* S.I. 2017/1264 (W. 295), 2019/165 (W. 41), 2019/757 (W. 142), 2019/762 (W. 145) and 2023/1327 (W. 238) for exceptions.

(a) in the case of a patient in respect of whom any deputy has been appointed by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005(**8**) (powers to appoint deputies) to make decisions on that patient's behalf in relation to matters in respect of which direct payments may be made, any such deputy,

(b) in the case of a patient who has appointed any donee of a lasting power of attorney within the meaning of section 9 of the Mental Capacity Act 2005 (lasting powers of attorney) to make decisions on that patient's behalf in relation to matters in respect of which direct payments may be made, any such donee,

(c) in the case of a patient who created an enduring power of attorney within the meaning of Schedule 4 to the Mental Capacity Act 2005 (provisions applying to existing enduring powers of attorney), which is registered in accordance with paragraphs 4 and 13 of that Schedule, or in respect of which an application has been made for such registration, any attorney in respect of whom the power is vested(**9**),

(d) in the case of a child, any person with parental responsibility for the child,

(e) in the case of a patient aged 16 or over but who lacks capacity and in respect of whom there is a person with parental responsibility, any such person with parental responsibility, or

(f) in the case of a patient in respect of whom a person has been appointed under regulation 5(4) (direct payments in respect of patients who lack capacity), that person;

"social care direct payment" ("*taliad uniongyrchol gofal cymdeithasol*") means a payment to secure services to meet a need for care and support that is made—

(a) until the coming into force of section 49A of the 2014 Act(**10**), by virtue of regulations made under sections 50 to 53 of that Act, and

(b) following the coming into force of section 49A of the 2014 Act, by virtue of regulations made under that section.

(2) References in these Regulations to a person lacking capacity are references a person lacking capacity within the meaning of the Mental Capacity Act 2005(**11**).

Patients to whom direct payments may be made

3.—(1) The Welsh Ministers may make direct payments to a patient—

(a) who is not an excluded person, and

(b) who consents to the making of direct payments to them.

(2) In determining whether direct payments should be made to a patient falling within paragraph (1), the Welsh Ministers must have regard to—

(a) whether direct payments are appropriate for a patient with that patient's condition,

(b) the impact of that condition on that patient's life, and

(c) whether direct payments represent value for money.

(**8**) 2005 c. 9.
(**9**) It is no longer possible to make an enduring power of attorney; this has been the case since 1 October 2007. However, those that are currently in use or have been made but are currently unregistered remain valid.
(**10**) Section 49A is prospectively inserted into the Social Services and Well-being (Wales) Act 2014 Act by section 20(2) of the Health and Social Care (Wales) 2025 Act.
(**11**) 2005 c. 9.

(3) Direct payments may only be made to a patient falling with paragraph (1) if the patient—

(a) is aged 16 or over, and

(b) has capacity to consent to the making of direct payments to them.

Direct payments in respect of a child

4.—(1) Direct payments may be made in respect of a child, if the child—

(a) is not an excluded person, and

(b) has a representative who consents to the making of direct payments in respect of the child.

(2) In determining whether direct payments should be made in respect of a child falling within paragraph (1), the Welsh Ministers must have regard to—

(a) whether direct payments are appropriate for a child with that child's condition,

(b) the impact of that condition on the child's life, and

(c) whether direct payments represent value for money.

(3) A representative to whom direct payments may be made in respect of a child must—

(a) agree to act on the child's behalf in relation to the direct payments,

(b) act in the best interests of the child when securing the provision of services in respect of which the direct payments are made,

(c) be responsible as the contracting party for all contractual arrangements entered into for the benefit of the child and secured by means of the direct payments, and

(d) use the direct payments in accordance with child's care plan.

(4) This paragraph applies where a patient reaches the age of 16.

(5) Where paragraph (4) applies, the Welsh Ministers must, as soon as reasonably possible, review the making of the direct payments in accordance with regulation 18.

(6) Where paragraph (4) applies, the Welsh Ministers may continue to make direct payments to the representative or nominee in accordance with the patient's care plan if—

(a) the patient consents to the continued making of the direct payments, and

(b) both the patient and the representative or nominee agree that the representative or nominee will continue to manage the direct payments on behalf of the patient.

(7) Where paragraph (4) applies and the patient does not consent to the continued making of direct payments, the Welsh Ministers must stop making the direct payments.

Direct payments in respect of patients who lack capacity

5.—(1) Direct payments may be made in respect of a patient, other than a child, who lacks capacity to consent to the making of direct payment, if that patient—

(a) is not an excluded person, and

(b) has a representative who consents to the making of direct payments in respect of that patient.

(2) In determining whether direct payments should be made in respect of a patient falling within paragraph (1), the Welsh Ministers must have regard to—

(a) whether direct payments are appropriate for a patient with that patient's condition,

(b) the impact of that condition on that patient's life, and

(c) whether direct payments represent value for money.

(3) This paragraph applies to a patient, other than a child, who lacks capacity to consent to the making of direct payments to them but is a patient in respect of whom there is no representative.

(4) Where paragraph (3) applies, the Welsh Ministers may appoint a person they consider suitable to act as a representative for that patient.

(5) A representative to whom direct payments are made in respect of a patient must—

(a) agree to act on the patient's behalf in relation to the direct payment,

(b) act in the best interests of the patient when securing the provision of services in respect of which the direct payments are made,

(c) be responsible as the contracting party for all contractual arrangements entered into for the benefit of the patient and secured by means of the direct payments, and

(d) use the direct payments in accordance with patient's care plan.

(6) In determining for the purposes of this regulation what is in the best interests of a patient, other than a child, the representative must comply with the requirements specified in subsections (1) to (7) of section 4 of the Mental Capacity Act 2005 (best interests).

Direct payments for patients who had but no longer have capacity

6.—(1) Where a patient has been receiving direct payments on the basis that they were eligible to do so under regulation 3, but the Welsh Ministers reasonably believe that the patient no longer has the necessary capacity to consent to the making of the direct payments, paragraph (2) applies.

(2) Where this paragraph applies, the Welsh Ministers may continue to make direct payments in respect of that patient if—

(a) they are satisfied that the patient's lack of capacity is likely to be temporary, and

(b) either—

(i) a representative or nominee agrees, in accordance with regulation 5(5)(a) (representatives) or regulation 8(4)(a) (nominees), to act on the patient's behalf in respect of the direct payments or to receive the direct payments on behalf of the patient, or

(ii) a nominee, appointed by the Welsh Ministers having regard to an indication given by the patient under regulation 8(2), agrees to receive the direct payments on behalf of the patient, and

(c) the direct payments are made subject to the condition that the representative or nominee must allow the patient to manage the direct payments themselves for any period in respect of which the Welsh Ministers are satisfied that the patient—

(i) has capacity to consent to the making of the direct payments, and

(ii) is capable of managing the direct payments themselves or with the assistance that is available to them.

Patients who gain or regain capacity: consent and review

7.—(1) This paragraph applies where direct payments are being made in respect of a patient under regulation 5 or regulation 6 and the patient gains or regains capacity to consent to the making of direct payments.

(2) Where paragraph (1) applies, the Welsh Ministers must as soon as reasonably possible review the making of the direct payments in accordance with regulation 18.

(3) Where paragraph (1) applies, the Welsh Ministers may continue to make direct payments to the representative or nominee in accordance with the patient's care plan if—

(a) the patient consents to the continued making of the direct payments, and

(b) both the patient and the representative or nominee agree that the representative or nominee will continue to manage the direct payments on behalf of the patient.

(4) Where paragraph (1) applies and the patient does not consent to the making of direct payments, the Welsh Ministers must stop making the direct payments.

Nominated persons

8.—(1) The following persons may nominate another person ("a nominee") to receive direct payments on a patient's behalf—

(a) a patient, who is not a child, who has capacity to consent to the making of direct payments;

(b) the representative of a patient.

(2) Where a patient has lost capacity and, while they had capacity, indicated a wish for a particular person to act as their nominee if they were to lose capacity, that person may be appointed as the nominee.

(3) A nominee to whom direct payments are made in respect of a patient must—

(a) be responsible as the contracting party for all contractual arrangements entered into for the benefit of the patient and secured by means of the direct payments, and

(b) use the direct payments in accordance with patient's care plan.

(4) Before making direct payments to a nominee—

(a) the nominee must agree to manage the direct payments on behalf of the patient, and

(b) the Welsh Ministers must be satisfied that the nominee is a suitable person to manage the direct payments on behalf of the patient.

(5) If a person who has nominated a nominee pursuant to paragraph (1) notifies the Welsh Ministers in writing that they wish to withdraw or change the nomination, the Welsh Ministers must consider whether to stop making the direct payments.

(6) Where paragraph (5) applies, the Welsh Ministers must as soon as reasonably possible review the making of the direct payments in accordance with regulation 18.

Consultation before a decision to make direct payments

9.—(1) Before deciding whether to make direct payments to a patient, the Welsh Ministers may consult one or more of the following persons—

(a) anyone identified by the patient as a person to be consulted for the purpose;

(b) if the patient is a person aged 16 or over but under the age of 18, a person with parental responsibility for the patient;

(c) the person primarily involved in the care of the patient;

(d) any other person who provides care for the patient;

(e) any independent mental capacity advocate or independent mental health advocate appointed for the patient;

(f) any local authority social care team that is responsible for ensuring that the patient's social care needs are met;

(g) any other person who appears to the Welsh Ministers to be able to provide relevant information.

(2) Before deciding whether to make direct payments to a representative, the Welsh Ministers may consult one or more of the following persons—

(a) the patient;

(b) any deputy appointed in respect of the patient by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005 who lacks authority to make decisions on behalf of the patient in relation to the matters in respect of which direct payments may be payable;

(c) any donee of a lasting power of attorney within the meaning of section 9 of the Mental Capacity Act 2005 in respect of the patient but who lacks authority to make decisions on behalf of the patient in relation to matters in respect of which direct payments may be made;

(d) anyone named by the patient, when the patient had capacity, as a person to be consulted for the purpose;

(e) any of the persons mentioned in paragraph (1)(c) to (g).

(3) Before deciding whether to make direct payments to a nominee, the Welsh Ministers may consult one or more of the persons mentioned in paragraph (1)(a) to (g) and paragraph (2)(a) to (c) and, where relevant, (d).

(4) In this regulation—

(a) "independent mental capacity advocate" has the meaning given in section 35(1) of the Mental Capacity Act 2005(**12**), and

(b) "independent mental health advocate" has the meaning given in section 130E of the Mental Health Act 1983(**13**).

Information required for assessing ability to manage direct payments

10.—(1) Before deciding whether to make direct payments to a patient, the Welsh Ministers—

(a) may require the patient to provide information relating to—

(i) the patient's state of health,

(ii) any health condition in respect of which direct payments are contemplated, and

(**12**) 2005 c. 9. Section 35 has been amended by the Mental Health Act 2007 (c. 12), section 50 and Schedule 9, paragraph 3; the Health and Social Care Act 2012 (c. 7), section 55(2) and Schedule 5, paragraph 134; and S.I. 2018/195 (W. 44), regulation 28.

(**13**) 1983 c. 20; section 130E was inserted by the Mental Health (Wales) Measure 2010 (nawm 7), section 31.

(iii) any bank, building society, Post Office or other account into which it is proposed direct payments may be paid, and

(b) must be satisfied that the patient is capable of managing (see paragraph (7)) direct payments by themself or with the assistance that is available to them.

(2) Before deciding whether to make direct payments to a representative, the Welsh Ministers—

(a) may require the representative to provide information relating to any bank, building society, Post Office or other account into which it is proposed direct payments may be paid, and

(b) must be satisfied that the representative is capable of managing direct payments by themself or with the assistance that is available to them.

(3) Before deciding whether to make direct payments to a representative, the Welsh Ministers may, in particular, consider—

(a) whether the patient has in the past, when the patient had capacity, expressed in writing, or by any other means which are understandable, a wish for direct payments to be made to them or for their benefit,

(b) so far as is reasonably ascertainable, the beliefs and values that would be likely to influence the patient's decision as to whether or not to consent to receive direct payments if the patient had capacity, and

(c) any other information or evidence that may assist the Welsh Ministers with their consideration of whether the patient would be likely to consent to the making of direct payments if able to do so, including the patient's past wishes and feelings.

(4) Before deciding whether to make direct payments to a nominee, the Welsh Ministers—

(a) may require a patient with capacity to provide information relating to the patient's state of health or any health condition in respect of which direct payments are contemplated, and

(b) may require the nominee to provide information relating to any bank, building society, Post Office or other account into which it is proposed direct payments may be paid.

(5) Before deciding whether to make direct payments to a nominee, the Welsh Ministers must—

(a) be satisfied that the nominee is capable of managing direct payments by themselves or with the assistance that may be available to them;

(b) where the nominee is an individual, require the nominee to apply for an enhanced criminal record certificate issued under section 113B of the Police Act 1997(**14**) including suitability information relating to vulnerable adults under section 113BB of that Act(**15**), unless the nominee is an individual living in the same household as—

(**14**) 1997 c. 50 ("the 1997 Act"); section 113B was inserted into the 1997 Act by the Serious Organised Crime and Police Act 2005 (c. 15), section 163; amended by the Safeguarding Vulnerable Groups Act 2006 (c. 47), section 63 and Schedule 9, paragraph 14(3); by the Armed Forces Act 2006 (c. 52), section 378 and Schedule 16, paragraph 149; by the Policing and Crime Act 2009 (c. 26), section 112 and Part 8 of Schedule 8; by the Protection of Freedoms Act 2012 (c. 9), sections 80(1) and 82(1) to (3), and section 115(2) and Part 5 of Schedule 10; by the Crime and Courts Act 2013 (c. 22), section 15 and Schedule 8, paragraph 60; by the Armed Forces Act 2021 (c. 35), section 12 and Schedule 5, paragraph 10; by S.I. 2009/203, article 4; and by S.I. 2012/3006, article 37(c).

(**15**) Section 113BB was inserted into the Police Act 1997 by the Safeguarding Vulnerable Groups Act 2006, section 63 and Schedule 9, paragraph 14(4); and amended by the Protection of Freedoms Act 2012, section 115(2) and by Part 5 of Schedule 10.

(i) the patient,

(ii) a family member mentioned in paragraph (6), or

(iii) a friend involved in the provision of the patient's care;

(c) where the nominee is a body corporate or an unincorporated body of persons, require that the individual whom the nominee has decided will have overall responsibility for the day-to-day management of the direct payments on behalf of the nominee, applies for a criminal record certificate issued under section 113B of the Police Act 1997 including suitability information relating to vulnerable adults under section 113BB of that Act.

(6) The family members referred to in paragraph (5)(b)(ii) are—

(a) the spouse or civil partner of the patient;

(b) a person who lives with the patient as if their spouse or civil partner;

(c) a person who is the patient's—

(i) parent, step-parent or parent-in-law,

(ii) son or daughter,

(iii) son-in-law or daughter-in-law,

(iv) stepson or stepdaughter,

(v) brother or sister,

(vi) aunt or uncle, or

(vii) grandparent;

(d) the spouse or civil partner of any person specified in sub-paragraph (c);

(e) any person who lives with any person specified in sub-paragraph (c) as if that person's spouse or civil partner.

(7) In deciding whether a patient, representative or nominee is capable of managing direct payments, the Welsh Ministers may, in particular, consider whether—

(a) the patient, representative or nominee would be a suitable person to arrange with any person or body to provide, or assist in providing, any services secured by means of direct payments for the patient;

(b) the patient, representative or nominee has been able to manage direct payments or a social care direct payment;

(c) the patient, representative or nominee is capable of taking all reasonable steps to prevent the fraudulent use of the direct payments.

Care plan and care co-ordinator

11.—(1) The Welsh Ministers may not make direct payments unless they—

(a) have prepared a care plan which—

(i) identifies the health needs of the patient, and

(ii) specifies the services to be secured by way of direct payments,

(b) have advised the patient, and where relevant, the patient's representative or nominee—

(i) whether there are any potential significant risks arising in relation to the making of direct payments to or in respect of the patient,

(ii) what would be the potential consequences of any such risks, and

(iii) whether there are any proportionate means of mitigating the risks,

(c) have agreed with the patient, and where relevant the patient's representative or nominee, a procedure for managing each of the risks identified in accordance with sub-paragraph (b) and included the agreed procedure in the care plan, and

(d) are satisfied that—

(i) the health needs identified in the patient's care plan can be met by the services specified in the care plan, and

(ii) the amount represented by the direct payments will be sufficient to provide for the full cost of each of the services specified in the care plan.

(2) The risks mentioned in paragraph (1)(b) may in particular include—

(a) risks to the patient's health;

(b) medical or surgical risks arising from the securing of a particular type of service;

(c) risks arising from the employment relationship where direct payments are used to secure services from a person employed by or on behalf of the patient;

(d) risks arising from a provider of services secured by means of direct payments operating with an inadequate or no procedure for the investigation of complaints arising from the provision of the services;

(e) risks arising from a provider of services secured by means of direct payments operating with inadequate or no insurance or indemnity cover for the services provided;

(f) risks that monies paid by way of direct payments may go missing, be misused or be subject to fraud.

(3) The Welsh Ministers must nominate a care co-ordinator who is to be responsible for the following functions in respect of the patient—

(a) managing the assessment of the health needs of the patient for the care plan;

(b) ensuring that—

(i) the agreement of the patient or their representative has been obtained in relation to the matters specified in paragraph (12)(a),

(ii) confirmation has been obtained that the patient or their representative acknowledges the matter specified in paragraph (12)(b), and

(iii) such agreement and confirmation are reported to the Welsh Ministers;

(c) monitoring or arranging for the monitoring of—

(i) the making of direct payments, and

(ii) the health conditions of the patient in respect of which the direct payments are made;

(d) arranging for the review of the direct payments;

(e) liaising between the patient, or the patient's representative or nominee and the Welsh Ministers in relation to the direct payments.

(4) The Welsh Ministers must specify each of the following in the care plan—

(a) the health needs to be met by services secured by means of direct payments and the health outcomes intended to be achieved through the provision of the services;

(b) the services to be secured by means of direct payments that the Welsh Ministers consider necessary to meet the health needs of the patient;

(c) the amount to be paid by direct payments and the intervals at which monies are to be paid;

(d) the name of the person who is the care co-ordinator in respect of the patient;

(e) the name of the person who is to be responsible for monitoring each health condition of the patient in respect of which direct payments may be made;

(f) the anticipated date of the first review mentioned in regulation 18(2)(a) (monitoring and review of direct payments) and details of how the review will be carried out;

(g) the period of notice that is to apply, if following a review under regulation 18(2)(a), the Welsh Ministers decide to reduce the amount of, or stop making the direct payments.

(5) The services that may be secured by means of direct payments do not include—

(a) services arranged or provided under the following sections of the 2006 Act—

(i) section 41 (primary medical services)(**16**),

(ii) section 42 (general medical services contracts), or

(iii) section 50 (arrangements by local health boards for the provision of primary medical services);

(b) services in respect of which a charge is otherwise payable by virtue of the following sections of the 2006 Act—

(i) section 121 (charges for drugs, medicines or appliances or pharmaceutical services),

(ii) section 125 (dental charges), and

(iii) section 128 (charges for optical appliances);

(c) planned surgical procedures;

(d) services provided in respect of vaccination, immunisation or screening (including population-wide programmes);

(e) participation in the Child Measurement Programme for Wales;

(f) services that consist of the supply or procurement of alcohol or tobacco;

(g) the provision of services or facilities in relation to gambling.

(6) Direct payments may not be used for the purpose of repaying a debt, whether or not that debt was incurred in respect of a service specified in the care plan or before the commencement of the direct payment arrangement.

(7) The Welsh Ministers may allow a service specified in a care plan to be provided by a connected person who is named in the care plan only if they are satisfied that it is necessary—

(a) to meet the patient's need for that service, or

(b) to promote the welfare of a child.

(8) In paragraph (7), "connected person" means someone who lives in the same household as the patient (whether or not that person is a nominee) and is either—

(a) a family member mentioned in regulation 10(6), or

(b) a friend of the patient.

(**16**) Section 41 of the National Health Service (Wales) Act 2006 was amended by the Health and Social Care Act 2012 (c. 7), section 306(4) and Schedule 21, paragraph 26.

(9) If the Welsh Ministers have considered including a service in the care plan as a service to be secured by means of direct payments but decide not to include it—

(a) a patient or a representative may—

(i) request that the Welsh Ministers reconsider their decision, and

(ii) submit evidence or relevant information for the Welsh Ministers to take into account as part of that reconsideration;

(b) if a request is made under sub-paragraph (a)(i) the Welsh Ministers must—

(i) undertake a reconsideration of their decision, and

(ii) take into account any evidence or relevant information submitted under sub-paragraph (a)(ii).

(10) The Welsh Ministers must inform the patient and any representative in writing of the outcome of the reconsideration and state the reasons for their decision.

(11) The Welsh Ministers must not undertake more than one reconsideration in accordance with paragraph (9).

(12) Before deciding to make direct payments, the Welsh Ministers must obtain—

(a) the agreement of the patient or their representative that—

(i) the health needs of the patient specified in the care plan will be met by the services specified in the care plan, and

(ii) the amount of the direct payment is sufficient to cover the full cost of those services, and

(b) confirmation that the patient or their representative acknowledges that the patient's requirements will be subject to review under regulation 18(2).

Information, advice or other support

12.—(1) The Welsh Ministers must make arrangements to ensure that information, advice or other support about direct payments, including the responsibilities associated with the receipt of direct payments, is available to the patient, or their representative or nominee before the Welsh Ministers make a decision to make direct payments.

(2) The Welsh Ministers must also make arrangements to ensure that information, advice or other support is available to the patient, or their representative or nominee after a decision is made to make direct payments.

(3) The arrangements for information, advice or other support mentioned in paragraphs (1) and (2) may, in particular, include—

(a) specifying the amount of a patient's direct payment and how this payment is calculated;

(b) how a patient, representative or nominee can request a review of the patient's direct payments and care plan;

(c) the circumstances in which a patient may no longer qualify for direct payments;

(d) the restrictions on how direct payments may be spent;

(e) the process involved in drawing up and agreeing a care plan;

(f) provision for advocacy services, whereby a third party assists a patient, representative or nominee in relation to the terms of a care plan, or the management of any contract under which services secured by means of direct payments are provided, or otherwise;

(g) provision for commissioning services, whereby a person assists the patient, representative or nominee in procuring services that may be secured by means of direct payments;

(h) provision for payroll services, training services, sickness services or other employment-related services to assist a patient, representative or nominee in relation to an employee whom the patient, representative or nominee employs to provide services secured by means of direct payments for the patient;

(i) where the patient is also in receipt of a social care direct payment, information on integration of both direct payments and the arrangements between the Welsh Ministers and a local authority for joint-working and co-operation.

(4) If the care plan specifies a requirement for information, advice or other support, that support may be a service in respect of which direct payments may be made.

Decision to make direct payments

13.—(1) The Welsh Ministers may decide to make a direct payment to or in respect of a patient only if—

(a) they have had regard to the matters specified in regulations 3 to 12, and

(b) they are satisfied that the requirements of those regulations are met in respect of the patient.

(2) Nothing in this regulation imposes a duty on the Welsh Ministers to make a direct payment.

(3) Where the Welsh Ministers make a decision under paragraph (1), they must—

(a) inform the patient and any representative or nominee in writing of the decision, and

(b) if the decision is not to make a direct payment, state the reasons for that decision.

(4) Where the Welsh Ministers make a decision under paragraph (1) not to make a direct payment—

(a) a patient, any representative or nominee may—

(i) request that the Welsh Ministers reconsider their decision, and

(ii) submit evidence or relevant information for the Welsh Ministers to take into account as part of that reconsideration;

(b) if a request is made under sub-paragraph (a)(i) the Welsh Ministers must—

(i) undertake a reconsideration of their decision, and

(ii) take into account any evidence or relevant information submitted under sub-paragraph (a)(ii).

(5) The Welsh Ministers must inform the patient and any representative or nominee in writing of the outcome of the reconsideration and state the reasons for their decision.

(6) The Welsh Ministers must not undertake more than one reconsideration in accordance with paragraph (4).

Conditions following a decision to make direct payments: accounts and audit requirements

14.—(1) This regulation applies where the Welsh Ministers have decided to make direct payments to or in respect of a patient.

(2) The Welsh Ministers may make direct payments into an account identified by a payee only if they are satisfied that the account meets the requirements specified—

(a) where the account is an account held in the name of the payee with a bank, building society or the Post Office, in paragraph (3), or

(b) where the account is a managed account, in paragraph (4).

(3) An account mentioned in paragraph (2)(a)—

(a) must not be a joint account, unless the Welsh Ministers have given prior approval;

(b) must be used solely for the purpose of holding monies deposited by way of direct payments;

(c) must be accessible only by named persons who have been approved by the Welsh Ministers;

(d) must be capable of being audited (by reference to statements setting out the source of monies deposited and the destination of monies withdrawn) by—

(i) the Welsh Ministers, or

(ii) any person authorised in writing by the Welsh Ministers;

(e) must enable the monitoring and review mentioned in regulation 18(1)(a) and (7)(c) to be carried out.

(4) An account mentioned in paragraph (2)(b)—

(a) must be capable of being audited (by reference to statements setting out the source of monies deposited and the destination of monies withdrawn) by—

(i) the Welsh Ministers, or

(ii) any person authorised in writing by the Welsh Ministers;

(b) must enable the monitoring and review mentioned in regulation 18(1)(a) and (7)(c) to be carried out.

(5) The Welsh Ministers may require a payee to provide them with access to information about an account into which a direct payment is, or may be, made.

(6) Paragraphs (1) to (5) do not apply where a one-off direct payment is made to or in respect of a patient.

(7) Where the Welsh Ministers are satisfied that a one-off direct payment is appropriate in the circumstances of an individual case, that payment may be made into the personal bank account of the payee.

(8) In this regulation and in regulation 15, "a one-off direct payment" means—

(a) a payment for a single item or service, or

(b) a single payment made for no more than 5 items or services where that payment is the only payment a patient would receive from the Welsh Ministers in any financial year.

Conditions following a decision to make direct payments: conditions for securing services

15.—(1) A payee—

(a) must use the direct payments in accordance with the patient's care plan, in particular to secure the provision of all of the services specified in the care plan, and

(b) must not use the direct payments for any purpose other than securing those services.

(2) Before securing services from a provider using direct payments, the payee must satisfy themself—

(a) that the provider—

(i) if providing a regulated service, is registered with the Welsh Ministers as a service provider in respect of that service, or

(ii) if providing a service that requires the provider to be registered as a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(**17**), has complied with that requirement, and

(b) that if the provider is required to operate under insurance or indemnity cover, that insurance or indemnity cover is—

(i) proportionate to the risks involved in providing the service, and

(ii) otherwise appropriate in relation to the service provided to the patient.

(3) If the payee requests that Welsh Ministers undertake the steps mentioned in paragraph (2) in respect of any particular provider of services, the Welsh Ministers must—

(a) carry out those steps, and

(b) confirm to the payee whether the provider satisfies the requirements set out in paragraph (2).

(4) A payee may only use direct payments to secure a service from a person mentioned in regulation 11(7) (a connected person) if the care plan specifies that the service may be provided by that person.

(5) A payee must on request, or at intervals specified by the Welsh Ministers, provide the Welsh Ministers with information or evidence relating to—

(a) the state of health or of any condition of the patient in respect of which direct payments are made, or

(b) the health outcomes expected from the provision of any service secured using the direct payments.

(6) The payee must, within a reasonable period, notify the Welsh Ministers when the state of health or another relevant circumstance relating to the patient changes substantively.

(7) Except in the case of a managed account, a payee must ensure that the account into which direct payments are made is—

(a) used only in relation to securing services by means of direct payments, and

(b) accessible only by named persons approved by the Welsh Ministers.

(8) A payee must, on request, or at intervals specified by the Welsh Ministers, provide the Welsh Ministers with information or evidence relating to—

(a) the account mentioned in paragraph (7), and

(**17**) 2002 c. 17 ("the 2002 Act"). Section 25(3) of the 2002 Act has been amended by the Health and Social Care Act 2008 (c. 14), section 127 and Schedule 10, paragraph 17(2); by the Health and Social Care Act 2012 (c. 7), section 230 and Schedule 15, paragraph 56(b); by the Children and Social Work Act 2017 (c. 16), section 56 and Schedule 4, paragraph 2(2); and by S.I. 2010/231, article 68 and Schedule 4, paragraph 10(2).

(b) the services secured by means of direct payments.

(9) The Welsh Ministers may impose on a payee either or both of the following conditions in connection with the payment and management of direct payments—

(a) a restriction preventing the payee from securing a service from a particular person;

(b) a requirement that the payee provide such information that the Welsh Ministers consider necessary, as described in paragraph (6) or (8), or in regulation 10(1)(a), (2)(a) or (4)(b).

(10) If any information or evidence required by virtue of this regulation or regulation 10 is not within the payee's possession or control, the payee must take all reasonable steps to obtain it and provide it to the Welsh Ministers.

(11) Paragraphs (7) and (8)(a) do not apply where the Welsh Ministers make a one-off direct payment and that payment is deposited into the personal account of the payee in accordance with regulation 14(7).

Provision of information

16.—(1) Where these Regulations require a person to provide information to the Welsh Ministers, the information must—

(a) be provided in writing, which may include electronic form;

(b) be clear and legible, and in a format specified by the Welsh Ministers;

(c) where the information is held by a third party, be accompanied by any authorisation necessary to enable the Welsh Ministers to obtain that information directly from that third party.

(2) In any case where a person is unable to provide the required information, that person must provide, to the best of their knowledge and belief, a statement indicating where the information is held.

Amount of the direct payments

17.—(1) The Welsh Ministers must ensure that the amount of the direct payments paid to or in respect of a patient is sufficient to provide for the full cost of each of the services specified in the care plan.

(2) Where the Welsh Ministers are notified, or become aware, that the state of health of the patient has changed significantly, but in the view of the Welsh Ministers a review mentioned in regulation 18 is not necessary, the Welsh Ministers must be satisfied that the amount of the direct payments continues to be sufficient in accordance with paragraph (1).

(3) The Welsh Ministers may at any time increase or reduce the amount of the direct payments if satisfied that the new amount is sufficient in accordance with paragraph (1).

(4) The Welsh Ministers may, for any period, reduce the amount payable (including to zero) or pause payments, where—

(a) direct payments have been accumulated and remain unused, and

(b) the Welsh Ministers consider it reasonable to offset the accumulated amount against sums otherwise payable for that period.

(5) Where the Welsh Ministers decide to reduce the amount of the direct payments, they must provide reasonable notice in writing to payee stating the reasons for the decision.

(6) Where the Welsh Ministers decide under paragraph (5) to reduce the amount of the direct payments—

(a) a payee may—

(i) request that the Welsh Ministers reconsider their decision, and

(ii) submit evidence or relevant information for the Welsh Ministers to take into account as part of that reconsideration;

(b) if a request is made under sub-paragraph (a)(i) the Welsh Ministers must—

(i) undertake a reconsideration of their decision, and

(ii) take into account any evidence or relevant information submitted under sub-paragraph (a)(ii).

(7) The Welsh Ministers must inform the payee in writing of the outcome of the reconsideration and state the reasons for their decision.

(8) The Welsh Ministers must not undertake more than one reconsideration in accordance with paragraph (6).

Monitoring and review of direct payments

18.—(1) The Welsh Ministers must monitor—

(a) the making of direct payments to or in respect of a patient, and

(b) the health conditions of the patient in respect of which direct payments are made.

(2) The Welsh Ministers must review the making of direct payments to or in respect of the patient at intervals the Welsh Ministers consider appropriate and—

(a) at least once within the first 3 months, and

(b) subsequently, at intervals not exceeding 12 months.

(3) Where the Welsh Ministers are notified, or become aware, that the state of health of the patient has changed significantly, they must consider whether a review is appropriate.

(4) Where the Welsh Ministers become aware that the direct payments have not been sufficient to secure the services specified in the care plan, they must carry out a review.

(5) Where a payee, or where the patient is not the payee, the patient requests a review, the Welsh Ministers must consider whether it is reasonable to carry out a review.

(6) When carrying out a review, the Welsh Ministers must—

(a) review the care plan to establish whether it continues to provide appropriately for the health needs of the patient,

(b) consider whether the direct payments have been used effectively,

(c) consider whether the amount of the direct payments is sufficient to cover the full costs of each of the services specified in the care plan, and

(d) consider whether the payee has complied with the obligations imposed on them in accordance with regulation 15.

(7) When carrying out a review the Welsh Minsters may—

(a) re-assess the health needs of the patient for services that are to be secured by way of direct payments,

(b) consult any relevant persons mentioned in regulation 9,

(c) review receipts, bank statements or other information relating to the use of the direct payments,

(d) consider whether the direct payments have been effectively managed, including whether any provider of any services secured by means of the direct payments—

(i) if providing a regulated service, is registered with the Welsh Ministers as a service provider in respect of that service, or

(ii) if providing a service that requires the provider to be registered as a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002, has complied with that requirement, and

(e) if the provider is required to operate under insurance or indemnity cover, consider whether that insurance or indemnity cover is—

(i) proportionate to the risks involved in providing the service, and

(ii) otherwise appropriate in relation to the service provided to the patient.

(8) Following a review, the Welsh Ministers may—

(a) amend the care plan;

(b) substitute the payee;

(c) increase, maintain or reduce the amount of the direct payments;

(d) pause or stop making the direct payments;

(e) impose either or both of the following conditions in connection with the payment and management of the direct payments—

(i) a restriction preventing the payee from securing a service from a particular person, or

(ii) a requirement that the payee provide such information that the Welsh Ministers consider necessary other than that described at regulation 10(1)(a), (2)(a) or (4)(b) (information required for assessing ability to manage direct payments) or regulation 15(5), (8) or (9)(b) (conditions following a decision to make direct payments: conditions for securing services);

(f) take any other action that the Welsh Ministers consider appropriate.

(9) Where following a review the Welsh Ministers decide to reduce the amount of, or stop making, the direct payments, they must give reasonable notice in writing to the payee, and where the patient is not the payee, the patient, stating the reasons for the decision.

(10) On receipt of a notice under paragraph (9)—

(a) the payee, and where the patient is not the payee, the patient may—

(i) request that the Welsh Ministers reconsider their decision, and

(ii) submit evidence or relevant information for the Welsh Ministers to take into account as part of that reconsideration;

(b) if a request is made under sub-paragraph (a)(i), the Welsh Ministers must—

(i) undertake a reconsideration of their decision, and

(ii) take into account any evidence or relevant information submitted under sub-paragraph (a)(ii).

(11) The Welsh Ministers must inform the payee, and where the patient is not the payee, the patient in writing of the outcome of the reconsideration and state the reasons for their decision.

(12) Following a reconsideration under paragraph (10), the Welsh Ministers may, if they consider it appropriate, carry out one further review of the direct payments, but no more.

Repayment of direct payments

19.—(1) The Welsh Ministers may require a payee to repay all or part of a direct payment to the Welsh Ministers.

(2) In determining whether it is appropriate to require a repayment, the Welsh Ministers must have regard to all relevant circumstances, including in particular, to whether—

(a) the care plan has changed substantially (following a review under regulation 18),

(b) the patient's circumstances have changed substantially,

(c) any direct payments received by the payee have not been used within a reasonable period and, if so, the amount that has accumulated in respect of direct payments that is held by the payee,

(d) the direct payments have been used otherwise than for the purpose of securing services specified in the care plan,

(e) it appears to the Welsh Ministers that theft, fraud or another offence may have occurred in connection with the direct payments, or

(f) the patient has died.

(3) Where the Welsh Ministers decide to require repayment of a sum under paragraph (1), the Welsh Ministers must give reasonable notice in writing to the payee, and where the patient is not the payee, the patient, stating—

(a) the reasons for the decision,

(b) the amount to be repaid,

(c) the person who must repay the sum specified in accordance with sub-paragraph (b), and

(d) the period in which the sum must be repaid.

(4) In the case of a patient who has died, the notice mentioned in paragraph (3) must be given to the patient's personal representative.

(5) On receipt of a notice under paragraph (3)—

(a) a payee, and where the patient is not the payee, the patient, or a personal representative may—

(i) request that the Welsh Ministers reconsider their decision, and

(ii) submit evidence or relevant information for the Welsh Ministers to take into account as part of that reconsideration;

(b) if a request is made under sub-paragraph (a)(i), the Welsh Ministers must—

(i) undertake a reconsideration of their decision, and

(ii) take into account any evidence or relevant information submitted under sub-paragraph (a)(ii).

(6) The Welsh Ministers must give notice in writing to the payee, and where the patient is not the payee, the patient, or a personal representative of the decision on the reconsideration, stating—

(a) the reasons for the decision,

(b) the amount to be repaid (if any),

(c) the period in which any sum must be repaid, and

(d) the person who must repay the sum (if any).

(7) The Welsh Ministers must not undertake more than one reconsideration following a decision under paragraph (1).

(8) The Welsh Ministers may waive, in whole or in part, any requirement to repay sum arising from a decision under paragraph (1) or a decision on a reconsideration made under paragraph (5).

Recovery of amounts due as a civil debt

20.—(1) This paragraph applies where—

(a) the Welsh Ministers have required repayment of a sum under regulation 19, and

(b) the reason for requiring repayment is that it appears to the Welsh Ministers that theft, fraud or another offence may have occurred in connection with the management of direct payments.

(2) Where paragraph (1) applies, the Welsh Ministers may recover the sum summarily as a civil debt.

(3) Paragraph (2) does not affect any other method of recovery.

Stopping direct payments

21.—(1) The Welsh Ministers must stop making direct payments—

(a) in the case of a patient, other than a child, who has capacity to consent to the making of direct payments, if the patient does not, or has withdrawn, consent to the making of direct payments;

(b) in the case of a child or a patient who lacks capacity to consent to the making of direct payments—

(i) if a representative has withdrawn consent to the making of direct payments, and

(ii) if there is no other representative who consents pursuant to regulation 4(1)(b) or 5(1)(b);

(c) in accordance with regulation 4(7) or 7(4) (withdrawal of consent in relation to the making of direct payments).

(2) The Welsh Ministers may stop making direct payments if they are satisfied that it is appropriate to do so and, in particular, if—

(a) a person in respect of whom a direct payment is made is not a patient;

(b) the Welsh Ministers do not consider that the representative or the nominee is a suitable person to receive direct payments in respect of the patient;

(c) the nominee does not agree to receive the direct payments in respect of the patient;

(d) the person who has nominated the nominee (in accordance with regulation 8(1)) has withdrawn that nomination in accordance with regulation 8(5);

(e) the direct payments have been used otherwise than for the purpose of securing services specified in the care plan;

(f) it appears to the Welsh Ministers that theft, fraud or another offence may have occurred in connection with the management of direct payments;

(g) the Welsh Ministers consider that the health needs of the patient cannot be, or are not being, met by services secured by means of direct payments;

(h) the patient has died.

(3) The Welsh Ministers must give reasonable notice in writing to the payee and, where the patient is not the payee, to the patient, stating the reasons for the decision, if they—

(a) are obliged to stop making direct payments under paragraph (1), or

(b) decide to stop making direct payments under paragraph (2).

(4) In the case of a patient who has died, the notice mentioned in paragraph (3) must be given to the personal representative of the patient.

(5) On receipt of a notice under paragraph (3)—

(a) the payee or, where the patient is not the payee, the patient or the personal representative may—

(i) request that the Welsh Ministers reconsider their decision, and

(ii) submit evidence or relevant information for the Welsh Ministers to take into account as part of that reconsideration;

(b) if a request is made under sub-paragraph (a)(i), the Welsh Ministers must—

(i) undertake a reconsideration of their decision, and

(ii) take into account any evidence or relevant information submitted under sub-paragraph (a)(ii) as part of that reconsideration.

(6) The Welsh Ministers must inform the payee or, where the patient is not the payee, the patient or the personal representative in writing of their decision on a reconsideration under paragraph (5).

(7) The Welsh Ministers must not undertake more than one reconsideration under paragraph (5).

(8) The Welsh Ministers may stop making direct payments following reasonable notice even though a decision under paragraph (1) or paragraph (2) is being reconsidered.

(9) Any right or liability of the patient, personal representative, representative or nominee in respect of or to another person ("a third party"), acquired or accrued in respect of service secured by means of a direct payment, transfers to the Welsh Ministers in the event that the Welsh Ministers stop making direct payments pursuant to paragraph (1) or paragraph (2).

(10) The transfer of any liability under paragraph (9) is binding on a third party whether or not it otherwise would have required the consent of that party.

Dawn Bowden
Minister for Children and Social Care under authority of the Cabinet Secretary for Health and Social Care, one of the Welsh Ministers
25 March 2026

SCHEDULE

Regulations 3, 4 and 5

Persons to or in respect of whom direct payments may not be made

1. In this Schedule "the 2003 Act" means the Criminal Justice Act 2003(**18**).

2. This Schedule applies to a person who is—

(a) subject to a drug rehabilitation requirement (within the meaning of paragraph 19 of Schedule 9 to the Sentencing Code), imposed by—

(i) a community order (within the meaning of section 200 of the Sentencing Code), or

(ii) a suspended sentence order (within the meaning of section 286 of the Sentencing Code);

(b) subject to an alcohol treatment requirement (within the meaning of paragraph 23 of Schedule 9 to the Sentencing Code), imposed by a community order (within the meaning of section 200 of the Sentencing Code);

(c) released from prison on licence under Chapter 6 of Part 12 of the 2003 Act (release, licences, supervision and recall) and is subject to one or more of the following conditions imposed in accordance with section 250 of the 2003 Act(**19**) (licence conditions)—

(i) a drug testing requirement under section 64 of the Criminal Justice and Court Services Act 2000(**20**);

(ii) a drug appointment requirement under section 64A of that Act(**21**);

(iii) a requirement to participate in, or co-operate with, a programme or set of activities (to address offending behaviour related to drug or alcohol misuse) under article 7 of the Criminal Justice (Sentencing) (Licence Conditions) Order 2015(**22**);

(d) released from prison on licence under Chapter 2 of Part 2 of the Crime (Sentences) Act 1997(**23**) ("the 1997 Act") (effect of custodial sentences: life

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(**18**) 2003 c. 44.

(**19**) 2003 c. 44 ("the 2003 Act"). Section 250 of the 2003 Act has been amended by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), section 89 and Schedule 10, paragraph 25(a), section 111 and Schedule 4, paragraph 9, section 117(5), and section 125 and Schedule 20, paragraph 6(2); by the Offender Rehabilitation Act 2014 (c. 11), sections 5(5) and 12(2); by the Criminal Justice and Courts Act 2015 (c. 2), section 6 and Schedule 1, paragraph 17, and section 7 and Schedule 2, paragraph 4; by the Sentencing Act 2020 (c. 17), section 410 and Schedule 24, paragraph 227; by the Counter-Terrorism and Sentencing Act 2021 (c. 11), section 46 and paragraphs 9(5), 21(5) and 45(3) of Schedule 13; and by the Police, Crime, Sentencing and Courts Act 2022 (c. 32), section 134.

(**20**) 2000 c. 43. Section 64 has been amended by the Armed Forces Act 2006 (c. 52), section 378 and Schedule 16, paragraph 185; by the Offender Rehabilitation Act 2014 (c. 11), section 7 and Schedule 3, paragraph 13 and section 11; by the Sentencing Act 2020 (c. 17), section 410 and Schedule 24, paragraph 175; by the Counter-Terrorism and Sentencing Act 2021 (c. 11), section 46 and Schedule 13, paragraph 18(4); and by S.I. 2008/912, article 3 and Schedule 1, paragraph 18(2).

(**21**) Section 64A was inserted into the Criminal Justice and Court Services Act 2000 (c. 43) ("the 2000 Act") by the Offender Rehabilitation Act 2014, section 12(1). The 2000 Act was amended by Sentencing Act 2020, section 410 and Schedule 24, paragraph 176; and by the Counter-Terrorism and Sentencing Act 2021, section 46 and Schedule 13, paragraph 18(5).

(**22**) S.I. 2015/337. Article 7 has been amended by S.I. 2017/985, article 2(b) and S.I. 2022/459, article 2(3).

(**23**) 1997 c. 43.

sentences) and is subject to one or more of the following conditions imposed in accordance with section 31(2) of the 1997 Act(**24**)—

(i) a drug testing requirement;

(ii) an alcohol testing requirement;

(iii) a requirement to participate in, or co-operate with, a programme or set of activities (to address offending behaviour related to drug or alcohol misuse);

(e) required to comply with a drug testing requirement under section 256AB(1)(i) or a drug appointment requirement under section 256AB(1)(j) of the 2003 Act(**25**) that is specified in a notice given under section 256AA of that Act(**26**) (supervision after end of sentence of prisoners serving less than 2 years);

(f) subject to a youth rehabilitation order (within the meaning of section 173 of the Sentencing Code) that imposes one or more of the following—

(i) a drug testing requirement in accordance with section 174 of and Part 13 of Schedule 6 to the Sentencing Code(**27**);

(ii) a drug treatment requirement in accordance with section 174 of and Part 14 of Schedule 6 to the Sentencing Code;

(iii) an intoxicating substance treatment requirement in accordance with section 174 of and Part 15 of Schedule 6 to the Sentencing Code;

(iv) a programme requirement in accordance with section 174 of and Part 4 of Schedule 6 to the Sentencing Code (to undertake offending behaviour work to address behaviour related to substance abuse);

(g) subject to a community payback order (within the meaning of section 227A of the Criminal Procedure (Scotland) Act 1995 Act)(**28**) ("the 1995 Act") that imposes one or more of the following—

(i) a drug treatment requirement in accordance with sections 227A(2)(g) and 227U of the 1995 Act;

(ii) an alcohol treatment requirement in accordance with sections 227(2)(h) and 227V of the 1995 Act;

(iii) a programme requirement in accordance with sections 227(2)(d) and 227P of the 1995 Act (to undertake offending behaviour work to address behaviour relating to substance abuse);

(**24**) Section 31 of the Crime (Sentences) Act 1997 has been amended by the Crime and Disorder Act 1998 (c. 37), section 119 and Schedule 8, paragraph 31; by the Criminal Justice and Court Services Act 2000, section 230 and Schedule 18, paragraph 1, section 304 and Schedule 32, paragraph 83(4), and section 332 and Part 8 of Schedule 37; by the Children Act 2004 (c. 31), section 64 and Part 4 of Schedule 5; by the Criminal Justice and Immigration Act 2008 (c. 4), section 149 and Part 2 of Schedule 28; by the Criminal Justice and Courts Act 2015 (c. 2), section 7 and Schedule 2, paragraph 1; by the Victims and Prisoners Act 2024 (c. 21), section 66(2); by S.I. 2005/886, article 2 and paragraph 53 of the Schedule; and by S.I. 2008/912, article 3 and Schedule 1, paragraph 12(2).

(**25**) Section 256AB was inserted into the Criminal Justice Act 2003 by the Offender Rehabilitation Act 2014, section 2(4) and Schedule 1, paragraph 1; and has been amended by the Sentencing Act 2020, section 410 and Schedule 24, paragraph 230.

(**26**) Section 256AA was inserted into the Criminal Justice Act 2003 by section 2(2) of the Offender Rehabilitation Act 2014; and has been amended by the Sentencing Act 2020, section 410 and Schedule 24, paragraph 230.

(**27**) Section 174 of the Sentencing Code has been amended by the Police, Crime, Sentencing and Courts Act 2022 (c. 32), section 161 and Schedule 17, paragraph 4(2), (3) and (4).

(**28**) 1995 c. 46 ("the 1995 Act"). Sections 227A to 227ZO were inserted into the 1995 Act by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 14(1).

(h) released on licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 and are subject to one or more of the following conditions specified in accordance with section 12 of that Act(**29**)—

(i) an alcohol treatment requirement;

(ii) a drug treatment requirement;

(iii) a programme requirement (to address behaviour related to drug or alcohol abuse in accordance with a behavioural programme).

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(**29**) 1993 c. 9. Section 12 has been amended by the Criminal Justice and Court Services Act 2000 (c. 43), section 74 and Schedule 7, paragraph 4(1)(a) and (2); by the Criminal Justice (Scotland) Act 2003 (asp 7), sections 28(3) and 35(2); by the Management of Offenders etc. (Scotland) Act 2005 (asp 14), section 15(9); by the Bail and Release from Custody (Scotland) Act 2023 (asp 4), section 11(3); by S.I. 2005/886, article 2 and paragraph 50(1) of the Schedule; and by S.I. 2008/912, article 3 and Schedule 1, paragraph 10(2).

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