

**Explanatory Memorandum to Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) (Amendment) Regulations 2011**

This Explanatory Memorandum has been prepared by Department of Health and Social Services and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

**Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) (Amendment) Regulations 2011. I am satisfied that the benefits outweigh any costs.

Gwenda Thomas AM, Deputy Minister for Children and Social Services

6 July 2011

## **1. Description**

This statutory instrument corrects a number of technical inconsistencies within and between the English and Welsh texts of the Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2011 (S.I. 2011/831 (W.125)).

## **2. Matters of special interest to the Constitutional and Legislative Affairs Committee**

During the technical scrutiny of these Regulations by the former National Assembly for Wales' Constitutional Affairs Committee on 30 March 2011, inconsistencies were noted between the Welsh and English texts (report CA(3) – 09 – 11). In its response to the report, the Welsh Government accepted these points, and stated its intention to bring forward amending legislation at the earliest opportunity, and in any event within three months from the coming into force of the Regulations.

## **3. Legislative background**

The powers to make the amending Regulations are exercisable by the Welsh Ministers and are contained in sections 57(1), (1A), (3), (5B), (5C), (7) and (7B) and 64(4A), (6) and (8) of the Health and Social Care Act 2001 and sections 17A(1), (3) and (4) and 104(4) and 104A of the Children Act 1989.

The Statutory Instrument follows the negative resolution procedure.

## **4. Purpose & intended effect of the legislation**

Direct payments are cash payments made by local authorities to individuals to meet their own assessed community care needs. From 11 April 2011 the scope of direct payments was extended to people who lack capacity or who are subject to mental health legislation, in accordance with provisions in the Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2011.

The purpose of these Regulations is to amend The Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2011. The intended effect is to remove inconsistencies in meaning between the English and Welsh texts of these Regulations.

## **5. Consultation**

There has not been any consultation on the changes made by these Regulations as the instrument is necessary to amend existing Welsh legislation.

## **Regulatory Impact Assessment (RIA)**

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As they only correct minor drafting and typographical errors, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

**Competition Assessment**

Not applicable.

**Post Implementation Review**

Not applicable.