

SL(6)666 – Code of Practice on the exercise of social services functions in relation to Part 4 (direct payments and choice of accommodation) and Part 5 (charging and financial assessment) of the Social Services and Well-being (Wales) Act 2014

Background and Purpose

This Code of Practice (“the Code”) is issued under section 145 of the Social Services and Well-being (Wales) Act 2014 (“the Act”). Local authorities, when exercising their social services functions, must act in accordance with the requirements contained in the Code.

The Code has been revised to add a recently introduced financial recognition scheme to the list of forms of capital that should be fully disregarded in the financial assessment for charging for all forms of care and support.

The scheme was introduced in the Care and Support (Charging) and (Financial Assessment) (Wales) (Miscellaneous Amendments) Regulations 2025.

The financial recognition scheme to be added to the Code is the Lesbian, Gay, Bisexual and Transgender Financial Recognition Scheme.

Producing a revised Code also presents an opportunity to add reference to amending charging and financial assessment regulations that have come into effect since the previous revision. To this effect, the Care and Support (Charging) (Wales) (Amendment) Regulations 2024 and the Care and Support (Charging) and (Financial Assessment) (Wales) (Miscellaneous Amendments) Regulations 2025 have been referenced in the revised Code as appropriate. These revisions have been made to ensure clarity and completeness as the regulations amend principal regulations already referred to in the Code. The revised Code also incorporates editorial and stylistic revisions.

Procedure

Draft negative

A draft of the code must be laid before the Senedd. If, within 40 days (excluding any time when the Senedd is dissolved or is in recess for more than 4 days) of the draft being laid, the Senedd resolves not to approve the draft code then the Welsh Ministers must not issue the code.



If no such resolution is made, the Welsh Ministers must issue the code (in the form of the draft) and the code comes into force on a day specified in an order made by the Welsh Ministers.

Scrutiny under Standing Order 21.7

The following 9 points are identified for reporting under Standing Order 21.7 in respect of this code.

1. This Code has been laid in place of a previous version of the Code which was withdrawn following the Committee's consideration of the previous version on 16 June 2025. 30 points were identified for reporting and a Welsh Government response was received. The Explanatory Memorandum states at paragraph 2.2:

This revised Code addresses matters identified for correction in the draft revised Code laid on 3 June 2025 and subsequently withdrawn on 27 June 2025, SL(6)6171.

Whilst most of the matters that were identified have been addressed, clarification in relation to some of the previous reporting points is requested, as set out below.

2. Section 146(1) of the Act states - "Before issuing or revising a code under section 145, the Welsh Ministers must consult such persons as they think fit on a draft of the code (or revised code)."

The Welsh Government was asked, in relation to the withdrawn Code, to explain how it considered that the decision not to undertake a consultation was compliant with section 146(1) of the Act.

The response set out the following:

Consideration has been given to this provision and the Welsh Ministers do not think fit to consult any persons on this occasion given the extent to which the proposal is seeking to revise the existing Code.

The main revision entails adding a recently introduced financial recognition scheme to the list of forms of capital that should be fully disregarded in the financial assessment for charging for all forms of care and support. The financial recognition scheme is a newly introduced scheme and given that the Care and Support (Charging) and (Financial Assessment) (Wales) (Miscellaneous Amendments) Regulations 2025, which amend the Care and Support (Financial Assessment) (Wales) Regulations 2015 to add the new scheme to the list of capital to be disregarded, came into force on 7 April 2025, the revision to the Code will reflect the law currently in force. Local authorities are thus in a neutral position. Beneficiaries of the financial recognition scheme are unlikely to object to the revision to the Code as evidently, they are benefiting from the capital being disregarded.



Given this reasoning, as well as seeking to avoid stakeholder consultation fatigue in such a circumstance as this, the Welsh Ministers do not think fit to consult any persons in this instance.

However, the following is noted in the Explanatory Memorandum to this Code:

A 3-week consultation exercise on the draft revised Code took place between 26 September to 17 October 2025. The Welsh Government wrote to the Directors of Social Services of the 22 local authorities highlighting the technical revisions proposed to the Code, providing a draft of the revised Code for review and inviting feedback and observations.

The Welsh Government did not receive any responses to the consultation. This was anticipated, as the proposed changes to the Code either reflect existing legal provisions already in force or constitute technical and editorial amendments that do not alter the substantive operation of the Code.

3. In paragraph 5.22 of the Code, there is a difference between the English and Welsh text. In the English text, it notes "from the date that **care and support** was first provided" but the meaning given by the Welsh text is "from the date that **the statement** was first provided".
4. In Annex D, in paragraph 4.3, in the final bullet points, the term "qualifying relative" has been expressed by using the term "berthynas **cymhwysol**" in the Welsh text, however the defined term in Schedule 2 to the Care and Support (Financial Assessment) (Wales) Regulations 2015 is "perthynas **cymwys**".
5. In Annex D, in paragraph 5.5, in the final sentence, there is a difference between the English and Welsh text. In the English text, it notes "The local authority should advise..." but the meaning given by the Welsh text is that "The local authority should note...". Earlier in that paragraph the word "cyngtori" rather than "nodi" has been used to express the meaning of "advise", so it means that the Welsh text is also inconsistent.

This point was raised in relation to the withdrawn Code and the Welsh Government response to the reporting point was as follows:

The verb "advise" is used in paragraph 5.5 of Annex D to the draft revised Code in two different ways. The first use refers to an obligation that the local authority should give advice or guidance to people in relation to considering how they intend to use, maintain and insure their property, and the second use of the verb relates to the local authority giving official information, i.e. specifying if it intends to place any conditions on how the property is used etc. whilst it is the subject of any Deferred Payment Agreement. The Welsh Government is of the view that the



vocabulary used in the Welsh text is therefore consistent with the different uses of the word "advise" in the English text.

The Welsh Government is asked to confirm if it is still of this view.

6. In the Code, in the English text, "DPA" is the defined term for "deferred payment agreement" and in the Welsh text, the full phrase meaning "deferred payment agreement" is the corresponding term noted in paragraph 9.2 of the Code. However, there are repeated differences between the English and Welsh text, in relation to the use of "DPA", "deferred payment agreement" and "agreement" in the Code as follows—
 - a) in Annex B, at the end of paragraph 2.16, in the English text, it notes "Deferred Payment Agreement" rather than using the defined term "DPA". This also occurs in the English text of paragraph 8.13 of Annex C of the Code;
 - b) in Annex D, in paragraph 5.3, in the bullet points, there are repeated differences between the English and Welsh text, in relation to the use of "DPA" and "agreement"—
 - i) in the first, second, eleventh and twelfth bullet points, it notes "agreement" in the English text, but the meaning given by the Welsh text is "deferred payment agreement" or "DPA";
 - ii) in the eighth bullet point, it notes "DPA" in the English text, but the meaning given by the Welsh text is "deferred payments";
 - c) in Annex D, in the English text, it notes "the DPA" but the meaning given by the Welsh text is "the agreement" in paragraphs 9.2, 9.3, 9.5, 9.8, 10.1 (including the heading), 10.2, 10.3, 10.4, 10.5 and 11.9;
 - d) in Annex F, in paragraph 5.1, in the English text, the phrase "deferred payment agreement" is defined again as "DPA", however it has already been defined in paragraph 9.2 of the Code. In addition, in paragraph 6.1 of Annex F, "a DPA" is used twice, but in the Welsh text a phrase meaning "such an agreement" is used on the second occasion.
7. There are examples in both language texts of "the agreement" being used instead of "DPA" in the English text and the full phrase meaning "deferred payment agreement" in the Welsh text. This occurs in paragraphs 4.3 (in the first bullet point), 5.1, 10.3, 10.4 (in the opening words), 10.5, and 11.1(a) of Annex D. It is also queried whether the defined term should be used in paragraph 3.2 of Annex D in place of "deferred payment".



In addition, "agreement" is used in the context of a different written agreement in paragraphs 8.5, 8.6, 8.12 and 8.16 of Annex C, which may also be a consideration.

8. In Annex D, in paragraph 6.4, the English text reads "as part of the administrative costs local authorities can charge for putting a DPA, should they wish to do so." From the meaning of the Welsh text, it appears that the words "in place" are missing after "a DPA" in order to express "ar waith".
9. The Welsh Government response to reporting point 28 in relation to the withdrawn Code set out the following:

Prior to re-laying the draft revised Code, paragraph 3.1 of Annex F to the English text will be revised to clarify the example timeframe for debt accrual. The words:

"if an invoice was issued giving 30 days to pay, the payment becomes due on day 30 and a debt accrues if this is not met"

will be substituted with:

"if an invoice was issued where payment is due on or before 30 calendar days from date of invoice, payment of the invoice becomes overdue at 31 calendar days from date of invoice, and a debt will accrue from that day".

The Welsh text will be revised to correspond to the English text.

In addition, the word "anfon" will be replaced with "dyroddi" to correspond to "issue" in the English text.

However, the revised Code does not include this revised wording, and the original wording has been removed. The Welsh Government is asked why a different approach was taken to the one set out in the response.

Government response

A Welsh Government response is required to reporting points 3 to 9.

Legal Advisers

Legislation, Justice and Constitution Committee

12 November 2025

