

The Social Services and Well-being (Wales) Act 2014

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Purpose of the Act (Preamble)

- to reform social services law
- to make provision about improving the well-being outcomes for people who need care and support and carers who need support
- to make provision about co-operation and partnership by public authorities
- to make provision about complaints relating to social care and palliative care

Came into force on 6 April 2016

Fundamental Principles

- **Voice and control**– putting the individual and their needs at the centre of their care, and giving them a voice in, and control over reaching the outcomes that help them achieve well-being
- **Prevention and early intervention** – increasing preventative services within the community to minimise the escalation of critical need
- **Well-being** – supporting people to achieve their own well-being and measuring the success of care and support
- **Co-production** – encouraging individuals to become more involved in the design and delivery of services

Accompanying Regulations and Guidance

✓ **Regulations**

- The Care and Support (Assessment) (Wales) Regulations 2015/1305
- The Care and Support (Eligibility) (Wales) Regulations 2015/1578
- The Care and Support (Care Planning) (Wales) Regulations 2015/1335
- The Care and Support (Direct Payments) (Wales) Regulations 2015/1815
- The Care and Support (Charging) (Wales) Regulations 2015/1843
- The Care and Support (Choice of Accommodation) (Wales) Regulations 2015/1840
- The Care and Support (Ordinary Residence) (Specified Accommodation) (Wales) Regulations 2015/1499

✓ **Codes of Practice** (s. 145 of the Act)

✓ **Statutory Guidance** in relation to safeguarding (ss. 131 and 139 of the Act)



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Codes of Practice

- ✓ In the Codes, a requirement is expressed as “**must**” or “**must not**”
- ✓ Guidelines are expressed as “**may**” or “**should/should not**”
- ✓ Local authorities, when exercising their social services functions, **must act** in accordance with the requirements contained in the Codes (s.145(3))
- ✓ Local authorities **must also have regard** to any guidelines set out in the Codes (s.145(3))

The Eleven Parts of the Act

1. Introduction
2. General functions
3. Assessing the needs of individuals
4. Meeting needs
5. Charging and financial assessment
6. Looked After and Accommodated Children
7. Safeguarding
8. Social Services Functions
9. Co-operation and Partnership
10. Complaints and Advocacy
11. Miscellaneous and General

Part 1 – Introduction (Key Terms)

- **Section 2:** Meaning of “*well-being*”
- **Section 3:** Meaning of “*adult*”, “*child*”, “*carer*” and “*disabled*”
- **Section 4:** Meaning of “*care and support*”

(section 197: General interpretation and index of defined expressions)



Part 2 – General Functions

- ✓ Overarching duties (ss. 5-7)
- ✓ Well-being outcomes (ss. 8-13)
- ✓ Local arrangements (ss. 14-18)

Section 5 (Well-being duty)

A person **exercising functions** under this Act must seek to promote the well-being of—

- (a) people who need care and support, and
- (b) carers who need support.

Part 2 – General Functions

➤ **Section 6 (Other overarching duties)**

Gives effect to some of the key principles by setting out the matters to which a person must “*have regard*” when exercising functions under the Act

➤ **Section 7 (Other overarching duties: UN Principles and Convention)**

Persons exercising functions under the Act must have “*due regard*” to:

- UN Principles for Older Persons
- UN Convention on the Rights of the Child

Part 2 – General Functions

UN Principles for Older Persons

- ✓ 18 principles, grouped into 5 themes: (i) independence; (ii) participation; (iii) self-fulfillment; (iv) care; and (v) dignity
- ✓ <http://www.un.org/document/s/ga/res/46/a46r091.htm>



Part 3 – Assessing the Needs of Individuals

- ✓ **Section 19:** Duty to assess the needs of an adult for care and support

“where it appears to a local authority that an adult may have needs for care and support”

- ✓ **Section 24:** Duty to assess the needs of a carer for support

- ✓ **Sections 28 and 29:** combining assessments



Part 3 – Assessments

- ✓ the duty to assess applies to an adult who is ordinarily resident in the authority's area and any other adult who is within the authority's area (s.19(2))
- ✓ regardless of the local authority's view of (a) the level of the adult's needs for care and support, or (b) the level of the adult's financial resources (s.19(3))
- ✓ the assessment must focus on the outcomes the adult wishes to achieve in his or her daily life and must consider the extent to which the provision of care and support, preventative services, or the provision of information, advice or assistance, could help the adult to achieve those outcomes (s.19(4))

Part 3 – Assessments

- ✓ local authority must involve the adult, and, where feasible, any carer that the adult has (s.19(5))
- ✓ the nature of the needs assessment required is one that the local authority “*considers proportionate in the circumstances, subject to any requirement in regulations under section 30*” (s.19(6))

Part 3 – Assessments

The Care and Support (Assessment) (Wales) Regulations 2015/1503 (made under s.30 Act)

- ✓ Local authority must ensure there is a named individual to co-ordinate the carrying out of the assessment (regulation 2)
- ✓ All practitioners undertaking assessments must be suitably skilled, trained and qualified in undertaking assessments (regulation 3(1))
- ✓ a local authority must consider whether the nature of the person's needs calls for the involvement of a person who has specialist skills, knowledge or expertise (regulations 3(2) & 3(3))

Part 3 – Assessments

Considerations to which the local authority must have regard (regulation 4)

- ✓ assess and have regard to the person's circumstances
- ✓ have regard to the personal outcomes
- ✓ assess and have regard to any barriers to achieving those outcomes
- ✓ assess and have regard to any risks to the person or to other persons if those outcomes are not achieved
- ✓ assess and have regard to the person's strengths and capabilities.

Part 4 – Meeting Needs (Overview)

- ✓ **Section 32:** Determination of eligibility and consideration of what to do to meet needs
- ✓ **Section 34:** How to meet needs
- ✓ **Section 35:** Duty to meet care and support needs of an adult
- ✓ **Section 36:** Power to meet care and support needs of adult
- ✓ **Section 40:** Duty to meet support needs of an adult carer

Part 4 – Meeting Needs (Overview)

- ✓ **Sections 46 – 49:** Exceptions and restrictions (immigration, health, housing, payments)
- ✓ **Sections 50 – 53:** Direct Payments
- ✓ **Sections 54 & 55:** Care and Support Plans and Support Plans
- ✓ **Section 57:** Cases where a person expresses preference for particular accommodation (see also Care and Support (Choice of Accommodation) (Wales) Regulations 2015/1840))
- ✓ **Section 58:** Protecting property of persons being cared for away from home

Part 4 – Meeting Needs (Eligibility)

Care and Support (Eligibility) (Wales) Regulations 2015

1. Need arises from the adult's "*physical or mental ill-health, age, disability, dependence on alcohol or drugs, or other similar circumstances*" (regulation 3(a))
2. Need relates to one or more of seven key activities (regulation 3(b))
3. Adult is unable to meet that need alone or with available support from others / community (regulation 3(c))
4. Adult is unlikely to achieve one or more of his personal outcomes unless the local authority provides or arranges care and support services or makes Direct Payments (regulation 3(d))

Part 4 – Meeting Needs (Eligibility)

Regulation 6: Ability to meet need

- For the purposes of regulation 3(c), a person is to be regarded as unable to meet the need if doing so-
 - (a) causes significant pain, anxiety or distress to that person;
 - (b) endangers or is likely to endanger the health or safety of that person or another person;
 - (c) takes that person significantly longer than would normally be expected

Part 4 – Meeting Needs (Eligibility)

Part 4 Code of Practice (Meeting Needs)

- ❖ *In determining eligibility, the local authority must ensure the individual is involved as a full partner in assessing to what extent they are able to meet their personal outcomes; or with the support of others who are willing to provide that support; or with the assistance of services in the community to which they have access (para. 31)*
- ❖ *In making a determination of eligibility there should not be an over reliance on any voluntary caring arrangements. Local authorities must ensure that the ability of the carer to provide care is sustainable and that they comply with their general duty to promote the well-being of the carer and the person cared for (para. 36)*

Part 4 – Meeting Needs (How to meet needs: section 34)

- ✓ by arranging for a person other than the authority to provide something
- ✓ by itself providing something
- ✓ by providing something, or by arranging for something to be provided, to a person other than the person with needs for care and support

(accommodation in a care home or premises of some other type; care and support at home or in the community; services, goods and facilities; information and advice; counselling and advocacy; social work; payments (including direct payments); aids and adaptations; occupational therapy)

- Not an exhaustive list



Part 4 – Meeting Needs (Duty to meet needs of an adult: section 35)

- **Mandatory duty** to meet an adult's needs for care and support if the local authority is satisfied that three conditions are met (but note section 35(6)):
 - (i) the adult is ordinarily resident in the local authority's area or of no settled residence and within the authority's area
 - (ii) the needs meet the eligibility criteria or it necessary to meet the needs in order to protect the adult from abuse or neglect or a risk of abuse or neglect
 - (iii) there is no charge for the care and support OR (i) the adult's financial resources are at or below the financial limit; (ii) the adult is a self-funder who has asked the authority to meet his needs; (iii) the adult lacks capacity to make arrangements for care and support there is no person authorised to make such arrangements under the Mental Capacity Act 2005 or otherwise in a position to do so on the adult's behalf.

Part 4 – Meeting Needs (Care and Support Plans: section 54)

- ✓ Where a local authority is required to meet the needs of a person under section 35, it **must** prepare and maintain a care and support plan in relation to that person (section 54(1))
- ✓ must keep the plan under review (section 54(3))
- ✓ if the local authority is satisfied that the circumstances of the person have changed in a way that affects the plan, it must (a) carry out such assessments as it considers appropriate, and; (b) revise the plan (section 54(4))

Part 4 – Meeting Needs (Care and Support Plans: section 54)

“Where a local authority is required to prepare and maintain a care and support plan or a support plan, it must ensure that there is a named individual to co-ordinate the preparation, completion, review, delivery and revision of the plan”

(para. 67, Part 4 Code of Practice)



Part 4 – Meeting Needs (Care and Support Plans: section 54)

Who must be involved when preparing, reviewing or revising a Care and Support Plan? (s. 54(7))

- ✓ the adult and, where feasible, any carer that the adult has
- ✓ *“Local authorities must carry out further assessments and revise the care and support plan if there has been a change in the person’s circumstances. Where a specialist has been involved in the person’s initial assessment, the local authority should consider whether the specialist should be involved in the review”*

(paragraph 120, Part 4 Code of Practice) **Guildhall**

Part 4 – Meeting Needs (Care and Support Plans: section 54)

What must be included in the Care and Support Plan? (Care and Support (Care Planning) (Wales) Regulations 2015/1335, reg. 3)

- ✓ the person's eligible needs
- ✓ the personal outcomes
- ✓ the actions to be taken by the local authority and the actions to be taken by other persons to help the person achieve the personal outcomes or to otherwise meet their eligible needs

Part 4 – Meeting Needs (Care and Support Plans: section 54)

Regulation 3 (cond't)

- ✓ the arrangements for monitoring the extent to which the personal outcomes have been achieved
- ✓ the arrangements for the review of the plan
- ✓ the eligible needs which are to be met by direct payments 1 and the amount and frequency of the direct payments
- ✓ a record of the conclusion of any enquiries made under section 126(1) (adults at risk)

Part 7: Safeguarding

- ✓ Adults at risk (s.126)
- ✓ Statutory definition of “abuse” and “neglect” (s.197)
- ✓ Establishes National Independent Safeguarding Board for adults and children (s.132)
- ✓ Power to enter property for adult “at risk” – Adult Protection and Support Orders (s.127)
- ✓ Statutory guidance now issued (s.131)
- ✓ Local authorities and other identified persons **must have regard to** guidance when exercising safeguarding functions

Part 9: Co-operation and Partnership (section 164)

- If, in the exercise of its social services functions, a local authority requests the co-operation of, or the provision of information from a person mentioned in subsection (4), the person must comply with the request unless the person considers that doing so would be incompatible with the person's own duties, or otherwise have an adverse effect on the exercise of the person's functions
- Subsection (4): (a) a relevant partner of a local authority (s.162(4)); and (b) a local authority or a Local Health Board which is not a relevant partner of the local authority

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THANKS FOR LISTENING!!!



ANY QUESTIONS ????



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