

Number: WG23315



Llywodraeth Cymru
Welsh Government

www.cymru.gov.uk

Welsh Government

Executive Summary

Implementation of the Social Services and Well-being (Wales) Act 2014

Regulations and code of practice in relation to
Part 2 (General Functions) of the Social Services
and Well-being (Wales) Act 2014

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

The Social Services and Well-being (Wales) Act 2014 forms the basis for a new statutory framework for social care in Wales.

Ministers have made it clear that they wish the core elements of this framework to be in place for April 2016, when the Act will be implemented.

The framework will consist of three main elements, the Act itself, regulations made under the Act, and codes of practice/statutory guidance. These three elements work together to form the framework within which social services will operate from April 2016.

The process of making codes and regulations under the Act

The regulations, codes and statutory guidance have been developed through a consultative process with key stakeholders and are now presented to stakeholders across Wales for their input.

The consultation on and laying of the Regulations to be made under the Act will be conducted principally in two tranches. The first tranche will be made available for a 12-week public consultation starting in November 2014. It is anticipated that the second tranche consultation exercise will be undertaken between May and July 2015. The intention is to lay these regulations before the Assembly in May 2015 to give the health and social care sector the maximum amount of time to adjust to the new requirements ahead of implementation in 6 April 2016.

What the first tranche of regulations and codes of practice covers

The first of the tranches deals with core provisions around eligibility, assessment, care and support planning and direct payments in Parts 2 to 4 of the Act, together with provisions in Part 7, around safeguarding, and part 11 around ordinary residence and related disputes.

Coverage of the codes of practice and regulations in relation to Part 2 of the Act

Well-being

Sections 5, 6, 7 and 8 place new overarching duties on any persons exercising functions under the Act to seek to promote the well-being of people who need care and support and carers who need support, including duties on the Welsh Ministers to issue a statement of outcomes to be achieved. There are no regulation-making powers in relation to this section; instead, we have

included provisions to cover this area in chapter 1 of the Part 2 code of practice.

This chapter of the code sets out a definition for promoting well-being and how local authorities should ensure they meet their duties, including requirements to ensure that the well-being needs of people who need care and support and carers who need support inform local authorities' broader, more strategic functions such as providing or arranging for preventative services.

The code applies to local authorities in relation to their social services functions. However there will be implications for partner bodies, including Local Health Boards, the third and independent sectors and for people who need care and support and carers who need support in Wales.

A statement of well-being outcomes to be achieved must be issued by the Welsh Ministers under section 8. This must be laid before the National Assembly for Wales on commencement of the Act in 2016. This statement will be an essential part of the statutory framework that sets out the outcomes that are to be achieved. We have worked with partners to develop a well-being statement in advance of the commencement of the Act.

Assessment of needs for care and support, support for carers and preventative services

Section 14 requires local authorities and Local Health Boards to jointly carry out an assessment of the needs for care and support and needs of carers in a local authority area. It also provides Welsh Ministers with a broad regulation making power in relation to the population assessment. Chapter 2 of the code provides a range of specific information about how a population assessment is undertaken. Regulations however set out:

- The need for population assessments to be published and sent to Welsh Ministers;
- That a population assessment is produced every local government electoral cycle and reviewed. We will also require that the population assessments are produced within a timeframe to inform meaningfully the new single integrated planning system;
- The need for population assessments to have regard to the national outcomes framework; and
- The need to engage with citizens, carers, the third sector and the independent sector in the production of a population assessment.

The purpose of this population assessment is to ensure that local authorities and LHBs jointly produce a clear and specific evidence base in relation to

care and support needs and carers' needs to inform various planning and operational decisions.

To provide for more effective population assessments, regulations under section 166 of the Act will put in place partnership arrangements so that each Local Health Board and the local authorities in that area coordinate the assessment exercise to allow for the production of a combined population assessment report.

Chapter 2 of the accompanying code of practice complements the regulations by setting out a range of specific information about how a population assessment is undertaken. This is supported by chapter 3 of the Code, which sets out the requirements on social services to provide or arrange a range of preventative services. The population assessment must include identifying the range and level of services required to deliver the preventative services required.

Promotion of social enterprises

Under **section 16** a new general duty is placed on local authorities that will require local authorities to promote models of service which are social enterprises, co-operatives, other models which involve people who need care and support in the design and delivery of their services, and the third sector.

This underpins the overall aim of the Act of putting people at the centre and provides a legal framework where local authorities will actively look at the values based organisations identifying the most suitable business model to deliver services – ensuring that they consider the use of social enterprises and co-operatives in their various forms as ways of delivering services.

The draft Regulations address:

- The activities of a specified description which are or are not to be treated as activities which a person may reasonably consider are activities carried on for the benefit of society;
- Organisations or arrangements which are or are not to be treated as:
 - Social enterprises
 - Co-operative organisations or arrangements
 - Third Sector organisations; and
- What does and does not constitute a section of society

Chapter 4 of the code of practice supports the Act and regulations. Featured within the code are:

- Co-production;
- Measuring success;
- Creating the right environment;
- Tendering and procurement; and
- Collaboration

Information, advice and assistance

Section 17 of the Act places a duty on local authorities to secure the provision of a service to provide people with information and advice relating to care and support and assistance in accessing care and support.

As a minimum this service must include the provision of information on:

- How the care and support system operates;
- The types of care and support available;
- How to access this care and support; and
- how to raise concerns

Local authorities currently provide an information service but their provision will need to be enhanced to meet the new duties. The aim is to secure a service which is accessible to all people and provides the critical entry point to the new system. The Service will be central to the delivery of care and support and will play a key role in assessing a person's need for care and support and directing people to the most appropriate solution to meet their needs. It will enable early intervention and preventative support to reduce the need for managed care and support.

There are no regulation-making powers in relation to this section in the Act. Instead, chapter 5 of the code sets out requirements for the service including:

- An accessible service available to all people;
- National delivery standards;
- A skilled workforce;
- A Service configured on an LHB regional footprint basis as a minimum;
- An integrated approach with health, the third and independent sectors;
- Recording personal data through the simple assessment process; and
- Recording management data for performance and future planning.