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## Executive Summary

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

Regulations and Code of practice in relation to Parts 3 and 4 (Assessment and Meeting needs) 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 code of practice and regulations in relation to Parts 3 and 4 of the Act**

#### ***Part 3: Assessing the Needs of Individuals***

##### Key Changes

The Act creates a right to an assessment for people – adults, children and carers – where it appears to the local authority that the individual may have needs for care and support (or support needs in the case of a carer).

### Aims

The aim is to simplify the assessment process so that it is appropriate to the needs of the individual and considers the person's circumstances in the round. The assessment will explore solutions that best meet the needs of the individual within the following services:

- the information, advice and assistance service;
- the preventative and community services; or
- managed care and support through a care and support plan.

The framework for all assessment, simple and complex, sets a national minimum core data set followed by an analysis of **5 inter-related factors** to ensure that local authorities consider the person's circumstances in the round. These factors are:

- Personal outcomes
- Barriers to achieving personal outcomes
- A person's circumstances
- A person's strengths and capabilities
- Risks

A **simple assessment** may only require use of a common local template, which may be undertaken when a person accesses the Information Advice and Assistance Service. A more **complex assessment** will include the simple assessment and additional specialist assessments to form a more comprehensive integrated assessment. At the end of all assessments the person must have a clear understanding of the **outcome** of the assessment and what will happen next.

The assessment process is integral to the wider system of care and support and the eligibility test flows naturally from the assessment process.

### **Part 4: Meeting Needs: Eligibility**

#### Key Changes

The eligibility framework set out under the Act creates an enforceable right for the individual, where the local authority must consider what could be done to meet needs, and then determine whether any of the needs meet the eligibility criteria and therefore must be met by the local authority.

Through the new model of social care the eligibility model will remove the traditional threshold for access to managed care and support and replace it with a more responsive model that considers an individual response for each person.

#### Aims

Determining eligibility is not about giving a right to any one service; it is about guaranteeing access to care and support to meet well-being outcomes. In the new model local authorities will address the needs of their populations through targeted early intervention and prevention to reduce the demand on more intensive support. However, where these services do not meet the needs of the person a care and support plan will be developed.

The eligibility test flows naturally from an assessment and follows a simple test as follows:

**The person has needs which meet the eligibility criteria if an assessment establishes that they can, and can only, overcome barriers to achieving their well-being outcomes by the local authority preparing a care and support plan (or a support plan for a carer), and ensuring that it is delivered.**

This has come to be known as the 'Can and Can Only' test.

## ***Care and Support Plans***

### Key Changes

A care and support plan is created when an assessment identifies that services cannot be delivered without a plan or where the service can be delivered without a plan but the individual needs on-going support to access these services.

### Aims

A care and support plan **must** identify the personal outcomes and set out the best way to help achieve them. It is not the intention to try to replace existing local and specialist arrangements for care and support planning, nor to require a single national template for a 'care and support plan'. The complexity or severity of the individual's need will determine the scope and detail of the care and support plan and the range of interventions.

The format of the care and support plan **must** be consistent and as a minimum should cover the following:

- Personal outcomes and the actions to be undertaken to help achieve them;
- The roles and responsibilities of the individual, carers and family members, and practitioners and the frequency of contact with those;
- The resources (including financial resources) required from each party;
- The review and contingency arrangements and how progress will be measured; and
- The named lead co-ordinator.

Where there is a plan in place for the individual that meets the requirements of a care and support plan it can be considered as meeting the duty of the local authority.

Where the care and support plan involves visits to the person's home for the purpose of providing care and support, those visits **must** be of sufficient length to ensure the appropriate delivery of the care and support

## ***Future Provision of Direct Payments***

### Overview

Direct payments are monetary amounts provided by local authorities to individuals, or their representatives, to enable them to meet their care and support needs. Direct payments empower people to have choice and control over the way in which their care and support needs are met, which complements their existing support mechanisms to achieve their desired well-being outcomes.

Direct payments replace care and support provided directly, or commissioned by, a local authority. They can be for all, or part, of a person's care and support needs. In the latter case the remainder of their care and support needs will be met in an alternative manner.

### Key Changes

Our proposals will see a continuation of direct payments as a means of achieving people's well-being outcomes but in a manner which enhances their ability to determine the care and support they consider is right for them. Also, our proposals will secure the extension of the availability of direct payments for other forms of care and support (for example for long term residential care) and to individuals who are currently excluded from receiving direct payments (for example those with drug or alcohol problems).

### Aims

Under the Act there is a drive to provide voice and control to people over the manner in which their care and support needs are met to deliver their well-being outcomes. This builds on their existing support mechanisms of family, friends, etc. Direct payments are seen as an enabler for achieving this objective where individuals want a greater say and control over how their care and support needs are met.

Under the Act we are seeking:

- to maintain the ability of local authorities to provide direct payments to meet an adult's or child's care and support needs; and the support needs of a carer;
- to do this in a way which enhances their ability to determine the care and support which they consider is right for them to deliver their personal outcomes;
- to maintain the ability of a person to receive a direct payment with assistance where they are unable, or unwilling, to manage it;
- to encourage flexibility and innovation in methods of providing care and support, for example through co-operatives; and
- to encourage a view of direct payments as one of a range of ways in which needs can be met. The conversation with someone about whether a direct payment is right for them should be right up front during the assessment process when options are explored rather than as a secondary consideration.

Differences in the way direct payments will operate under the Act are therefore that:

- they will be available in all cases where an individual, or their representative, expresses a wish to receive one. The only restriction will be where the local authority considers their care and support needs cannot be met through direct payments.
- we will remove some current exclusions of certain classes of persons from receiving direct payments, so that, for example, those with drug or alcohol dependency will be able to access direct payments with appropriate safeguards.
- direct payments will be able to be provided for any identified need for care and support a local authority is to meet including, unlike at present, long term residential care.
- a person will be able to use their direct payments to purchase their care and support direct from their local authority if they wish. (At present this is prohibited.)
- a person will be able to employ a relative to provide their care and support, or provide help in managing their payment, where the local authority views this as necessary to maintain their well-being.
- local authorities will be required to work with people, or their representatives, to explore innovative ways in which their needs might be met through direct payments to achieve their well-being outcomes.

As a result direct payments in future will operate under a less restrictive legislative framework, and one that supports innovation.