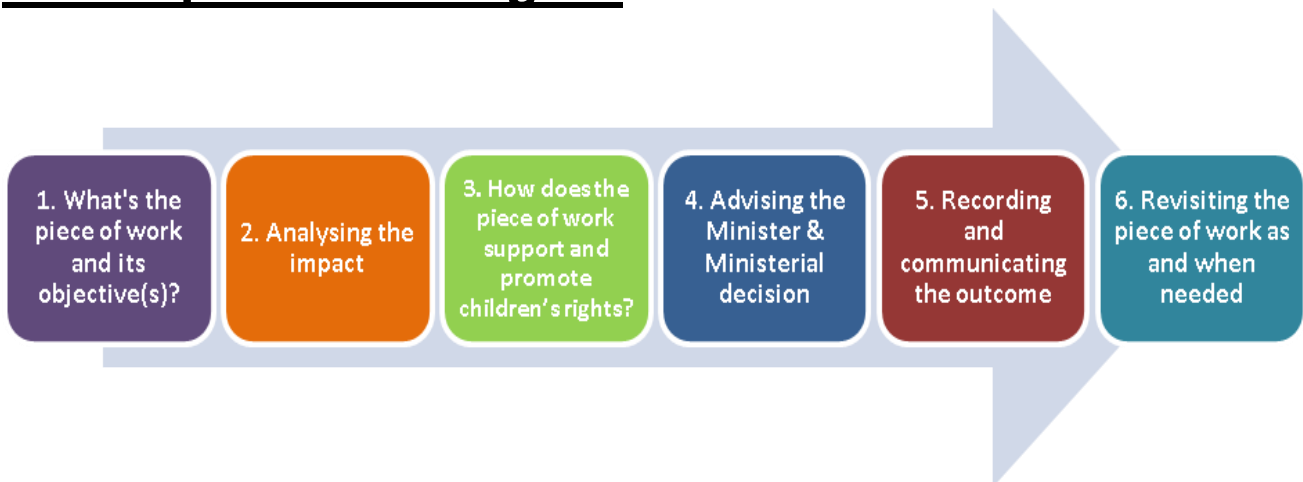




Children's Rights Impact Assessment (CRIA)

Title / Piece of work:	The Care and Support (Assessment) (Wales) Regulations 2015
Branch :	Eligibility, Assessment & Care Planning Branch
Department:	Department for Health and Social Services
Date:	10 June 2015

Six Steps to Due Regard



Step 1. What's the piece of work and its objective(s)?

The Social Services and Well-being (Wales) Act 2014 provides a single Act that brings together local authorities' duties and functions in relation to improving the well-being of people who need care and support, and carers who need support. The Act provides the statutory framework to deliver the Welsh Government's commitment to integrate social services to support people of all ages, and support people as part of families and communities. Sections 19, 21 and 24 of the Act place a duty on local authorities to assess whether the individual does have needs for care and support and if they do what those needs are.

The Care and Support (Assessment) (Wales) Regulations 2015 were laid before the National Assembly for Wales on 8 May 2015.

The regulations make provisions about the duties on local authorities to assess a child's needs for care and support. Specifically the regulations make provisions about:

- The co-ordination of assessments
- The training and expertise of persons carrying out an assessment
- The matters to which a local authority must have regard when carrying out an assessment
- The recording of the assessment and the persons to whom the local authority must offer a copy of such records
- The review of assessments; including the circumstances in which a local authority must review the assessment, the persons who may request a review of the assessment; the circumstances in which the local authority must comply with such a request and the circumstances in which they may refuse to do so.

The new model for care and support introduces an integrated system which brings together assessment and eligibility into one process. This impact assessment on the Assessment Process should be read in conjunction with the Impact Assessment on Eligibility, and vice versa.

The Social Services and Well-being (Wales) Act 2014 comes into effect in April 2016.

Step 2. Analysing the impact

The regulations take forward Wales' distinctive and internationally regarded rights based approach to children's social care. For example this is the first time that regulations have set out the rights of children to an assessment of their needs for care and support.

The rights conferred on children through the regulations apply to all children regardless of their circumstances. For example, those children and young people in the secure estate will have the same rights to an assessment by their local authority as they would have had if they were living in the community.

The Act and regulations do not diminish any rights for children and young people that they previously had under other legislation i.e. Children Act 1989, and in part enhances them i.e. for the first time someone who is under 16 and who is providing or intends to provide

care will have the right to an assessment of their support needs as a carer, as well as an assessment of their care and support needs as a child.

The Regulations support the implementation of a model of assessment which reduces the need for arbitrary demarcations between the care and support provided to young people and to adults. This provides continuity of rights for the individual when making the transition from child to adult.

The Act requires that local authorities must undertake an assessment of the needs of a child where it appears that the child may have needs for care and support in addition to, or instead of, the care and support provided by the child's family. A disabled child is presumed to need care and support in addition to, or instead of, the care and support provided by the child's family.

The assessment must take into account the developmental needs of the child, and any other circumstances affecting the child / young person's well-being. In the case of a child who is a carer, the local authority must have regard to the developmental needs of the child and whether it is appropriate for the child to provide the care (or any care) in the light of those needs.

The regulations support an assessment process that is child / young person centred and will support the child's / young person's right to have respectful conversations about their well-being, and to exercise a strong voice and control in decisions about their care.

The local authority will be expected to work in partnership with children and young people, and their carers, to build on their strengths and understand their needs. The assessment itself must be proportionate to need and involve the child / young person, and any person with parental responsibility for the child / young person.

During the assessment process the local authority must seek to identify the outcomes that the child / young person wishes to achieve, to the extent that this is appropriate having regard to the age and understanding. The local authority must also seek to identify the outcomes that any persons with parental responsibility wish to achieve in relation to the child, to the extent that this is appropriate having regard to the need to promote the child's well-being.

The Act sets out the criteria by which a local authority are required to override the refusal of a needs assessment for a child or young person. The act stipulates that where the local authority is satisfied that not having the assessment is not be in the child's best interest, any refusal of an assessment must be overridden. This Act supports Article 3 of the UNCRC.

Step 3. How does your piece of work support and promote children's rights?

The assessment of the impacts that the regulations will have on children and young people confirms the rights based approach that has been taken, and reveals that many of the Articles within the UNCRC are relevant.

The most relevant articles are:

Article 1 (definition of the child). Everyone under the age of 18 has all the rights in the Convention.

There are regulations that make specific requirements on local authorities when assessing the needs of people under the age of 18.

Article 2 (without discrimination). The Convention applies to every child whatever their ethnicity, gender, religion, abilities, whatever they think or say, no matter what type of family they come from.

The regulations apply for every child for whom the local authority undertakes an assessment of their needs for care and support.

Article 3 (best interests of the child). The best interests of the child must be a top priority in all actions concerning children.

The regulations provide the framework for local authorities to act in the best interests of the child in that they require local authorities, when assessing the needs of a child, to have regard to the personal outcomes of the child and the risks to themselves or to others if those outcomes are not achieved.

Article 4 (protection of rights). Governments must do all they can to fulfil the rights of every child.

The regulations create a consistent right for every child in Wales regarding the way in which assessments of needs are carried out by local authorities.

Article 5 (parental guidance). Governments must respect the rights and responsibilities of parents to guide and advise their child so that, as they grow, they learn to apply their rights properly.

The regulations create a right for any person with parental responsibility for a child to be offered a copy of the assessment of the child's needs (except where this would be inconsistent with the child's well-being) and also create a right for any person with parental responsibility for the child to request a review of an assessment of the child's needs.

Article 6 (survival and development). Every child has the right to life. Governments must do all they can to ensure that children survive and grow up healthy.

When undertaking an assessment of the needs of a child the regulations require that the local authority must have regard to the child's/young person's strengths and capabilities and to any barriers that may prevent the child from achieving their personal outcomes.

Article 12 (respect for the views of the child). Every child has the right to say what they think in all matters affecting them, and to have their views taken seriously.

and

Article 13 (freedom of expression). Every child must be free to say what they think and to seek and receive information of any kind as long as it is within the law.

The regulations on assessment of a child's needs for care and support require that local authorities must offer to give a copy of the record of assessment to the child and any person with parental responsibility for then child (except where this would be inconsistent with the child's well-being) and also create a right for a child or any person with parental responsibility for the child to request a review of an assessment of the child's needs.

The regulations support the requirement in the Act that in carrying out a needs assessment local authorities must involve the child and any person with parental responsibility for the child.

Article 18 (parental responsibilities; state assistance). Both parents share responsibility for bringing up their child and should always consider what is best for the child. Governments must help parents by providing services to support them, especially if the child's parents work.

The regulations support the requirement in the Act that in carrying out a needs assessment local authorities must involve the child and any person with parental responsibility for the child.

The regulations require that in carrying out an assessment a local authority must assess and have regard to any risks to the person or to other persons if their outcomes are not achieved. An effect of this is that the local authority must have regard to the impact on the child when assessing the needs for care and support of adults that are parents,

Article 19 (protection from all forms of violence). Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and mistreatment by their parents or anyone else who looks after them.

When assessing someone's needs for care and support the regulations require that local authorities assess and have regard to any risks to the person and to other persons. Statutory instruments linked to the regulations require that where there is reasonable cause to suspect that a child is at risk local authorities must act on this immediately and without delay.

Article 20 (children deprived of a family). If a child cannot be looked after by their family, governments must make sure that they are looked after properly by people who respect the child's religion, culture and language.

When assessing someone's needs for care and support the regulations require that local authorities assess and have regard to their personal outcomes. Personal outcomes are understood through the definition of well-being in the Act which includes well-being in relation to domestic, family and personal relationships..

Article 22 (refugee children). If a child is a refugee or seeking refuge, governments must ensure that they have the same rights as any other child. Governments must help in trying to reunite child refugees with their parents. Where this is not possible, the child should be given protection.

The regulations apply to any child who is within the local authority's area.

Article 23 (children with disability). A child with a disability has the right to live a full and decent life in conditions that promote dignity, independence and an active role in the community. Governments must do all they can to provide free care and assistance to children with disability.

A disabled child is presumed to need care and support in addition to, or instead of, the care and support provided by the child's family. When undertaking an assessment of the needs of a child the regulations require that the local authority must have regard to the child's/young person's strengths and capabilities and to any barriers that may prevent the child from achieving their personal outcomes

Article 25 (review of treatment in care). If a child has been placed away from home (in care, hospital or custody, for example), they have the right to a regular check of their treatment and conditions of care.

The regulations on assessment of a child's needs for care and support create a right for a child or any person with parental responsibility for the child to request a review of an assessment of the child's needs.

Article 27 (adequate standard of living). Every child has the right to a standard of living that is good enough to meet their physical, social and mental needs. Governments must help families who cannot afford to provide this.

When undertaking an assessment of the needs of a child the regulations require that the local authority must have regard to the child's/young person's circumstances.

Article 28 (right to education). Every child has the right to an education. Primary education must be free. Secondary education must be available to every child. Discipline in schools must respect children's human dignity. Wealthy countries must help poorer countries achieve this.

When assessing someone's needs for care and support the regulations require that local authorities assess and have regard to their personal outcomes. Personal outcomes are understood through the definition of well-being in the Act which includes well-being in relation to education, training and recreation.

Article 29 (goals of education). Education must develop every child's personality, talents and abilities to the full. It must encourage the child's respect for human rights, as well as respect for their parents, their own and other cultures, and the environment.

When assessing someone's needs for care and support the regulations require that local authorities assess and have regard to their personal outcomes

Article 31 (leisure, play and culture). Every child has the right to relax, play and join in a wide range of cultural and artistic activities.

When assessing someone's needs for care and support the regulations require that local authorities assess and have regard to their personal outcomes. Personal outcomes are understood through the definition of well-being in the Act which includes well-being in relation to education, training and recreation.

Article 33 (drug abuse). Governments must protect children from the use of illegal drugs.

and
Article 34 (sexual exploitation). Governments must protect children from sexual abuse and exploitation.

and
Article 35 (abduction). Governments must ensure that children are not abducted or sold.

and
Article 36 (other forms of exploitation). Governments must protect children from all other forms of exploitation that might harm them.

When assessing a child's needs for care and support the regulations require that local authorities assess and have regard to any risks to the child.

Step 4. Advising the Minister and Ministerial decision

The new assessment process was developed drawing on advice from the Technical Group on Assessment and Care Planning. This had a membership of key stakeholders including those with experience and knowledge of children's social care services, both in the statutory and third sector.

A series of engagement events, in line with the formal consultation, were held with representatives from the Association of Directors of Social Services Heads of Children's Services, Voices from Care, as well as focus groups with young people themselves aged

As a result of comments received from the formal consultation a small task and finish group on Assessment was established to integrate the key requirements for the *Childrens Framework for assessing Children in Need and their families* with the new assessment process. This group included representation from The Association of Directors of Social Services (ADSS), All Wales Heads of Children's Services (AWHOCS), Barnardo's Cymru and The National Society for the Prevention of Cruelty to Children (NSPCC) Cymru and the Care and Social Services Inspectorate Wales (CSSIW). As a result of this work the code of practice on assessment will have a distinct section on considerations during the assessment of a child. This will include the integration of the key principles set out in the Framework.

The Minister has been made aware of the considerations which informed this Impact Assessment throughout the development of the regulations.

Amendments were made to the regulations following a public consultation and advice was given to the Minister throughout this process.

Revised Policy Instructions: March 2015

Signature Submission Eligibility and Assessment Regulations: 27 May 2015

The Minister for Health and Social Services has been advised that the Welsh Government will continue to monitor the impact of the regulation on areas such as the Welsh language, children's rights and equality.

No conflict with UNCRC articles has been identified.

Step 5. Recording and communicating the outcome

The regulations and codes of practice will be laid before the National Assembly for Wales in advance of implementation in April 2016. A learning and development plan has been developed by the Care Council for Wales to support implementation and a communication plan will support general awareness of implementation.

The Minister has been made aware of the considerations which informed this Impact Assessment throughout the development of the regulations.

The final regulations were laid before the National Assembly for Wales for scrutiny on 8 may 2015. This CRIA will be published on the Welsh Government web-site during this period, alongside the associated code of practice.

A suite of child friendly literature has been developed to support the Act and regulations that underpin it.

Step 6. Revisiting the piece of work as and when needed

The Social Services and Well-being (Wales) Act 2014 contains provisions to allow for Ministers to monitor functions of the Act carried out by local authorities and other bodies. Ministers may require these bodies to report on their duties in implementing these regulations.

The Welsh Government intends to commission an evaluation to enable the impact of the new national model of assessment and eligibility to be considered.

Officials will continue to monitor the impact of the regulations in relation to UNCRC.

Budgets

As a result of completing the CRIA, has there been any impact on budgets?

It is important that where any changes are made to spending plans, including where additional allocations have been made, that this has been assessed and evidenced as part of the CRIA process.

No

Please give any details:

There has not been any impact on the budget as a result of this CRIA. A Regulatory Impact Assessment has been completed to show the cost implications of introducing the regulations.

Monitoring & Review

Do we need to monitor / review the proposal?

No

If applicable: set the review date

NA