



## **Children's Rights Impact Assessment (CRIA) Template**

<b>Title / Piece of work:</b>	Changes to Charging – Charging and Financial Assessment under Parts 4 and 5 of the Social Services and Well-being (Wales) Act 2014
<b>Related SF / LF number (if applicable)</b>	
<b>Name of Official:</b>	Alison James
<b>Department:</b>	Social Services and Integration Directorate, Health and Social Services Group
<b>Date:</b>	February 2017

## Six Steps to Due Regard



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

This Children's Rights Impact Assessment relates to charging and financial assessment under Part 5 of the Social Services and Well-being (Wales) Act 2014 (the Act) for care and support provided or arranged by local authorities under Part 4 of the Act or, for preventative services or assistance provided under Part 2 of the Act. This includes support provided to carers and direct payments provided under Part 4 of the Act to enable a person to secure for themselves the care and support they require. The Act and its subordinate legislation came into effect on 6 April 2016.

Regulations under Parts 4 and 5, supported by a code of practice, put in place a financial assessment and charging framework local authorities must follow where they chose to use their discretion under the Act to charge people for the care and support, direct payments, preventative services, assistance or support for a carer, they receive.

The framework ensures only those over 18 years of age, and who have a reasonable level of financial resources, are required to pay for their care and support where a local authority uses its discretion to charge for this. It does this by the Act excluding children from being charged for their care and support, and the regulations excluding parents or guardians from being charged for this. As a result parents or guardians with low financial means receive care and support for their child at no charge.

The regulations that came into effect on 6 April 2016 are as follows:

The Care and Support (Charging) (Wales) Regulations 2015;  
The Care and Support (Financial Assessment) (Wales) Regulations 2015;  
The Care and Support (Deferred Payment) (Wales) Regulations 2015;  
The Care and Support (Choice of Accommodation) (Wales) Regulations 2015;  
The Care and Support (Review of Charging Decisions and Determinations) (Wales) Regulations 2015.

The key changes being introduced now seek to enable people age 18 and over to:

- retain more of their capital from being used to fund their residential care;
- retain more of their income for personal expenses where they are in residential care and being supported financially by their local authority;
- retain the full value of any war disablement pension they receive and not have to use it pay towards their care;
- allow local authorities to charge, if they wish, up to £70 per week for all of the non-residential social care a person receives.

These policy changes require amendments to the Charging, Financial Assessment and Choice of Accommodation Regulations. Corresponding changes will be applied to the code of practice. The other two Regulations remain as originally made. These changes are due to come into force on 10 April 2017.

### Step 2. Analysing the impact

The Act does not allow local authorities to charge a child or young person under the age of 18 for the care and support they receive, or the support they receive where they are a young carer under the age of 18. The Act does, however, allow a local authority to charge a parent or guardian for this but the regulations currently in place preclude this. As a result a parent or guardian cannot be charged for the care and support their child receives under Part 4 of the Act. This is on the basis that Ministers do not consider it appropriate at this time to charge a parent or guardian in these circumstances so as to ensure that those under the age of 18 years receive the care and support they require to live their lives.

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

The amending regulations and revised code now being made support the principles of the following UNCRC articles:

- **Article 3** – All organisations concerned with children should work towards what is best for each child;
- **Article 6** – All children have the right of life. Governments should ensure that children survive and develop healthily;
- **Article 25** – Children who are looked after by their local authority and who have a care and support plan rather than their parents should have their situation reviewed regularly.

They enable children, who rely on care and support provided or arranged by their local authority to help live their lives, to receive this at no cost to their parents or guardians, thereby removing any potential financial barrier to their provision. They promote a child's right to receive what is best for them and to live and develop as healthily as possible.

#### **Step 4. Advising the Minister and Ministerial decision**

The advice provided to Ministers previously confirmed that this CRIA has been completed and that it identified no conflict with the United Nations Convention on the Rights of the Child (UNCRC) articles; neither does it identify any negative impact on children or their parents or guardians.

A formal 12 week public consultation was held in 2015 on the proposed regulations and code of practice in relation to financial assessment and charging under relevant sections of Parts 4 and 5 of the Act. A total of 61 responses were received. Respondents welcomed the proposal to preclude charging of parents or guardians for the care and support their child receives.

No issues or concerns were raised at any of the stakeholder workshops held as part of the consultation on the regulations and code of practice.

In relation to the current changes, a formal 5 week public consultation was held on the amendments to the regulations necessary to implement changes under the relevant sections of the Act. This consultation ran from 21 December 2016 to 25 January 2017.

A total of 24 responses were received, none related to issues affecting to children.

#### **Step 5. Recording and communicating the outcome**

The overall intended effect of the regulations and code of practice is to ensure consistent and fair financial assessment and charging arrangements are applied where an authority chooses to exercise its discretion and charge a person over the age of 18 for their care and support, or support provided to a carer.

A local authority cannot apply any form of charging to a person under the age of 18 for any form of care and support they receive under the Act. The provisions within the regulations ensure that a parent or guardian is not charged for any form of care and support their child receives under Part 4 of the Act. In these instances neither a child nor their parent or guardian will be required to be subject to a financial assessment.

The changes being introduced have no affect on the provisions set out above.

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

The Act contains provision 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.

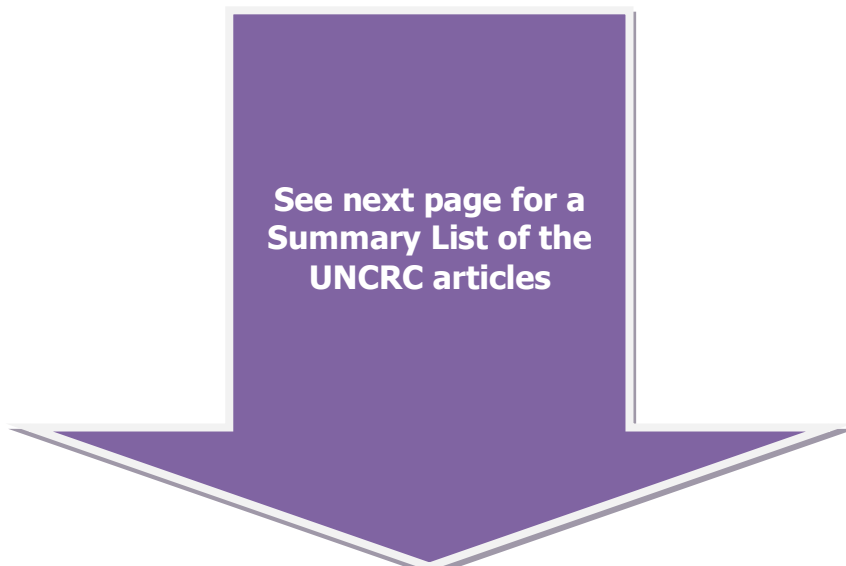
**Budgets**

<p><b>Does the piece of work have any associated allocation of budget?</b></p>	<p><b>Yes</b></p>
<p><b>Can you identify how much of this budget will be used for children and young people?</b></p>	<p><b>N/A</b></p>
<p><b>Has any additional spend been identified to ensure children and young people have been given an opportunity to contribute to the piece of work and have their opinions heard? If so, how much?</b></p>	<p><b>N/A</b></p>
<p><b>Please give any details:</b></p> <p>Funding has been allocated in the local government settlement for 2017-18 as:</p> <ul style="list-style-type: none"> <li>• £4.5 million to support the implementation of the new capital limit;</li> <li>• £0.3 million to support the implementation of the war disablement pension disregard.</li> </ul> <p>As these changes do not affect children, none of this funding is being used for children or young people. The other changes being introduced do not have any financial implications for local authorities</p>	

**Monitoring & Review**

<p><b>Do we need to monitor / review the proposal?</b></p>	<p><b>No</b></p>
<p><b>If applicable: set the review date</b></p>	<p><b>N/A</b></p>

Please forward a copy of this CRIA to [CRIA@wales.gsi.gov.uk](mailto:CRIA@wales.gsi.gov.uk) for monitoring purposes



# THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

[www.uncrcletsgetitright.co.uk](http://www.uncrcletsgetitright.co.uk)

The United Nations Convention on the Rights of the Child is an international agreement that protects the human rights of the children under the age of 18. On 16 December 1991, the United Kingdom of Great Britain and Northern Ireland formally agreed to make sure that every child in the UK has all the rights as listed in the convention. The Welsh Government has shown its commitment to the convention by adopting it as the basis for policy making for children in Wales.

Altogether there are 54 articles in the convention. Articles 43-54 are about how adults and governments should work together to make sure all children are entitled to their rights. The information contained here is about articles 1-42 which set out how children should be treated.



**Llywodraeth Cymru  
Welsh Government**

[www.cymru.gov.uk](http://www.cymru.gov.uk)

### Article 1

Everyone under 18 years of age has all the rights in this Convention.

### Article 2

The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say and whatever type of family they come from.

### Article 3

All organisations concerned with children should work towards what is best for each child.

### Article 4

Governments should make these rights available to children.

### Article 5

Governments should respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly.

### Article 6

All children have the right of life. Governments should ensure that children survive and develop healthily.

### Article 7

All children have the right to a legally registered name, the right to a nationality and the right to know and, as far as possible, to be cared for by their parents.

### Article 8

Governments should respect children's right to a name, a nationality and family ties.

### Article 9

Children should not be separated from their parents unless it is for their own good, for example if a parent is mistreating or neglecting a child. Children whose parents have separated have the right to stay in contact with both parents, unless this might hurt the child.

### Article 10

Families who live in different countries should be allowed to move between those countries so that parents and children can stay in contact or get back together as a family.

### Article 11

Governments should take steps to stop children being taken out of their own country illegally.

### Article 12

Children have the right to say what they think should happen, when adults are making

decisions that affect them, and to have their opinions taken into account.

### Article 13

Children have the right to get and to share information as long as the information is not damaging to them or to others.

### Article 14

Children have the right to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. Parents should guide their children on these matters.

### Article 15

Children have the right to meet together and to join groups and organisations, as long as this does not stop other people from enjoying their rights.

### Article 16

Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.

### Article 17

Children have the right to reliable information from the mass media. Television, radio and newspapers should provide information that children can understand, and should not promote materials that could harm children.

### Article 18

Both parents share responsibility for bringing up their children, and should always consider what is best for each child. Governments should help parents by providing services to support them, especially if both parents work.

### Article 19

Governments should ensure that children are properly cared for, and protect them from violence, abuse and neglect by their parents or anyone else who looks after them.

### Article 20

Children who cannot be looked after by their own family must be looked after properly, by people who respect their religion, culture and language.

### Article 21

When children are adopted the first concern must be what is best for them. The same rules should apply whether the children are adopted in the country where they were born or taken to live in another country.

### Article 22

Children who come into a country as refugees should have the same rights as children born in that country.

### Article 23

Children who have any kind of disability should have special care and support so that they can lead full and independent lives.

### Article 24

Children have the right to good quality health care and to clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries achieve this.

### Article 25

Children who are looked after by their local authority rather than their parents should have their situation reviewed regularly.

### Article 26

The Government should provide extra money for the children of families in need.

### Article 27

Children have a right to a standard of living that is good enough to meet their physical and mental needs. The Government should help families who cannot afford to provide this.

### Article 28

Children have a right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. Wealthy countries should help poorer countries achieve this.

### Article 29

Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, and their own and other cultures.

### Article 30

Children have a right to learn and use the language and customs of their families, whether these are shared by the majority of people in the country or not.

### Article 31

All children have a right to relax and play, and to join in a wide range of activities.

### Article 32

The Government should protect children from work that is dangerous or might harm their health or their education.

### Article 33

The Government should provide ways of protecting children from dangerous drugs.

### Article 34

The Government should protect children from sexual abuse.

### Article 35

The Government should make sure that children are not abducted or sold.

### Article 36

Children should be protected from any activities that could harm their development.

### Article 37

Children who break the law should not be treated cruelly. They should not be put in prison with adults and should be able to keep in contact with their families.

### Article 38

Governments should not allow children under 15 to join the army. Children in war zones should receive special protection.

### Article 39

Children who have been neglected or abused should receive special help to restore their self respect.

### Article 40

Children who are accused of breaking the law should receive legal help. Prison sentences for children should only be used for the most serious offences.

### Article 41

If the laws of a particular country protect children better than the articles of the Convention, then those laws should stay.

### Article 42

The Government should make the Convention known to all parents and children.

For further information on the United Nations Convention on the Rights of the Child please visit: The Welsh Government's UNCRc Website: [www.uncrcletsgetitright.co.uk/](http://www.uncrcletsgetitright.co.uk/)

Cic - The National Information and Advice Service for Young People [www.ciconline.co.uk/news/](http://www.ciconline.co.uk/news/)

