

## Equality Impact Assessment (EIA) Template – Part 1

<b>Policy title and purpose (brief outline):</b>	Policy to introduce regulations and a code of practice under Part 11 of the Social Services and Well-being (Wales) Act (general functions)
<b>Department:</b>	Department for Health and Social Services
<b>Date:</b>	November 2015

**1. Please provide a brief description of the policy/decision.**

This Equality Impact Assessment is about Part 11 of the Social Services and Well-being (Wales) Act 2014.

The Act provides the legal framework for improving the well-being of people who need care and support and carers who need support. It transforms the way social services are delivered, promoting people's independence to give them voice and control. It also seeks to ensure social services are sustainable going forward.

Part 11 of the Act contains a range of provisions, which are supported by two sets of regulations and a single overarching code of practice.

The code of practice sets out how local authorities should implement the duties under the Act. It aims to set policy on meeting the care and support needs of adults, children and young people while they are in custody, and to prepare them for the care and support they may need when they are resettled back into the community.

The overall effect of the policy is to place a duty on local authorities to assess and meet the care and support needs of all adults and children in the secure estate while they are in custody and upon discharge.

The Code of practice also sets out requirements and guidelines on determining ordinary residence in relation to assessing and meeting eligible care and support needs; on determining ordinary residence when an adult moves into certain types of accommodation out of area; disputes between authorities about a person's ordinary residence; and the portability of care and support, including the process for seeking a determination by the Welsh Ministers or appointed person.

**2. We have a legal duty to engage with people with protected characteristics under the Equality Act 2010 (please refer to Annex A of the EIA guidance) identified as being relevant to the policy. What steps have you taken to engage with stakeholders, both internally and externally?**

The policy, regulations and code of practice in relation to Part 11 have been co-designed with citizens in Wales.

Sections 185 to 188 introduce new duties for local authorities to meet the care and support needs of all individuals in the secure estate. The duty applies to adults in Wales, and for children and young people whether they are in England or Wales.

As these duties are new, there is no precedent and it was, therefore, fundamental that the policy was developed with the full participation of stakeholders and professionals.

Engagement has reached as many individuals as possible to ensure that Welsh Government equality commitments have been inbuilt into the development of the policy from the outset. This has improved the understanding of barriers that exist in different equality groups.

A range of stakeholders have been engaged both in the development process. We have engaged directly with people in the secure estate and their families to make sure that people themselves were involved in advising on the code and Regulations.

Engagement has been targeted towards specific groups who would have traditionally had less of a voice. The Welsh Council for Voluntary Action (WCVA) previously provided over 4,000 contacts from diverse groups, through their 'I Matter We Matter' campaign. These contacts were used to engage individuals with a broad range of protected characteristics.

Welsh Government worked with Disability Wales and other partners to produce guidance used by all Technical Groups, Towards an Enabling Wales. This set out clearly how to ensure that the social model of disability is taken forward.

An all Wales engagement event was held on 11 September 2014 which brought together representatives from the local authorities, NHS partners, third sector and independent sector, which looked at how the various Parts of the Act work together to deliver sustainable social services.

Welsh Government carried out an intense programme of wider engagement around the consultation period, this included presentations, workshops and focus groups with carers and service users supported by partners. This included organisations such as NSPCC, Children in Wales, Prisoners Accommodation Resettlement Working Group, Carers Wales, Voices from Care, Sense Cymru. People currently in the secure estate, with support provided by NOMS (National Offender Management Service) were involved.

To ensure a strong voice for individuals and carers at a leadership level, the Welsh Government worked with the Wales Council for Voluntary Action (WCVA) and Children in Wales to establish the National Social Services Citizen Panel. The Panel is made up of service users and carers who are worked to ensure that a citizen voice was a key part of implementing the Act. Children and Young People are involved in the panel's work.

A Prison Social Care Technical Group advised the Welsh Government on producing a code of practice relating to the social care in prisons as contained in the Social Services and Well-being (Wales) Act. Specifically the group's requirement was to identify and describe how a local authority, and their partners, will provide a service which addresses the requirements set out in Sections 185-188 of the Act. The membership of the group was drawn from representatives of local authorities, representatives from National Offender Management Service (NOMS) and Ministry of Justice, the third sector and the independent sector as well as policy leads within Welsh Government.

The code of practice and draft regulations supporting Part 11 of the Act was subject to public consultation from 6 November 2014 to 2 February 2015. As part of this consultation, consultation events were held in Swansea and Llandudno, which included workshops to further discuss policy. These consultation events were attended by over 250 stakeholders, including a number with a range of protected characteristics.

A Steering Group for Care and Support arrangements for adults and children in the secure estate was established to further develop the code of practice post consultation. The membership of the group included representation from both the adults and children's commissioners' office, prison governors, WLGA, ADSS Cymru, NOMS, representatives from the prison service, Community Rehabilitation Company Wales, the National Probation Service, third sector organisations, NHS and the Youth Justice Board. The Steering Group supported implementation by consulting with their wider networks and bringing forward and disseminating information to ensure a wide understanding across organisations of the contribution these duties make to reducing reoffending in Wales.

Additionally, two Working Groups were formed by members of the Steering Group to further develop a National Pathway for both children and adults within the secure estate.

**3. Your decisions must be based on robust evidence. What evidence base have you used? Please list the source of this evidence e.g. National Survey for Wales. Do you consider the evidence to be strong, satisfactory or weak and are there any gaps in evidence?**

The Law Commissioner's report in May 2011 called for the removal of ambiguity regarding adult prisoners' eligibility for social care. In response to this both England and Wales addressed the matter through their forthcoming legislation. In Wales the legislation also covers children and young people in the secure estate as well as adults.

The policy, regulations and code of practice have gone through extensive development stages, reviews and consultation. The Welsh Government has sought to support implementation through a process that fully engages our stakeholders, including consulting with prisoners themselves with the support of NOMS. Central to this approach has been the establishment of technical groups, and in the case of Sections 185-188 a Steering Group, made up of representatives with the relevant expertise, technical knowledge and practical experience to work with officials on the detailed policy necessary to develop the regulations and code of practice which in turn will deliver the policy aspirations underpinning the Act.

Assembly Members, stakeholders, service professionals, the voluntary and independent sectors and more importantly, those using care and support services, and carers, have all contributed to the development of the regulations, and the development of the code of practice.

The Welsh Government received 87 responses from a wide range of stakeholders to the consultation on draft regulations and code of practice to support Part 11 of the Act. These responses were carefully considered and led to a range of changes to strengthen and improve both the regulations and code. The Welsh Government response on the consultation exercise can be found at:

<http://gov.wales/consultations/healthsocialcare/part11/?lang=en>

***It is important to note any opportunities you have identified that could advance or promote equality.***

**Impact**

**Please complete the next section to show how this policy / decision / practice could have an impact (positive or negative) on the protected groups under the Equality Act 2010 (refer to the EIA guidance document for more information).**

**Lack of evidence is not a reason for *not* progressing to carrying out an EIA. Please highlight any gaps in evidence that you have identified and explain how/if you intend to fill these gaps.**

**4.1 Do you think this policy / decision / practice will have a positive or negative impact on people because of their age?**

Age	Positive	Negative	None / Negligible	Reasons for your decision (including evidence) / How might it impact?
-----	----------	----------	-------------------	---

<p>Younger people</p> <p><i>(Children and young people, up to 18)</i></p>	<p>Positive</p>			<p>Children and young people in the secure estate with care and support needs have a right to an assessment just as they would if they were living in the community.</p> <p>All children and young people from Wales within the secure estate, whether in England or Wales, have the right to an assessment by their home local authority.</p> <p>The approach for assessment must be child centred and fully meet the specific needs of the child / young person, including their developmental needs, and any other circumstances affecting their wellbeing.</p>
---	-----------------	--	--	--



			<p>The assessment must record how all of the identified needs will be met.</p> <p>The process of assessment must be a holistic approach when individuals are serving their sentence, when planning for transition in adulthood and when planning for their release.</p> <p>The local authority must work with the child / young person to balance their wishes and feelings against what is in their best interest.</p> <p>Young people who are released on licence will remain under the supervision of the Youth Offending Team until the end of their Order, even if this takes them past their 18<sup>th</sup> birthday.</p> <p>Children of parents in the secure estate are a key priority for the Welsh Government and NOMS in Wales. Third sector organisations: PACT and Barnardos are continuing to assess the impact on children affected by parental imprisonment.</p> <p>The code of practice sets out that local authorities must ensure that the information, advice and assistance offered is accessible to those children and young people in the secure estate to help them while they are detained, to help them prepare for their release,</p>
--	--	--	---



				<p>and support them once they are resettled.</p> <p>All young people will participate in an induction course where they will receive information about their rights and entitlements while they are in custody, this will include detail of their rights under the Social Services and Wellbeing (Wales) Act.</p>
People 18- 50	Positive			<p>Adults within the secure estate in Wales with care and support needs have a right to an assessment just as they would if they were living in the community.</p>
Older people (50+)	Positive			<p>Local authorities must deliver an Information, Advice and Assistance Service to adults in the secure estate in Wales to help them while they are detained, to help them prepare for their release, and support them once they are resettled.</p>

#### 4.2 Because they are disabled?

Impairment	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Visual impairment				All adults within the secure estate in Wales and all Welsh children and young people whether in the secure
Hearing impairment				

Physically disabled				<p>estate in England or Wales, with care and support needs have a right to an assessment just as they would if they were living in the community.</p> <p>The local authority in question, must make necessary arrangements to ensure that where there are believed to be care and support needs an assessment is undertaken and the individual's needs and wishes are understood and taken into account</p> <p>Local authorities should consider the profile of high mental health needs and how this might impact on the 'eligibility' criteria that will be operational within Wales.</p> <p>In line with the Mental Capacity Act 2005, the assessment must take account of an individual's capacity to engage in the assessment.</p> <p>Local authorities must ensure that advocacy is made available to ensure those who require additional support, so that they are actively engaged in expressing their views and feelings, are able to participate in the process in making decisions that affect them, and in</p>
Learning disability				
Mental health problem				
Other impairments issues			None	



				<p>determining how best to meet the personal well-being outcomes that they wish to achieve.</p> <p>Adults accommodated in care homes are most likely to be disabled or frail older people, or younger disabled adults. The regulations on specified accommodation under section 194(1) merely seek to clarify which local authority is responsible for meeting the care and support needs of adults who are accommodated in care homes outside of their home area – they do not impact on decisions about assessment, eligibility or how to meet an individual’s care and support needs. As they maintain the status quo, they are unlikely to have any impact – positive or negative – on disabled people.</p>
--	--	--	--	---

#### 4.3 Because of their gender (man or woman)?

Gender	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Male			Negligible	<p>All the prisons within Wales are male only.</p> <p>Local authorities must meet the care and support duties under the 2014 Act for those adults in the secure estate in Wales where the prison or other secure estate premises</p>

				<p>are within their boundary.</p> <p>In respect of children and young people in the secure estate, the responsibility will fall to their home local authority.</p>
Female			Negligible	<p>There are no female prisons in Wales.</p> <p>Adult females in the secure estate from Wales, serve their entire sentence in English prisons. As such Welsh women in the secure estate in England will have their care and support needs met by the local authority within which their prison is located in England under the Care Act 2014.</p> <p>For those Welsh adults who are accommodated in the secure estate in England, the local authority in whose area they are detained is responsible for meeting their care and support needs.</p> <p>Welsh teenage girls, who have received a custodial remand or sentence, are placed in a Secure Children's Home. Their home local authority will be responsible for meeting their care and support needs.</p> <p>Local authorities must apply the cross border arrangements for all women resettling back to Wales, having served a custodial sentence.</p>



#### 4.4 Because they are transgender?

Transgender	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
			Negligible	The Act will improve the well-being of all those with needs for care and support. This also encompasses those who are transgender.

#### 4.5 Because of their marriage or civil partnership?

Marriage and Civil Partnership	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Marriage			Negligible	<p>The Act will improve the well-being of all those with needs for care and support.</p> <p>Welsh Government did not approach individuals based on their marital status.</p> <p>The provision of Information, Advice and Assistance within the secure estate will ensure that families of those in the secure estate will have access to the service.</p>
Civil Partnership			Negligible	

#### 4.6 Because of their pregnancy or maternity?

Pregnancy and Maternity	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?

Pregnancy			<p>There are no female prisons in Wales.</p>
Maternity (the period after birth)			<p>Adult females from Wales serve their entire sentence in English prisons and will have their care and support needs met by the local authority within which they are based while in the prison. These provisions fall under the Care Act 2014.</p> <p>Local authorities must apply the cross border arrangements for all women resettling back to Wales, having served a custodial sentence.</p> <p>Teenagers under 18 years from Wales, who are pregnant and have received a custodial remand or sentence, are placed in a Secure Children's Home or Secure Training Centre with an ongoing risk assessment during the pregnancy. Under the Social Services and Well-being (Wales) Act, the home local authority will be responsible for meeting the individual's care and support needs, and that of the unborn child.</p> <p>If the teenager has a baby whilst in custody, consideration can be given to placing both in the mother and baby unit at Rainsbrook Secure Training Centre near Rugby. The teenage mother's home local authority will be</p>



				responsible for meeting the care and support needs of the mother and child.
--	--	--	--	---

#### 4.7 Because of their race?

Race	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Ethnic minority people e.g. Asian, Black,				<p>The Social Services and Well-being (Wales) Act sets out that people exercising functions under the act must have regard to the characteristics, culture and beliefs of the individual.</p> <p>The wide ranging engagement and consultations captured many views as people were asked 'what mattered' to them, including responses from Diverse Cymru and the Equality and Rights Commission.</p> <p>Local authorities must be aware of the requirements under the Housing (Wales) Act 2014 to help those returning to Wales in the secure estate, threatened with homelessness, to find suitable accommodation upon release and being involved in the planning 'for release' process as early as possible. More detail is contained in the Code of Guidance for Local Authorities Allocation of Accommodation and Homelessness 2015.</p>
National Origin (e.g. Welsh, English)				
Asylum Seeker and Refugees				
Gypsies and Travellers				
Migrants				
Others				

#### 4.8 Because of their religion and belief or non-belief?

Religion and belief or non – belief	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Different religious groups including Muslims, Jews, Christians, Sikhs, Buddhists, Hindus, Others (please specify)				The Act sets out those persons exercising functions under the act must have regard to the characteristics, culture and beliefs of the individual.
Belief e.g. Humanists				
Non-belief				

#### 4.9 Because of their sexual orientation?

Sexual Orientation	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Gay men				The Act will improve the well-being of all those with needs for care and support.
Lesbians				The Act sets out those persons exercising functions under the act must have regard to the characteristics, culture and beliefs of the individual.
Bi-sexual				

**4.10 Do you think that this policy will have a positive or negative impact on people’s human rights? Please refer to point 1.4 of the EIA Annex A - Guidance for further information about Human Rights.**

Human Rights	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Human Rights including Human Rights Act and UN Conventions	Positive			The duty to give due regard to a range of UN Conventions is enshrined within the General Functions of the Social Services and Well-being (Wales) Act. The dispute resolution regulations (supported by the relevant sections of the code of practice) set out the procedures to be followed when local authorities are in dispute about an individual’s ordinary residence. They ensure that the individual continues to receive care and support during the period of dispute. Similarly, the regulations and code ensure that individuals continue to receive care and support in cases of provider failure.

***If you have identified any impacts (other than negligible ones), positive or negative, on any group with protected characteristics, please complete Part 2.***

***Only if there are no or negligible positive or negative impacts should you go straight to part 2 and sign off the EIA.***



## **Equality Impact Assessment – Part 2**

**Building on the evidence you gathered and considered in Part 1, please consider the following: How could, or does, the policy help advance / promote equality of opportunity?**

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. A clear and unequivocal commitment to an inclusive approach is set out within the Regulations and the statutory Code of Practice.

The Act transforms the way social services are delivered, primarily through promoting people's independence to give them stronger voice and control. Integration and simplification of the law will also provide greater consistency and clarity to people who use social services, their carers, local authority staff and their partner organisations, the courts and the judiciary. The Act promotes equality, improvements in the quality of services and the provision of information people receive, and a shared focus on prevention and early intervention

Everyone is entitled to positive well-being and everyone has a responsibility for their own well-being, but some people need extra help to achieve this. Those in the secure estate, may not have family support around them and therefore may need the support of the local authority. Local authorities in Wales must support individuals in the secure estate to meet their care and support needs and to help them towards self support as a potential solution.

The benefit of the policy is to better prepare those in the secure estate to self manage their social care needs to support independent living while they are in custody, and to benefit them when they are released into the community.

Local authorities will be encouraged to ensure the service is available in different formats to suit people's preferences and needs. A fundamental feature of the service is that it will provide information in a way that is easily understood and free of jargon.

Local authorities must, through partnership working, find ways to deliver the information, advice and assistance service to those in the secure estate while they are detained and in preparation for their release. Local authorities will engage with prison staff to identify how to use existing resources already deployed i.e. health care staff and third sector staff in order to maximise the accessibility of the information, advice and assistance service.

Welsh Government has worked with protected characteristic groups to develop these policies to ensure that all circumstances have been considered.

The ordinary residence and dispute resolution regulations and code of practice apply to all individuals in Wales, regardless of any protected characteristics. They serve the specific purpose of determining where a person is ordinarily resident (or treated as being ordinarily residence) so that it is clear which local authority is responsible for meeting an individual's care and support needs. The dispute resolution procedures specifically ensure that all individuals with care and support needs continue to receive the services they need to meet those needs even during a period when local authorities are in dispute or when businesses which provide their care and support fail.



**How could / does the policy / decision help to eliminate unlawful discrimination, harassment or victimisation?**

The Act promotes equality, improvements in the quality of services and the provision of information people receive. To promote consistent practice across Wales a national assessment and eligibility tool has been devised to ensure that individuals can rely on their local agencies to have a common baseline of information collected in all assessments across the country. This will mean that practitioners in local areas will, subject to the individual's consent, be able to share this with other agencies, and ensure that services are better integrated and co-ordinated for the individual.

Local authorities will need to deliver the same model of assessment to individuals of all ages, and support people as part of families and communities. Those in the secure estate (adults and children/young people) will have the same opportunity to have assessment of their care and support needs just as they would if they were living in the community.

The local authority must clearly communicate this new legislation to all individuals, including those in the secure estate. To this end, local authorities must deliver an Information, Advice and Assistance Service to those in the secure estate to help them while they are detained, to help them prepare for their release, and support them once they are resettled.

### **1.3 How could/does the policy impact on advancing / promoting good relations and wider community cohesion?**

Those in a secure estate with care and support needs have the right to an assessment, with the aim of meeting their well-being outcomes, just as they would if they were living in the community. Local authorities will be responsible for assessing and meeting care and support needs for all adults and children in a secure estate not just upon discharge but while they are in custody.

The pathways that have been developed set out the trigger points for the assessment of care and support needs for all those in the secure estate prior to sentencing, entering custody, serving the sentence, planning for release and upon release.

Local authorities must also consider, in partnership with others, how they will deliver preventative well-being services needed by those in custody. These services should take account of the Wales Reducing Re-offending Strategy to prepare individuals when they are released to the community. The code of practice sets out that all local authorities in Wales must also be aware of the impact of individuals leaving the secure estate and settling or resettling in their area.

### 1. Strengthening the policy

If the policy is likely to have a negative effect ('adverse impact') on any of the protected groups or good relations, what are the reasons for this?

**2:1 What practical changes/actions could help reduce or remove any negative impacts identified in Part 1?**

There are no negative impacts noted for any specific protected groups.

**2.2 If no action is to be taken to remove or mitigate negative / adverse impact, please justify why.**

N/A

### 3. Monitoring, evaluating and reviewing

**How will you monitor the impact and effectiveness of the policy?**

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 is developing a National Outcomes Framework and a Performance Measurement Framework which will ensure monitoring of routine data and measurement to determine if the wellbeing outcomes are achieved.

The Welsh Government looking to develop an evaluation to enable the impact of the new national model of assessment and eligibility to be considered/ reported upon.

Additionally, the Welsh Government will continue to monitor the impact of the regulation on areas such as the Welsh language, the UN rights of the child and Older People and Equality.

The results of all impact assessments where the impact is significant will be published on the Welsh Government's website.

### Declaration

**The policy does not have a significant impact upon equality issues**

**Official completing the EIA**

Department of Health and Social Services

Date:

November 2015
<b>Head of Division</b>
Name:
Margaret Provis
Job title and department:
Deputy Director, Social Services Leadership and Improvement
Date:
November 2015
Review Date:
October 2016 (six months post implementation of the Act).

