



Children’s Rights Impact Assessment (CRIA) Template

Title / Piece of work:	<u>Regulation and Inspection of Social Care (Wales) Act 2016</u> <ul style="list-style-type: none"> • The Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 • The Regulated Services (Penalty Notices) (Wales) Regulations 2017
Related SF / LF number (if applicable)	MA/L/HID/00733/17
Name of Official:	Chris Pickett
Department:	Health and Social Services
Date:	December 2017
Signature:	C. Pickett

Please complete the CRIA and retain it for your records on iShare. You may be asked to provide this document at a later stage to evidence that you have complied with the duty to have due regard to children’s rights e.g. Freedom of Information access requests, monitoring purposes or to inform reporting to the NAFW.

Upon completion you should also forward a copy of the CRIA to the Measure Implementation Team for monitoring purposes using the dedicated mailbox CRIA@wales.gsi.gov.uk

If officials are not sure about whether to complete a CRIA, they should err on the side of caution and seek advice from the Measure Implementation Team by forwarding any questions to our mailbox CRIA@wales.gsi.gov.uk

You may wish to cross-reference with other impact assessments undertaken.

Six Steps to Due Regard



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

The Regulation and Inspection of Social Care (Wales) Act 2016 (“the 2016 Act”) received Royal Assent on 18 January 2016. It reforms the regulation and inspection regime for social care in Wales.

The 2016 Act provides the statutory framework for the regulation and inspection of social care services and the social care workforce in Wales. It enables the Welsh Ministers to put in place a number of items of subordinate legislation through the making of regulations, the publication of guidance and the issuing of codes of practice to support this framework and put it into practice. When fully implemented it will allow the Welsh Government to:

- reform the regulatory regime for care and support services, to ensure it is focussed on outcomes for service users;
- reform the inspection regime for local authority social services functions;
- re-name and give new powers to the Care Council for Wales; and
- reform the regulation of the social care workforce.

The two sets of Regulations and statutory guidance covered in this impact assessment were created under the following sections of the 2016 Act:

- Section 2(3) – exceptions to regulated services. These are services which, despite Schedule 1, are not to be treated as regulated services for the purposes of this Act;
- Section 21(5) - the circumstances in which the Welsh Ministers (instead of service providers) may designate a responsible individual.
- Section 27 – Regulations about regulated services;
- Section 28 – Regulations about responsible individuals;
- Section 30 – Regulations about service providers who are liquidated etc
- Section 31 – Regulations about service providers who have died
- Section 45 – Regulations which provide for offences in the event of failure by a service provider to comply with specified requirements in regulations under section 27;
- Section 46 – Regulations which provide for offences in the event of failure by a

responsible individual to comply with specified requirements in regulations under section 28.

- Section 52 – Regulations which enable the Welsh Ministers to issue a penalty notice for certain offences.

The purpose of the service regulations, and supporting statutory guidance, is to ensure that providers of the regulated social care services under Phase 2 of the 2016 Act's implementation achieve the required standard of care and support so that people's wellbeing and safety is maintained. When implemented alongside other work streams, including the improvement of commissioning practices, these Regulations will help to ensure that individuals who need care and support receive the quality care that they deserve.

The purpose of the penalty notices regulations is to set out the details of a penalty notice scheme, enabling Care and Social Services Inspectorate Wales (CSSIW), to issue a penalty notice to providers and responsible individuals should certain regulatory breaches occur. The intention is to create a more flexible system of regulation so that CSSIW has a full range of powers at its disposal to deal with non-compliance.

Statutory guidance has also been developed under section 29 of the 2016 Act which sets out how the Phase 2 providers and responsible individuals may comply with the requirements in the Regulations.

The following regulated services under the 2016 Act are within Phase 2 of implementation :

- care home services (for both adults and children)
- secure accommodation services for children
- residential family centre services
- domiciliary support services

The purpose of the delineation of care and travel time regulation is to ensure that all individuals have continuity and good quality care and support. This means making sure all people who need care and support services have visits which last as long as they have been assessed as needing. It also means the rotas for domiciliary care workers need to give them the time to carry out the visits, so that they do not have to cut care time or "call clip" or provide care at their own expense.

Copies of the Regulations will be available on the website for the National Assembly for Wales.

The Regulations and statutory guidance described above will have an impact on children receiving care and support from care home services, residential family centres and secure accommodation services.

Step 2. Analysing the impact

As described previously, the Regulations and statutory guidance have been designed to encompass all citizens using care home services, domiciliary support services, residential family centre services and secure accommodation services equally. Therefore the positive impacts of these Regulations and guidance will apply equally to children, young people and their families along with other groups using these services.

The outcomes of these Regulations will be measured as part of the wider programme of work to measure the outcomes of the wider 2016 Act.

No specific links have been identified in these regulations to delivering the key objectives of the Child Poverty Strategy for Wales.

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

These Regulations and associated statutory guidance uphold children's rights to safe and dignified care and support in care home services, domiciliary support services, residential family centre services and secure accommodation services.

The Regulations support many aspects of the UN convention on the rights of the child (UNCRC), in particular, Articles 12 and 19:

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.

A 12 week public consultation was held between 2 May and 25 July 2017 on the draft Regulations. The consultation asked a range of questions about the impact of these Regulations, including the impact on children and young people. In addition to the formal consultation exercise, a young people's consultation – *How we care for you* – was developed to test some of the key draft requirements on service providers of care homes for children with young people in residential care, over the summer holidays. There was an encouraging level of feedback – 26 responses, from 7 different settings across Wales. These comments were considered alongside other responses in order to determine whether changes would be made to the Regulations.

A link to the consultation report and the summary of responses can be found on the Welsh Government's website at:

<https://consultations.gov.wales/consultations/phase-2-implementation-regulation-and-inspection-social-care-wales-act-2016>

In addition, in respect of the sharing of rooms within a care home service for children or a secure accommodation service, the decision on whether or not to share a room is wherever practicable, agreed with the child or their representative.

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.

The Regulations place requirements on providers of regulated care services as to the standards of care and support to be provided. This includes protecting children from neglect, abuse and improper treatment as well as supporting them to achieve what matters to them.

Specific reference to the UNCRC is made in the statutory guidance against regulation 21 – standards of care and support. It states:

Service providers ensure care and support is provided in keeping with any assessment and personal plan, meets the individual's needs and supports them to achieve their personal outcomes in relation to their:

- physical, mental and emotional well being;
- cultural, religious, social or spiritual preferences;
- education, training and recreation needs;
- family and personal relationships;
- control over everyday life and where relevant participation in work; and
- intellectual, emotional and behavioural development;
- securing rights and entitlements in particular UNCRC;
- and
- protection from abuse and neglect.

Step 4. Advising the Minister and Ministerial decision

Ministers have been provided with regular briefings as these Regulations and statutory guidance have developed. Detailed briefings were submitted to the Minister:

- prior to the consultation, giving details of the development of the draft regulations and key information within each regulations
- following the consultation, summarising the consultation responses and the resulting changes proposed to the regulations
- prior to the regulations being laid before the National Assembly for Wales

Consideration of the UNCRC was included within these briefings, as was the impact of the regulations on children, alongside individuals more widely. No conflicts with any UNCRC articles were identified in the regulations or guidance at any time.

Step 5. Recording and communicating the outcome

All of the information relating to the development of these Regulations and statutory guidance will be held on the Welsh Government's electronic records management system, iShare. This impact assessment, alongside the regulations themselves will also be published to the Welsh Government website for public access and to assist the National Assembly for Wales with its scrutiny of the regulations.

This impact assessment is a live document and has been updated during the development of the policy and the regulations. This version reflects the content of the regulations as introduced into the National Assembly for Wales in November 2017.

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

As mentioned in Step 5 above, this is a live document and has been updated during the development of the policy and the regulations. This version reflects the content of the regulations as introduced into National Assembly for Wales in November 2017.

As mentioned in Step 2, the outcomes of these regulations will be measured as part of the wider programme of work to measure the outcomes of the wider 2016 Act.

Budgets

<p>Does the piece of work have any associated allocation of budget?</p> <p>Can you identify how much of this budget will be used for children and young people?</p> <p>It is important that where any changes are made to spending plans, including where additional allocations or savings have been made, that this has been assessed and evidenced as part of the CRIA process.</p> <p>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?</p>	<p>Yes</p> <p>The budget is not delineated in this way. However, the funding will be used to revise the service regulator’s inspection process, including the inspection framework to align them with the regulations and statutory guidance. This will enable the regulator to inspect regulated services used by children and young people.</p> <p>Work was carried out to enable young people to contribute to the consultation. However, this was undertaken within the overall project costs and was not given a specific budget.</p>
<p>Please give any details:</p> <p>N/A</p>	

Monitoring & Review

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

Please forward a copy of this CRIA to CRIA@wales.gsi.gov.uk for monitoring purposes

**See next page for a
Summary List of the
UNCRC articles**

THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

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

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 to 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/

Cic - The National Information and Advice Service for Young People www.ciconline.co.uk/news/

