

# **SOCIAL SERVICES AND WELL- BEING (WALES) ACT 2014**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 32 – Determination of eligibility and consideration of what to do to meet needs***

104. **Section 32** provides that if an assessment concludes that a person has needs for care and support, or, in the case of a carer, needs for support, the local authority must determine whether those needs meet the eligibility criteria which are to be set out in regulations.
105. If the needs do not meet the eligibility criteria, the local authority will need to consider whether it is necessary to meet the person's assessed needs in order to protect them from abuse or neglect or a risk of abuse or neglect. In the case of a child, this will also include protection from harm or risk of harm. "Abuse", "neglect" and "harm" are defined in section 197(1). If it is concluded that it is necessary to meet the needs for this reason, the local authority will be obliged to meet those needs, even if they do not meet the eligibility criteria.
106. The local authority must also consider whether the needs identified call for the exercise of any of its functions under this Act or under Parts 4 and 5 of the Children Act 1989. For example, it may be that the needs of a child could be met by the local authority providing accommodation in accordance with its duty under section 76 of this Act (accommodation for children without parents or who are lost or abandoned etc.) or there might be the need for the local authority to consider whether there are grounds for a care order or supervision order or the taking other steps to protect the child under Part 5 of the 1989 Act.
107. If the local authority determines that it is under a duty to meet the person's needs or decides to exercise its powers to meet needs, it must go on to consider what could be done to meet the identified needs. Section 34 gives examples of what can be provided or arranged to meet needs, including making direct payments. The local authority must also consider whether to exercise its powers in Part 5 of this Act to charge for meeting the identified needs and how much it would charge. If there is to be a charge, the person will only be required to pay an amount which it is determined it is reasonably practicable for them to pay, having regard to the outcome of a financial assessment.
108. The local authority must also consider whether the person would benefit from the provision of preventative services, or information, advice and assistance, or anything else that may be available in the community. This applies whether or not the person has needs that meet the eligibility criteria.
109. Regulations describe the needs which meet the eligibility criteria. The regulations can describe needs by reference to the effect the needs have on the person concerned or by reference to the person's circumstances. The regulations will replace the local eligibility criteria that local authorities currently apply in accordance with guidance in

*These notes refer to the Social Services and Well-being (Wales)  
Act 2014 (c.4) which received Royal Assent on 1 May 2014*

“Creating a Unified and Fair System for Assessing and Managing Care” and “Integrated Assessment, Planning and Review Arrangements for Older People”.