

REGULATION AND INSPECTION OF SOCIAL CARE (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Regulation of Social Care Services

Chapter 1 - Introduction

Section 3 - Other key terms

22. This section defines a number of important terms used in this Part of the Act including the terms “care” and “support”. This is different to the approach in the 2014 Act where those terms are not defined so that the obligations to assess and provide for the needs of a person take into account the broadest possible range of care and support that a person may need. In contrast, this Act imposes a regulatory regime on persons who provide a service which constitutes the provision of care and support. It is therefore important for there to be some certainty about what care and support means so that a service provider is aware that they are providing a service which is to be regulated. It also means that any future services that may be prescribed pursuant to the power in section 2(1)(h) are limited to those that provide care and support as it is defined by this section. The definition of “care” is not intended to define how care is delivered or assessed. Section 27(2) requires that regulations made under subsection (1) must include requirements as to the standard of care and support that must be provided by a service provider. It is with reference to these regulatory requirements that the quality of care will be assessed with reference to well-being outcomes (see section 27(3)).
23. There may be activities that fall within the definitions of care and support that need to be excepted so that the carrying out of those activities does not constitute the carrying on of a regulated service under the Act and so persons who are involved in those things have certainty that this is the case. Section 3(3) therefore provides the power to the Welsh Ministers through regulations to set out things that are not to be considered as “care” and “support” (for example, care provided by a family member in a context that might otherwise lead to that provision being treated as one of the regulated services listed in Schedule 1).