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WELSH STATUTORY INSTRUMENTS

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**2015 No. 1305 (W. 111)**

**SOCIAL CARE, WALES**

**The Care and Support (Assessment) (Wales) Regulations 2015**

<i>Made</i>	- - - -	<i>6 May 2015</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>8 May 2015</i>
<i>Coming into force</i>	- -	<i>6 April 2016</i>

The Welsh Ministers, in exercise of the powers conferred by section 30 of the Social Services and Well-being (Wales) Act 2014<sup>(1)</sup>, make the following Regulations:

**Title, commencement, application and interpretation**

1.—(1) The title of these Regulations is the Care and Support (Assessment) (Wales) Regulations 2015.

(2) These Regulations come into force on 6 April 2016 and apply in relation to Wales.

(3) In these Regulations—

“assessment” (“*asesiad ac asesu*”) means an assessment which is carried out by a local authority under section 19, 21 or 24 of the Act;

“personal outcomes” (“*canlyniadau personol*”) means the outcomes which have been identified in relation to a person in accordance with section 19(4)(a), 21(4)(b) or 24(4)(c) or (d) of the Act;

“the Act” (“*y Ddeddf*”) means the Social Services and Well-being (Wales) Act 2014.

**Co-ordination**

2. The local authority responsible for carrying out an assessment must ensure that there is a named individual whose function is to co-ordinate the carrying out of the assessment.

**Training, expertise and consultation**

3.—(1) A local authority must ensure that any person carrying out an assessment—

- (a) has the skills, knowledge and competence to carry out the assessment in question, and
- (b) has received training in the carrying out of assessments.

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(1) 2014 anaw 4.

(2) When carrying out an assessment, a local authority must consider whether the nature of the person's needs calls for the involvement of a person who has specialist skills, knowledge or expertise.

(3) If the local authority decides that such involvement is called for, it must either consult with a person who it considers will be able to provide those skills or that knowledge or expertise or arrange for the assessment to be carried out by a person with the required specialist skills, knowledge or expertise.

#### **Considerations to which the local authority must have regard**

4. In carrying out an assessment, a local authority must—
- (a) assess and have regard to the person's circumstances,
  - (b) have regard to the personal outcomes,
  - (c) assess and have regard to any barriers to achieving those outcomes,
  - (d) assess and have regard to any risks to the person or to other persons if those outcomes are not achieved, and
  - (e) assess and have regard to the person's strengths and capabilities.

#### **Written records of assessments**

5.—(1) When an assessment has been completed, the local authority must make a written record of the results of the assessment and the matters to which the authority has had regard in carrying out the assessment.

(2) If, in the course of carrying out the assessment, the local authority considers that the provision of preventative services, the provision of information, advice or assistance or other matters could contribute to the achievement of the personal outcomes or otherwise meet needs identified in the assessment, the written record must—

- (a) include details of that provision or those matters, and
- (b) include details of how that provision or those matters could contribute to the achievement of the personal outcomes or otherwise meet needs identified in the assessment.

#### **Copies of records**

6.—(1) Where the assessment is of an adult's needs (including the needs of an adult carer), the local authority must offer to give a copy of the record to—

- (i) the adult,
- (ii) any person authorised to act on behalf of the adult, and
- (iii) where the adult lacks capacity to be able to request a person to act on their behalf and there is no person authorised to act on their behalf, any person who the local authority considers to be acting in the best interests of the adult.

(2) Where the assessment is of a child's needs (including the needs of a child carer), the local authority must offer to give a copy of the record to—

- (i) the child,
- (ii) any person with parental responsibility for the child, unless doing so would be inconsistent with the child's well-being,
- (iii) any person authorised to act on behalf of the child, and
- (iv) where the child lacks capacity or is not competent to request a person to act on their behalf and there is no person authorised to act on their behalf, any person who the local authority considers to be acting in the best interests of the child.

(3) In this regulation and in regulation 7, a person is authorised to act on behalf of an adult or a child if—

- (a) the adult or the child has requested the person to act on their behalf, or
- (b) the adult or child lacks capacity and the person is authorised under the Mental Capacity Act 2005 (whether in general or in specific terms) to make decisions about the assessment of the person's needs.

## Reviews

7.—(1) A local authority must review an assessment if it appears to it that there has been a significant change in the person's circumstances or in their personal outcomes .

(2) The following persons may request a review of an assessment—

- (a) where the assessment is of an adult's needs (including the needs of an adult carer)—
  - (i) the adult;
  - (ii) any person authorised to act on behalf of the adult;
- (b) where the assessment is of a child's needs (including the needs of a child carer)—
  - (i) the child;
  - (ii) any person with parental responsibility for the child;
  - (iii) any person authorised to act on behalf of the child.

(3) The local authority must comply with the request if it is satisfied that there has been a significant change in the person's circumstances or in their personal outcomes.

(4) The local authority may refuse to comply with the request if it is satisfied that there has not been any significant change in the person's circumstances or in their personal outcomes since the assessment was completed.

6 May 2015

*Mark Drakeford*  
Minister for Health and Social Services, one of  
the Welsh Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Sections 19, 21 and 24 of the Social Services and Well-being (Wales) Act 2014 impose duties on a local authority to assess an adult's needs for care and support, a child's needs for care and support and a carer's needs for support. These Regulations make further provision about such assessments.

Regulation 2 makes provision about the co-ordination of assessments. Regulation 3 makes provision about the training and expertise of persons carrying out an assessment.

Regulation 4 makes provision about the matters to which the local authority must have regard when carrying out an assessment.

Regulation 5 makes provision for the recording of assessments and Regulation 6 deals with the persons to whom the local authority must offer to give a copy of such records.

Regulation 7 makes provision for the review of an assessment, including the circumstances in which the local authority must review the assessment, the persons who may request a review of the assessment, the circumstances in which the local authority must comply with such a request and the circumstances in which they may refuse to do so.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained by contacting the Department for Health and Social Services, Welsh Government, Cathays Park, Cardiff CF10 3NQ.