



# Social Services and Well-being (Wales) Act 2014

2014 anaw 4

## PART 1

### INTRODUCTION

#### *Overview*

#### **1 Overview of this Act**

- (1) This Act has 11 Parts.
- (2) This Part provides an overview of the whole Act and defines some key terms.
- (3) Part 2 (general duties)—
  - (a) requires persons exercising functions under this Act to seek to promote the well-being of people who need care and support and carers who need support (section 5);
  - (b) imposes overarching duties on persons exercising functions under this Act in relation to persons who need or may need care and support, carers who need or may need support, or persons in respect of whom functions are exercisable under Part 6, so as to give effect to certain key principles (section 6);
  - (c) requires the Welsh Ministers to issue a statement specifying the well-being outcomes that are to be achieved for people who need care and support and carers who need support and to issue a code to help achieve those outcomes (sections 8 to 13);
  - (d) requires local authorities to assess the needs in their areas for care and support, support for carers and preventative services (section 14);
  - (e) requires local authorities to provide or arrange for the provision of preventative services (section 15);

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- (f) requires the promotion by local authorities of social enterprises, co-operatives, user led services and the third sector in the provision in their areas of care and support and support for carers (section 16);
  - (g) requires the provision by local authorities of a service providing information and advice relating to care and support and support for carers and assistance in accessing it (section 17);
  - (h) requires local authorities to establish and maintain registers of sight-impaired, hearing-impaired and other disabled people (section 18).
- (4) Part 3 (assessing the needs of individuals) provides for—
- (a) the circumstances in which a local authority must assess a person's needs for care and support or a carer's needs for support;
  - (b) how assessments are to be carried out.
- (5) Part 4 (meeting needs) provides for—
- (a) the circumstances in which needs for care and support or support for carers may or must be met by local authorities;
  - (b) how needs are to be met.
- (6) Part 5 (charging and financial assessment) provides for—
- (a) the circumstances in which local authorities may charge for providing or arranging care and support or support for carers;
  - (b) the circumstances in which local authorities may charge for preventative services and the provision of assistance;
  - (c) how such charges are to be set, paid and enforced.
- (7) Part 6 (looked after and accommodated children)—
- (a) provides for the interpretation of references to a child or young person looked after by a local authority (section 74);
  - (b) requires local authorities—
    - (i) to secure sufficient accommodation in their areas for the children they look after (section 75), and
    - (ii) to accommodate children without parents or who are lost or abandoned or are under police protection, detention or on remand (sections 76 and 77);
  - (c) provides for the functions of local authorities in relation to the children they look after (sections 75 to 103, 124 and 125);
  - (d) provides for the circumstances in which local authorities may or must provide support for young people—
    - (i) leaving, or who have left, local authority care;
    - (ii) formerly accommodated in certain establishments;
    - (iii) formerly fostered;
    - (iv) with respect to whom special guardianship orders are or were in force; (sections 104 to 118);
  - (e) provides for limits on the use of secure accommodation for children looked after by local authorities or local authorities in England or children of a description specified in regulations (section 119);
  - (f) requires the assessment by local authorities of children who are accommodated by health authorities or education authorities or in care homes

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- or independent hospitals and the provision of visits and services to those children (sections 120 to 123);
- (g) introduces Schedule 1 which makes provision about contributions towards the maintenance of children looked after by local authorities.
- (8) Part 7 (safeguarding)—
- (a) requires local authorities to investigate where they suspect that an adult with care and support needs is at risk of abuse or neglect (section 126);
  - (b) provides for adult protection and support orders to authorise entry to premises (if necessary by force) for the purpose of enabling an authorised officer of a local authority to assess whether an adult is at risk of abuse or neglect and, if so, what to do about it (section 127);
  - (c) requires local authorities and their relevant partners to report to the appropriate authority where they suspect that people may be at risk of abuse or neglect (sections 128 and 130);
  - (d) disapplies section 47 of the National Assistance Act 1948 (which enables local authorities to apply for a court order to remove people in need of care and attention from their homes to hospitals or other places) (section 129);
  - (e) establishes a National Independent Safeguarding Board to provide support and advice in order to ensure the effectiveness of Safeguarding Boards (sections 132 and 133);
  - (f) provides for Safeguarding Boards for adults and children and for the combination of such boards (sections 134 to 141).
- (9) Part 8 (social services functions)—
- (a) introduces Schedule 2, which specifies the social services functions of local authorities (section 143);
  - (b) requires the appointment of directors of social services by local authorities and makes related provision (section 144);
  - [<sup>F1</sup>(ba) requires local authorities to produce—
    - (i) annual reports about the exercise of social services functions, and
    - (ii) reports about the stability of local markets for providing care and support,(sections 144A and 144B);]
  - (c) provides for codes about the exercise of social services functions to be made by the Welsh Ministers (sections 145 to 149);
  - [<sup>F2</sup>(ca) provides powers for the Welsh Ministers to conduct reviews relating to the exercise of social services functions of local authorities (sections 149A and 149B);]
  - (d) provides for intervention by the Welsh Ministers in the exercise of social services functions where a local authority is failing to exercise them properly (sections 150 to [<sup>F3</sup>160]);
  - (da) allows for the inspection of premises in connection with reviews of local authority social services functions conducted by the Welsh Ministers or the exercise of the Welsh Ministers' powers of intervention in relation to those functions, and for the Welsh Ministers to request information in connection with such reviews and makes related provision (sections 161 to 161C).]
- (10) Part 9 (co-operation and partnership)—

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- (a) requires local authorities to make arrangements to promote co-operation with their relevant partners and others in relation to adults with needs for care and support, carers and children (sections 162 and 163);
  - (b) imposes a duty on the relevant partners to co-operate with, and provide information to, the local authorities for the purpose of their social services functions (section 164);
  - (c) makes provision about promoting the integration of care and support with health services (section 165);
  - (d) provides for partnership arrangements between local authorities and Local Health Boards for the discharge of their functions (sections 166 to 169);
  - (e) empowers the Welsh Ministers to direct local authorities to enter into joint arrangements for the provision of an adoption service (section 170).
- (11) Part 10 (complaints, representations and advocacy services) has three chapters.
- (12) Chapter 1 provides for complaints and representations about social services provided or arranged by local authorities.
- (13) Chapter 2 provides for complaints to the Public Services Ombudsman for Wales about private social care and palliative care.
- (14) Chapter 3 provides for advocacy services to be made available to people with needs for care and support for purposes relating to their care and support.
- (15) Part 11 (miscellaneous and general)—
- (a) empowers the Welsh Ministers, local authorities and Local Health Boards to conduct research, and empowers the Welsh Ministers to require information, about matters connected with functions under the Act and other related matters (section 184);
  - (b) makes provision about how this Act applies to persons in prison, youth detention accommodation or bail accommodation etc (sections 185 to 188);
  - (c) makes provision about the steps to be taken by a local authority where [<sup>F4</sup>a service provider (within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016)] becomes unable to meet needs in the authority's area because of business failure (sections 189 to 191);
  - (d) disapplies section 49 of the National Assistance Act 1948 (which allows a local authority to meet expenses incurred by any of its officers appointed by the Court of Protection as a deputy) (section 192);
  - (e) makes provision for the recovery of costs between local authorities in certain circumstances (section 193);
  - (f) provides for the resolution of questions about the ordinary residence of a person for the purposes of this Act (section 194);
  - (g) contains the definitions that apply for the purposes of this Act generally and an index of defined expressions (section 197);
  - (h) contains other provisions which apply generally for the purposes of this Act.
- (16) There are also provisions about social services in the Acts and Measures listed in Schedule 2.

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### Textual Amendments

- F1** S. 1(9)(ba) inserted (23.2.2021) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 30(a)(i)**; S.I. 2021/181, reg. 2(c)
- F2** S. 1(9)(ca) inserted (23.2.2021) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 30(a)(ii)**; S.I. 2021/181, reg. 2(c)
- F3** S. 1(9)(da) and word substituted for word (23.2.2021) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 30(a)(iii)**; S.I. 2021/181, reg. 2(c)
- F4** Words in s. 1(15)(c) substituted (23.2.2021) by Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2), s. 188(1), **Sch. 3 para. 30(b)**; S.I. 2021/181, reg. 2(c)

### Key terms

## 2 Meaning of “well-being”

- (1) This section applies for the purpose of this Act.
- (2) “Well-being”, in relation to a person, means well-being in relation to any of the following—
  - (a) physical and mental health and emotional well-being;
  - (b) protection from abuse and neglect;
  - (c) education, training and recreation;
  - (d) domestic, family and personal relationships;
  - (e) contribution made to society;
  - (f) securing rights and entitlements;
  - (g) social and economic well-being;
  - (h) suitability of living accommodation.
- (3) In relation to a child, “well-being” also includes—
  - (a) physical, intellectual, emotional, social and behavioural development;
  - (b) “welfare” as that word is interpreted for the purposes of the Children Act 1989.
- (4) In relation to an adult, “well-being” also includes—
  - (a) control over day to day life;
  - (b) participation in work.

## 3 Meaning of “adult”, “child”, “carer” and “disabled”

- (1) This section applies for the purposes of this Act.
- (2) “Adult” means a person who is aged 18 or over.
- (3) “Child” [<sup>F5</sup>(except in section 83(2C))] means a person who is aged under 18.
- (4) “Carer” means a person who provides or intends to provide care for an adult or disabled child; but see subsections (7) and (8) and section 187(1).
- (5) A person is “disabled” if the person has a disability for the purposes of the Equality Act 2010, subject to provision made under subsection (6).

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- (6) Regulations may provide that a person falling within a specified category is or is not to be treated as disabled for the purposes of this Act.
- (7) A person is not a carer for the purposes of this Act if the person provides or intends to provide care—
- (a) under or by virtue of a contract, or
  - (b) as voluntary work.
- (8) But a local authority may treat a person as a carer for the purposes of any of its functions under this Act if the authority considers that the relationship between the person providing or intending to provide care and the person for whom that care is, or is to be, provided is such that it would be appropriate for the former to be treated as a carer for the purposes of that function or those functions.

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#### Textual Amendments

- F5** Words in s. 3(3) inserted (1.9.2021) by [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), **Sch. 1 para. 24(2)**; S.I. 2021/373, art. 8(j)(xl) (as amended by S.I. 2021/735, art. 2(5)(b))

#### 4 Meaning of “care and support”

Any reference to care and support in this Act is to be construed as a reference to—

- (a) care;
- (b) support;
- (c) both care and support.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 162(4)(ga) inserted by [2022 asc 1 Sch. 4 para. 30\(2\)\(b\)](#)
- s. 163(4A) inserted by [2014 c. 23 s. 75\(10\)](#) (Effect inserting (4) not applied at s. 163 as it appears to relate to s. 194 in view of the title of the section as cited i.e. "ordinary residence". In s. 194 another (4), identically worded, is inserted on the same date by S.I. 2016/413, regs. 2(1), 316(a))