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

**SUMMARY – March 2017**

**Assessing and Meeting the Needs of Individuals**

# Introduction

This is a summary of the Social Services and Well-being (Wales) Act 2014 Parts 3 and 4 and relevant aspects of Part 11 relating to individuals in the secure estate. This summary forms part of the suite of learning materials that have been developed to support the implementation of the Act. It is intended for anyone who would like to know more about changes to assessment and meeting needs under the Act.

# Context

The Act requires local authorities to make significant changes to current assessment and eligibility practice, with a move away from ‘identifying what services an individual needs’ to an emphasis on what care and support they require to achieve the personal outcomes that ‘matter to them’. The aim is to streamline assessments through a single process for children, adults and carers while recognising the different requirements of children and adults.

Eligibility is not about giving a right to a service; it is about access to care and support to meet personal outcomes. The individual has an eligible need for care and support if an assessment establishes that they can only overcome barriers and achieve their personal outcomes if the local authority prepares a care and support plan, or support plan for carers, and ensures that it is delivered.

There are overarching duties in the Act to promote an individual’s well-being and to have regard for their culture, dignity, and views, wishes and feelings (and for under 16s those with parental responsibility if practical and consistent with the child’s
well-being), as well as support them to participate. The UN Principles for Older Persons, Convention on the Rights of the Child, and Convention on the Rights of Disabled People, as well as the European Convention on Human Rights also apply.

There are changes relating to charging and financial assessment, including mandatory deferred payments schemes and prohibiting charging for care and support for children. The Act introduced one set of financial assessment arrangements for charging for both non-residential and residential care and support.

# Assessing the Needs of Individuals

The assessment and eligibility process is one of the most important parts of the care and support system. Assessment is one of the key interactions between the local authority and an individual. It should not be viewed as a gateway to care and support, rather, a critical intervention in its own right that can help individuals to understand their situation and overcome barriers to achieving their personal outcomes.

The Act created a right to assessment for adults, children and carers when it appears that they may have a need for care and support. This right exists regardless of their level of need for care and support or, for adults, their financial resources. The duty to assess an adult in need extends to ‘self-funders’ who ask the local authority to meet their need for care and support. The previous requirement for carers to be providing a “substantial amount” of care has been removed.

Assessments must, as a minimum, record information in line with the national assessment and eligibility tool, which comprises the national minimum core data set (NMDS) – completed by whoever has first contact with the person – and an analysis structured around the **five elements of assessment**, which require a local authority (or organisation with delegated functions) to:

* assess and have regard to the **person’s circumstances**;
* have regard to their **personal outcomes**;
* assess and have regard to any **barriers** to achieving those outcomes;
* assess and have regard to any **risks** to the person if the outcomes are not achieved; and
* assess and have regard to the person’s **strengths and capabilities**.

The process of assessment should be based on the principles of co-production so that practitioners and individuals share the power to plan and deliver care and support together. This means that that the relationship between professionals and people who use services may need to shift. Developing a strengths-based approach is seen as a key aspect of working collaboratively between the individual supported and the professional(s) supporting them, working together to determine outcomes that draw on the individual’s strengths and assets.

Assessment will not be the same for all people and must therefore be proportionate and appropriate for the individual’s circumstances. The approach to assessment and eligibility must be to be clear about:

From the first point of contact practitioners should consider whether advocacy support is necessary for the individual to be able to fully participate in the process.

The focus of assessment should be whether, and if so, to what extent, the provision of – information, advice and assistance; or preventative services; or care and support (self-managed or otherwise) – could contribute to the achievement of the individual’s personal outcomes or otherwise meet their needs for care and support.

A key part of assessment is also to establish whether there is reasonable cause to suspect that a child or adult is experiencing, or is at riskof, abuse, neglect or (for children) other kinds of harm and, with regard to adults, is unable to protect himself or herself, and whether emergency action is required.

Particular considerations apply to the assessment of children. Fundamental to establishing the care and support needs of a child is that the approach must be child centred, the child is seen and their welfare kept in focus and that account is always taken of the child’s perspective. For children, the assessment should always be about ensuring that their best interests are met and their welfare safeguarded.

## Determining eligibility

The assessment process is integral to the wider system of care and support and determination of eligibility flows naturally from the assessment process. All five elements of assessment must be taken into account, and from this a judgement reached about whether the care and/or support need is eligible. Eligibility status is given to the need for care and support – not the individual.

The individual has an eligible need for care and support if an assessment establishes that overcoming barriers to achieving their personal outcomes requires the local authority to prepare and ensure the delivery of a care and support plan, or support plan for carers.

# Care and Support Planning

Local authorities must provide, and keep under review, care and support plans for children and adults, and support plans for carers, who have eligible needs for care and support, or support for a carer. If an individual has needs that do not meet the eligibility criteria, the local authority must still meet their needs if it considers it necessary to do so in order to protect the individual from, or risk of, abuse or neglect or (for children) other harm.

Many individuals’ needs for care and/or support can be met without a formal plan. In such instances relevant preventative or community based services should be clearly signposted to the individual or their family. However, a plan is needed when the individual is unlikely to achieve their personal outcomes unless the local authority provides or arranges care and/or support to meet an identified, eligible need. The chart below provides a summary of the principles of care and support planning, the format in which the plans must be based and their content.

## Direct payments

The Act sees direct payments as enhancing an individual’s ability to have control and meet their personal outcomes: it encourages their use as one of a range of ways in which needs for care and support can be met rather than a secondary consideration. Where eligible care and support needs, or support needs in the case of a carer, have been identified and that individual, or their representative, expresses a wish to receive one, direct payments must be made available in all cases where they enable personal outcomes to be achieved. Direct payments are designed to be used flexibly and innovatively. The Act removed some of the previous restrictions on their use and they can be used for any identified need for care and support a local authority is to meet, including in long-term residential settings and purchasing care and support directly from an individual’s local authority.

# Adults and Children in the Secure Estate

The Act brought in new duties for local authorities in respect of adults with care and support needs who are in the secure estate in Wales. The responsibility for the care and support needs of an adult falls on the local authority where the provision is located. The responsibility for the care and support needs of a Welsh child usually falls on their Welsh home local authority, that is, the local authority in whose area the child was ordinarily resident prior to being in custody.

This was a big change for local authorities with prisons and they have the same duties to fulfil in respect of assessing and meeting the need for care and support for adults in the secure estate as for their citizens in the community; albeit that there are some exceptions, such as a prisoner cannot receive direct payments. Local authorities need to take a holistic approach when individuals are serving their sentence and when planning for their release.