

## Constitutional and Legislative Affairs Committee

### CLAXXX – The Care and Support (Eligibility) (Wales) Regulations 2015

The Social Services and Well-being Act 2014 (“the Act”) provides a single Act which brings together local authorities’ duties and functions in relation to improving the well-being of those who need care and support and of carers who need support.

The Regulations set out the test which a local authority must apply to determine whether an individual with needs identified pursuant to an assessment undertaken by the local authority is entitled to have those needs met by the local authority. The Regulations set out the test to be applied in relation to adults, to children and to carers (including a child carer).

#### Procedure : ‘Super Affirmative’

##### 1. Technical Scrutiny

*No points are identified for reporting under Standing Order 21.2.*

##### 2. Merits Scrutiny

*The following Standing Order 21.3(ii) in respect of this draft instrument.  
These Regulations have been made utilising a ‘super affirmative’ procedure.*

*The places a requirement on local authorities to apply national eligibility criteria to determine their duty to meet identified needs. For adults, this will remove the traditional threshold for access to managed care and support. The Explanatory Memorandum which accompanies the Regulations states that this will ensure a more responsive and bespoke response for each individual.*

*The Act places a requirement on local authorities to apply national eligibility criteria to determine their duty to meet the care and support needs of children. This contrasts with the approach in the Children Act 1989 which contains a definition of a child in need and requires local authorities to safeguard and promote the welfare of such children. A child’s eligibility will flow from the process of assessment.*

*Under the Act, a local authority is under a duty to undertake an assessment of a carer’s – including a child carer– needs where it appears to the authority that the*

## TEMPLATE – SI REPORT

*carer has needs for support. A local authority will be under a duty to meet the identified needs where they meet the national eligibility criteria.*

*Members will wish to note that the Regulations set out the test which a local authority must apply in determining whether or not an individual has needs which must be met. The Regulations will be supplemented by Code of practice issued under section 145 of the Act which encourages local authorities to meet its duties to provide or arrange for the provision of preventative services, promote social enterprises, co-operatives, user-led services and the third sector and to provide information, advice and assistance services so reducing the number of individuals who will require a care and support plan.*

Legal Services

11 May 2015