# The Code of Practice on the exercise of social services functions in relation to Part 3 (Assessing the needs of individuals) of the Social Services and Well-being (Wales) Act 2014

Issued under Section 145 of the Social Services and Well-being (Wales) Act 2014
(Short title: code of practice on assessing the needs of individuals)

## Preamble

1. This code of practice is issued under section 145 of the Social Services and Well-being (Wales) Act 2014. Local authorities, when exercising their social services functions, must act in accordance with the **requirements** contained in this code. Section 147 (Departure from requirements in codes) does not apply to any **requirements** contained in this code. In addition, local authorities must have regard to any **guidelines** set out here.

2. In this code a **requirement** is expressed as 'must' or 'must not'. **Guidelines** are expressed as 'may' or 'should/should not'.

3. This code of practice contains guidance on the duties contained in sections 19-29 of the Act and the Care and Support (Assessment) (Wales) Regulations 2015 made under section 30 of the Act ('the assessment regulations').

4. This code of practice on assessment is fundamentally linked to the code of practice on eligibility, as both codes are critical to the design and delivery of the new system for accessing and delivering care services.

5. References to personal well-being outcomes and personal outcomes within codes of practice under the Act should be taken to have the same meaning.

## Purpose

6. This code sets out:
   - A process for assessing the needs of an individual for care and support, or support in the case of a carer.
   - A process of assessment that will apply to all people – children, adults and carers.
   - A process of review and re-assessment that will apply to assessments.

7. Underpinning these changes is the need for more effective arrangements that are used and understood by all practitioners in their work with individuals. Ensuring that practitioners work with people to identify what matters to them, and identify their strengths and capabilities is central to the system. Improving these arrangements locally and getting greater consistency of practice across Wales will help drive the right care, at the right time, in the right place.

8. This code of practice:
   - is about working in partnership with people and their carers to build on their strengths and understand their needs, to support and enable them to live full lives and maintain their wellbeing.

- supports people's right to have respectful conversations about their well-being, and to take a full part in decisions about their care.
- simplifies and minimises administrative burdens so people get better services and better outcomes. Practitioners will be able to spend more time working directly with people to better understand their needs and act earlier in helping them.
- supports practitioners to exercise their professional judgement working in partnership with people to agree solutions that are in the best interests of the individual.
- will drive integrated practice and will shape relationships between practitioners, and between practitioners and the individuals they support. It will lead to improved outcomes for individuals; a motivated workforce and raise public confidence in their dealing with health and social care practitioners.
- describes how a local authority, working with their communities and with their health and third sector partners, should ensure they have integrated assessment, care and support planning and review arrangements, which support the wider agenda and the broader integration of social care and health care provision.
- describes how the process of assessment can focus both on people's needs and on their strengths, and support people to contribute to their own personal outcomes.

**Context**

9. The Social Services and Well-being (Wales) Act 2014 provides the statutory framework to deliver the Welsh Government's commitment to integrate social services to support people of all ages, and support people as part of families and communities. It will transform the way social services are delivered, primarily through promoting people's independence to give them a stronger voice in decisions about them and more control over their lives. Integration and simplification of the law will also provide greater consistency and clarity to people who use social services, their carers, local authority staff and their partner organisations, the courts and the judiciary. The Act promotes equality, improvements in the quality of services and the provision of information people receive, and a shared focus on prevention and early intervention.

10. The Act introduces changes to the way in which assessments are provided for all individuals and families and the way in which assessments are provided for the support of carers. The aim is for greater consistency of practice across Wales and more proportionate application of assessments to enable people to receive the help that they need while minimising administrative burdens.

11. The purpose of an assessment for care and support is to work with an individual, carer and family, and other relevant individuals to understand their needs, capacity and resources and the outcomes they need to achieve, and then to identify how they can best be supported to achieve them. At the core of this is a conversation about promoting independence and development by maximising people's control over their day to day lives and helping address difficulties or problems which are stopping them achieving this. It is essential

that people are enabled to identify their own personal outcomes, and how they can achieve those outcomes.

12. This is a model of assessment and care planning that requires the assessment process to start with the person themselves and understand their strengths and capabilities and what matters to them, and how their family friends and local community play a part in their life to help them reach their personal outcomes. It is consistent with the principles that underpin the Mental Capacity Act 2005. It is an approach to assessment and care planning that recognises that needs can be met not only through the provision of services but through active support and assistance to enable people to meet their own needs. For example, by assisting people to access local services themselves or supporting people to develop the skills and confidence they need.

13. An individual must feel that they are an equal partner in their relationship with professionals. It is open to any individual to invite someone of their choice to support them to participate fully and express their views wishes and feelings. This support can be provided by someone's friends, family or wider support network.

14. The dedicated code of practice on advocacy under Part 10 of the Act sets out the functions when a local authority, in partnership with the individual, must reach a judgement on how advocacy could support the determination and delivery of an individual's personal outcomes; together with the circumstances when a local authority must arrange an independent professional advocate. Professionals and individuals must ensure that judgements about the needs for advocacy are integral to the relevant duties under this code.

**The Duty to Assess**

15. A local authority must offer an assessment to:

- **Any adult** where it appears to that authority the adult may have needs for care and support:
    - A local authority must assess whether an adult does have needs for care and support and if so, what those needs are.
    - The duty applies in relation to adults who are ordinarily resident in the area and to other adults in the area, regardless of the level of need for care and support and the level of the adult's financial resources. The assessment must focus on the outcomes the adult wishes to achieve in his or her daily life and the extent to which the provision of care and support, preventative services, or the provision of information, advice or assistance, could contribute to the achievement of those outcomes.
    - The assessment itself must be proportionate to need and involve the adult and where feasible, the adult's carer.

- **Any child** where it appears to that authority that the child may have needs for care and support in addition to, or instead of, the care and support provided by the child's family.

    - For the purpose of the trigger for the duty to assess the needs of a child, a disabled child is presumed to need care and support in addition to, or instead of, the care and support provided by the child's family (see section 21(7) of the Act).

    - A local authority must assess whether a child has needs for care and support and if so, what those needs are. In carrying out the assessment the local authority must assess the developmental needs of the child, and seek to identify the outcomes that the child wishes to achieve (to the extent it considers appropriate having regard to the child's age and understanding), and the outcomes that the persons with parental responsibility for the child wish to achieve in relation to the child (to the extent it considers appropriate having regard to the need to promote the child's well-being). There must be an assessment of the extent to which the provision of care and support, preventative services, or the provision of information, advice or assistance, could contribute to the achievement of those outcomes.

    - The duty applies in relation to children that are ordinarily resident in the area and to other children in the area, regardless of the level of need for care and support and the level of financial resources of the child, or any person with parental responsibility for the child.

    - The assessment itself must be proportionate to need and involve the child and any person with parental responsibility for the child.

- **Any carer** where it appears to that authority that the carer may have needs for support:

    - A local authority must assess whether the carer has needs for support (or is likely to do so in the future) and if they do, what those needs are or are likely to be. A carer is defined in the Act as a person who provides or intends to provide care for an adult or a disabled child. In general, professional carers who receive payment should not be regarded as carers for the purposes of the Act, nor should people who provide care as voluntary work. However, a local authority can treat a person as a carer even if they would not otherwise be regarded as a carer if they consider that, in the context of the caring relationship, it would be appropriate to do so. A local authority can treat a person as a carer in cases where the caring relationship is not principally a commercial one.

    - The duty is triggered if it appears to the local authority that a carer may have needs for support. The duty to assess applies regardless of the authority's view of the level of support the carer needs or the financial

resources he or she has or the financial resources of the person needing care.

- The assessment must include an assessment of the extent to which the carer is able and willing to provide the care and to continue to provide the care, the outcomes the carer wishes to achieve both in terms of themselves and, if a child is the carer, the outcomes the person(s) with parental responsibility for that child wish(es) to achieve for them and the extent to which support, preventative services, or the provision of information, advice or assistance could assist in achieving the identified outcomes. The local authority must involve the carer and where feasible the person for whom the carer provides or intends to provide care in the assessment.

- The assessment also must have regard to whether the carer works or wishes to work and whether they are participating or wish to participate in education, training or leisure activities. If the carer is a child, the assessment must have regard to his or her developmental needs and the extent to which it is appropriate for the child to provide the care. This should lead to consideration by the local authority of whether a child carer is actually a child with care and support needs in his or her own right and who therefore should be assessed under section 21 of the Act.

- If the carer is a young adult carer aged between 16 and 25 the assessment must include an assessment of any current or future transitions the carer is likely to make into further or higher education, employment or training and have due regard to what the young adult carer wishes to participate in.

**The Assessment Process**

16. Any individual or family with a care and support need has a right to an assessment on the basis of that need and the assessment undertaken should be proportionate to the request and/or the presenting need. Therefore a local authority must enable practitioners to provide an assessment process that reflects the extent of the care and support needs being presented, such that the depth and detail of the assessment and care and support planning process is appropriate to the individual's needs.

17. The assessment starts from the presumption that an adult is best placed to judge their own well-being, a note on assessing the needs of children follows below.

18. Effective assessments are valuable experiences in themselves as well as being the catalyst for helping get the care and support an individual or family need. The assessment should build a better understanding of someone's situation, identify the most appropriate approach to addressing their particular circumstance, and establish a plan for how they will achieve their personal outcomes. The assessment process should be based on the principles of co-production ensuring that it involves a relationship where practitioners and

individuals share the power to plan and deliver support together, and recognising that all partners have vital contributions to make in helping to meet identified personal outcomes.

19. The assessment process will often start when a person accesses the information, advice and assistance service. Access to an assessment should not be restricted to being accessible through this service alone.

20. Further detail about the information, advice and assistance service is available in the Code on Part 2 of the Act. Under this service it is only the provision of information that does not require some sort of assessment. If advice and/or assistance are given an assessment of a person's needs will have taken place.

21. An assessment can be undertaken by a single practitioner where that practitioner would not need additional specialist advice or assessments to determine eligibility.

22. The practitioner should undertake an assessment that is proportionate to the needs and circumstances but a completed assessment should at a minimum record the core data and take into account the five elements to determine eligibility.

23. An individual must feel that they are an equal partner in their relationship with professionals. It is open to any individual to invite someone of their choice to support them to participate fully and express their views wishes and feelings. This support can be provided by someone's friends, family or wider support network.

24. The dedicated code of practice on advocacy under Part 10 of the Act sets out the functions when a local authority, in partnership with the individual, must reach a judgement on how advocacy could support the determination and delivery of an individual's personal outcomes; together with the circumstances when a local authority must arrange an independent professional advocate. Professionals and individuals must ensure that judgements about the needs for advocacy are integral to the relevant duties under this code.

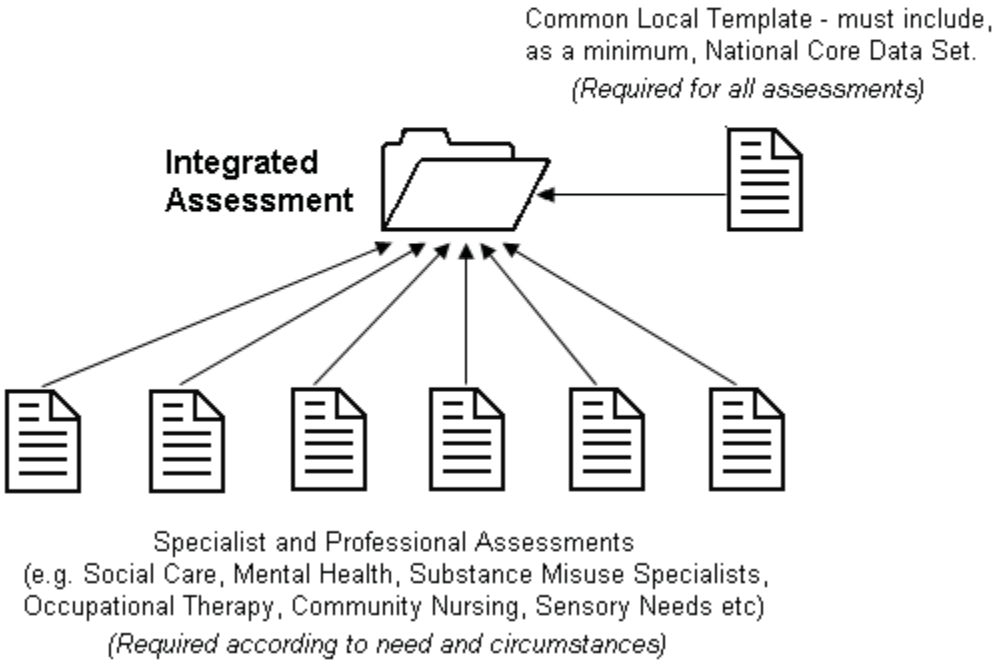
25. Where the assessment is of the care and support needs of a child, the child must be seen. This includes observation of the child and communicating with the child in an age and capacity appropriate manner. The assessment must address the central or most important aspects of the needs of a child and the capacity of his or her parents or caregivers to respond appropriately to these needs within the wider family and community context.

26. An assessment may conclude that, immediate needs having been met, a more comprehensive assessment is required and the further assessment can be undertaken by a single practitioner with further information from other sources.

27. It will often be the case that where a more comprehensive assessment is required, an assessment of care and support needs may need to comprise a compendium of one or more professional assessments which will supplement the minimum data required in the national assessment and eligibility tool, which is set out in more detail later in this Code.

28. Each of these assessments may be from a particular professional discipline and designed to suit the specific assessment task of that professional discipline. This diagram illustrates this:

**Elements of an Integrated Assessment**




29. More comprehensive assessments may sometimes involve several stages or discussions to establish a full understanding of the person's needs and the outcomes they wish to achieve. They may also involve seeking the views of other professionals where their involvement does not constitute an assessment.

30. Where required to ensure that the assessment process meets the principles set out in this code of practice, the local authority must involve in the assessment someone with specialist skills, knowledge or expertise. Where this is the case the local authority must decide whether to consult an appropriate specialist and then have regard to the outcome of such a consultation in carrying out the assessment or whether the assessment itself should be carried out by someone with such specialist skills knowledge or expertise. This requirement is set out in regulation 3 (2) and (3) of the assessment regulations. Where a specialist assessment has been carried out, the presumption is in favour of the expert opinion in cases where the expert and generalist practitioner do not agree.

31. When an assessment of the needs of a deafblind person is required or requested, it must be carried out by a specifically trained person/team, equipped to assess the needs of a deafblind person - in particular to assess the need for personal contact and social interaction, assistive technology; support with mobility; communication; emotional well-being; habilitation/rehabilitation learning skills for life and future needs.

32. The need for a more specialist assessment to be undertaken must not prevent or delay appropriate services being provided.

33. If a more specialist assessment is required it is likely that the needs are more complex in nature. As a result a local authority must ensure that there is minimum delay in completing the specialist assessment so that a care and support plan can be progressed quickly and should consider whether it is appropriate to put interim support in place.

34. A timely response to a child's needs is vital; completion of a comprehensive assessment within 42 working days of referral (a requirement set out below under the additional considerations for children) should not take precedence over an analysis of what is happening in the child's life and what immediate action is needed, however difficult or complex the child's circumstances.

35. The process of assessment must recognise the reality of fluctuating needs and capacity and be responsive to changing circumstances. In practice this recognition of fluctuating needs may require that the individual's circumstances are considered over such period as is necessary to establish an accurate indication of the level of need. This must not lead to a delay in support.

36. The person, and people involved, should be kept informed of the progress of the assessment and expected timescales for completion of the assessment process.

**Combining needs assessments and other assessments**

37. A local authority may combine a person's needs assessment with the needs assessment of his or her carer if it considers it would be beneficial to do so. However, the local authority may only do so if valid consent is given by or in respect of those persons. The Explanatory Notes to section 28 of the Act provide more detail on the meaning of valid consent and the circumstances in which the requirement for valid consent may be dispensed with.

38. In order to avoid the duplication of assessments under different legislation being carried out separately, a local authority may carry out a needs assessment under the Act at the same time as it carries out an assessment under other Acts or at the same time as another body carries out an assessment under other Acts. In such cases, the local authority may carry out the assessment on behalf of or jointly with the other body. In cases where the other body has arranged for the other assessment to be carried out jointly with another person, the local authority may carry out the other assessment jointly with the other body and that other person.

**Accessibility**

39. The local authority's approach to assessment and eligibility must be clearly communicated so that all people can understand how to access an assessment, what is involved in an assessment, how it will be undertaken, who will be involved and what it means for them. There will be occasions where, because of their particular needs, people will need additional support to ensure that they understand what is available to them and how to access support.

40. A local authority must ensure that deafblind people are able to access specifically trained one-to-one support workers, where this is required.

**Lead Practitioner**

41. A designated lead practitioner must be named and lead the assessment process. This named practitioner will be responsible for liaison with all other practitioners involved in the assessment of the individual and/or family. They will draw in additional specialists as required; act as a focus for communication for different professionals and for the individual or family to make sure that information is recorded correctly and that the core data set (see below) is made available to the person; and ensure that any problems or difficulties in the co-ordination or completion of an assessment are resolved.

42. The assessment coordinator can also be the named care co-ordinator referred to in the code of practice on Part 4 of the Act. If the co-ordinators differ both should liaise on the planning, delivery and review of care and support.

**Who Should be Involved?**

43. In addition to those requirements set out in the section on the Duty to Assess (above) and with the agreement of the person concerned[1] the authority should involve, where appropriate, the following people in the assessment:

- any person whom the person (or parent in the case of a child) asks the local authority to involve;
- other practitioners/ professionals who have undertaken or will need to undertake a related assessment;
- other practitioners/ professionals with expertise in the circumstances or needs of the person concerned;
- in the case of an adult who lacks the capacity to decide who to involve, any person authorised to make decisions about the individual under the Mental Capacity Act 2005; or

[1] or the parent or person with parental responsibility in the case of a child, or any person duly authorised to make decisions on behalf of a person who lacks capacity to agree

- any other person, including carers, whom the local authority considers to have sufficient involvement in the care or support arrangements for the person.

**Assessment Requirements**

43. All practitioners undertaking assessments must be suitably skilled, trained and qualified in undertaking assessments. This requirement is set out in regulation 3 of the assessment regulations. Appropriate levels of qualification for undertaking these activities include:
    - **either** a registered social work or social care practitioner holding a professional qualification at level 5 or above
    - **or** a person holding a social care qualification at level 4 or above, which includes knowledge and skills undertaking person centred assessment, under the supervision of a registered social work or social care practitioner.

44. A local authority will also need to be satisfied that all staff undertaking these activities have the skills, knowledge, and competence to work with children and young people, adults and carers, as appropriate.

45. Local Authorities should work with their partner Local Health Boards and NHS Trusts to agree arrangements across the Local Health Board footprint area for delegating practitioners to undertake assessments for care and support.

46. Local authorities must have due regard to the United Nations Conventions and Principles listed below when exercising functions in relation to an individual. Guidance on the requirements to have due regard are described in the code of practice in relation to Part 2 of the Act.
    - United Nations Principles for Older Persons
    - United Nations Convention on the Rights of the Child
    - United Nations Convention on the Rights of Disabled People

47. Information relevant to the individual must be correct, consistent and shared safely and appropriately.

48. The individual, carer and/ or the person with parental responsibility are asked to consent to information collected for the purposes of the assessment being shared between relevant practitioners, and that the reasons for this are clearly explained to them.

49. The process must be well co-ordinated and proportionate to the individual's need.

50. That unless there is an agreed reason (with individual or family) for them not to be present, an individual must always be at their own assessment. Careful consideration should be given to the appropriateness of a child attending an assessment particularly in the case of younger children. Further guidance on assessing children is included at Annex 2.

51. It should be the individual's choice as to whether family or friend or carers or advocate should be at an assessment or otherwise consulted as part of the assessment process.

**Welsh Language Requirements**

52. The assessment process must recognise the concept of language need and practitioners should ensure that the active offer principle is embedded in practice. This means that the local authority should be proactive in its approach and the individual should be asked which language they would prefer at the beginning of the process. This will ensure that they are able to receive services in their own language throughout the process of identifying and meeting care and support needs. Language is an integral element of the care that people receive and it is the responsibility of the local authority to deliver appropriate services which includes meeting users' linguistic needs. Only by doing this can they provide care that is safe and effective. Therefore assessments should be conducted through the medium of English or Welsh as appropriate to the individual or family concerned. The requirement for an assessment to be in the medium of Welsh should not delay the process.

**Common Principles for Assessment**

53. A local authority must ensure that all local and specialist assessment arrangements comply with the overarching duties in sections 6 and 7 of the Act (see the Code on Part 2) and also consider the following principles:
    - before undertaking any assessment, practitioners consider whether or not the person whose needs are being assessed would benefit from the presence of a carer, family member, friend or advocate.
    - the assessment is timely and responsive to the urgency of the individual's needs.
    - provide information on accessing advocacy support where this is required to enable the individual to be an equal partner in the process
    - that the role played by unpaid carers, parents, partners and other family members in an individual's care and support is recognised, and that these are appropriately supported and recorded.
    - while families, carers and cared-for people may wish for their needs to be assessed together, it may be that some of the assessment of their needs may better be done separately and that any decisions to go against people's wishes in this respect are made with a clear and recorded rationale of acting in the best interests of the individual whose needs are being assessed.
    - the process of assessment must be designed around the needs of the adult or child whose needs are being assessed; this includes the environment where the assessment takes place, the documentation used and the methods of communication employed.
    - practitioners must be alert to any risk or harm to the individual or to others – including others in their care. Assessment and care and support planning will explore the possible responses to those risks and agree approaches to risk management and/or mitigation.

- in line with the Mental Capacity Act 2005, an assessment takes account of an individual's capacity to engage in the assessment and makes the necessary arrangements to ensure that where this is impaired, their needs and wishes are understood and taken into account.
- the assessment process should be accessible to all, with documentation in easy read or other format and communication support as appropriate to the needs of the individual whose needs are being assessed.
- the type and degree of specialism required for assessing a deafblind person should be judged on a case by case basis according to the extent of the person's condition and their communication needs. Specialist assessors for deafblind people should be trained in deafblindness at a minimum of OCN or QCF level 3 or above where the person has higher or more complex needs. A specialist involved in an assessment should also be involved in care and support planning under Part 4 of the Act.

**National Assessment and Eligibility Tool:**

54. Assessments must, as a minimum record the assessment in line with the national assessment and eligibility tool. The tool is a framework for assessment and eligibility as set out below. This provides the foundations of the tool but it may be expanded to include templates and further guidance for practitioners over time.

55. The national assessment and eligibility tool comprises:

- the national minimum core data set;
- an analysis structured around the 5 elements of the assessment; including setting out the outcomes which have been identified (as required by Regulation 4 of the assessment regulations);
- the actions to be taken by the local authority and other persons to help the person achieve those outcomes (including actions to be taken by the person whose needs are being assessed and/or their carer);
- a statement of how the practitioner assesses the identified action will contribute to the achievement of the personal outcome or otherwise meet needs identified by the assessment. This applies to those needs which are to be met through the provision of care and support and those met through community based or preventative services, the provision of information, advice and assistance, or by any other means.

**National Minimum Core Data Set**

56. Whoever has first contact with an adult, child or family member has a vital role in influencing the course of future work. The quality of the early or initial contact affects later working relationships with other practitioners. Recording of information about the initial contact or referral contributes to the later stages of assessment. It is essential, therefore, that all practitioners responding to individuals, families or to referrers are familiar with the principles which underpin the assessment of need and are aware of the importance of the information collected and recorded at this stage.

57. To promote consistent practice across Wales a national minimum core data set has been devised (below) to ensure that individuals can rely on their local agencies to have a common baseline of information collected in all assessments across the country. This will mean that individuals do not have to repeat the same details many times, and that practitioners in local areas are able to share a common data set as the basis for well co-ordinated services.

58. Local authorities must work together with Local Health Boards and NHS Trusts to ensure that local, regional and specialist templates meet the national minimum core data set and are used by all partners across the footprint of the Local Health Board as part of any assessment which leads to the provision of advice, assistance, or a care and support plan. The core data set should enable practitioners to quickly identify and reference other heath, care and support, and well-being assessments that have been provided to the individual and/or family.

59. The obligation to complete the core data set in its entirety is only required to be met when an individual's needs are deemed to be eligible and a care and support plan, or support plan in respect of a carer, is required.

The Core Data Set

| | |
|---|---|
| NHS Number | Preferred Language / Communication method/Accessibility requirement |
| Title | Name(s) of Carer(s) / People with Parental Responsibility |
| Surname | Relationship |
| Forename(s) | Contact Details for Carer(s) / People with Parental Responsibility |
| Preferred Name | Is this a child on the Child Protection Register? |
| Address and Postcode | Contact details of Lead Assessment Co-ordinator. |
| Date of Birth | Contact details of Lead Care Co-ordinator |
| Telephone | Information taken by (name) |
| Email Address | Designation |
| Sex | Organisation |
| GP Name and address | Date |
| School name and address | |
| Occupation | |
| What other assessments have been undertaken by other agencies? | |

60. Local Authorities must put protocols and systems in place to ensure that the national minimum core data set for an individual is kept up to date and maintained so it can be referred to at a later date by/with other practitioners as well as for capturing performance management data.

**The 5 Key Elements**

61. The process of assessment requires that practitioners must have discussions with people to identify what matters to them and the personal outcomes they wish to achieve (and in the case of children, the outcomes which persons with

parental responsibility wish to achieve for the child, if appropriate), and what contribution the individual and their family can make to achieving those outcomes. This may involve the friends, family or professionals advocating on the individual's behalf.

62. These personal outcomes will reflect national well-being outcomes, defined in the code on Part 2 and in the definition of well-being in section 2 of the Act.

63. The Act and its associated regulations introduce assessment and eligibility criteria based on a comprehensive analysis of 5 inter-related elements to ensure that a local authority considers the person's circumstances in the round. This requires a local authority 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 or to other persons if those outcomes are not achieved; and
- assess and have regard to the person's strengths and capabilities.

Guidance on these 5 elements is set out in Annex 1: Explanations of the 5 Elements of Assessment.

64. The assessment will be a product of the conversation between the individual or family and the practitioner designed to identify how to meet care and support needs. The assessment process must focus on understanding each individual's personal outcomes, identify risks to themselves and others, explore barriers to meeting their outcomes and their strengths and capabilities. Through this the assessment must identify what solutions they need and how they will be delivered. It must be a partnership approach between the individual or family and the practitioner with a shared understanding of the outcome. A specialist involved in an assessment should also be involved in care and support planning.

65. All five of the elements listed above must be taken into account in the assessment, and from this, a judgement reached about whether each of the identified needs is one that must be met by the provision of care and support, a need which is an eligible need.

**Additional Considerations for Assessing the Needs of Adults**

66. Assessment should begin with the presumption that the adult is best placed to judge their own well-being.

67. Assessment should promote the adult's independence where possible

**Additional Considerations for Assessing the Needs of Children**

68. The starting point for any assessment must reflect the duty under section 6(4)(a) in part 2 of the Act which states that any person exercising functions under this Act in relation to a child must have regard to the importance of

promoting the upbringing of the child by the child's family, in so far as doing so is consistent with promoting the well-being of the child.

69. Assessment is the first stage in helping a child and his or her family and must be families focused and child centred.

70. Supporting families to care for their children should be delivered as part of a co-ordinated multi-agency approach to address primary and underlying needs. It is important to identify early on what needs the family has and provide appropriate support and/or make appropriate referrals.

**71.** Multi-agency approaches such as the Team Around the Family (TAF) model ensure that a broad range of support can be delivered in ways that suit the family, and not solely the child's, circumstances and needs. Multi-agency teams should co-ordinate, target, and tailor provision towards need. The advantages of a tailored approach include the right forms of support being targeted at the problems where they are likely to have greatest impact and ultimately keep families together.

72. The assessment process should promote the upbringing of a child by the child's family, as far as that is consistent with the well-being of the child. Working with family members is not an end in itself; the objective must always be to safeguard and promote the well-being of the child. Developing a working relationship with children and family members will not always be easy to achieve and can be difficult especially when there have been concerns about significant harm to the child. However resistant the family or difficult the circumstances, it remains important to continue to try to find ways of engaging the family in the assessment process.

73. When this is not possible there are particular considerations that apply to the assessment of the needs of children. The assessment must take into account the developmental needs of the child, and any other circumstances affecting the child's well-being. This could include circumstances where the child's parents have been assessed as having needs for care and support. In addition to focusing on the outcomes the child wishes to achieve in his or her daily life, the assessment must also seek to identify the outcomes that those with parental responsibility wish to achieve. There must be an assessment of the extent to which the provision of care and support, preventative services, or the provision of information, advice or assistance, could contribute to those outcomes.

74. Fundamental to establishing the care and support needs of a child and how those needs should be met is that the approach must be child centred. This means that the child must be seen and his/her welfare kept in focus throughout the assessment. Account must always be taken of the child's perspective. The significance of seeing and observing the child throughout any assessment cannot be overstated. Direct work with children during assessment is important, including developing multiple, age, gender and culturally appropriate methods for ascertaining their wishes and feelings, and

understanding the meaning of their experiences to them. Throughout the assessment process, the safety of the child must be ensured.

75. In the case of the assessment of a child under the age of 16, the assessment should ascertain and have regard to the views, wishes and feelings of the persons with parental responsibility for the child in so far as this is reasonably practicable and consistent with promoting the well-being of the child.

76. The process of assessment is about ensuring that the best interests and well-being of the child are met and children are safeguarded so that they reach or maintain a satisfactory level of health and development, or their health and development will not be significantly impaired. The central duty is to safeguard children and young people and to promote their well-being.

77. Important principles underpin the approach to assessing children and their families. Assessment must:

- be child centred;
- be rooted in child development;
- be holistic in approach;
- ensure equality of opportunity;
- involve working with children and their families;
- build on strengths as well as identify difficulties;
- include an inter-agency approach to assessment and the provision of services;
- be a continuing process, not a single event;
- be carried out in parallel with other action and providing services;
- be grounded in evidence based knowledge.

78. To support the assessment process for children practitioners should gather evidence as informed by the three domains of the assessment of children. These areas of enquiry should be analysed against the 5 elements of the assessment to inform, where necessary, the development of the care and support plan. Further information about the principles underpinning the assessment and the three domains of the assessment are included in Annex 2.

79. The response from a local authority to an initial contact or a referral requesting help is critically important. It is important, also, that each local authority has structures and systems in place to ensure an effective, accessible and speedy response to children and families. A timely response to responding to a child's needs means that the process of assessment cannot continue unchecked over a prolonged period without an analysis being made of what is happening and what action is needed, however difficult or complex the child's circumstances. The timescale for completion of the assessment is a **maximum of 42 working days from the point of referral**.

80. The refusal of assessments must be overridden where such a refusal would be inconsistent with the child's well-being.

**Additional Considerations for Assessing Needs Which Are Being Met By Carers**

81. The local authority must identify all presenting needs including those which would be deemed as eligible if a carer was not meeting those needs. This is so that the local authority is able to respond appropriately and quickly where the carer or the child's family becomes unable or unwilling to meet some or all of the identified care and support needs.

82. The assessment process must be proportionate to the presenting need and must consider fully the care and support needs being presented regardless of any support being provided by the carer or the child's family.

83. The point at which a carer is unable or unwilling to carry on meeting a care need, or informs the local authority that this is about to happen, will constitute a significant change in circumstances for the cared for person. As a result the local authority must undertake a re-assessment of the person's needs for care and support *(see Regulation 6 of assessment regulations).*

84. Where a carer is suddenly unable to meet a care and support need the requirement for a re-assessment must not prevent or delay the local authority from taking urgent and immediate action to meet the care and support needs of the adult or child. Such action should be informed by the most recent assessment undertaken.

85. The Act entitles anyone to have an assessment where there appears to be a need for care and support – even if that care and support is being met by a carer.

**Safeguarding and Protecting**

86. A key part of the assessment must be to establish whether there is reasonable cause to suspect that an adult or a child is at risk.

87. Where the assessment establishes an adult or a child is at risk, the local authority must act immediately and without delay. Local authorities' duties to safeguard adults and children are set out in more detail in the statutory guidance under Part 7 of the Act.

**Adults**

88. The Act defines that an adult is at risk if they are experiencing or are at risk of abuse or neglect, has needs for care and support (whether or not the authority is meeting any of those needs), and as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of abuse or neglect.

89. Where the assessment produces reasonable cause to suspect that an adult is experiencing or is at risk of abuse or neglect and it has not already done so,

the local authority must make whatever enquiries it thinks necessary to enable it to decide whether any action should be taken and if so, what and by whom, to protect that adult.

**Children**

90. The Act defines that a child is at risk if they are experiencing or are at risk of abuse, neglect or other kinds of harm; and has needs for care and support (whether or not the authority is meeting any of those needs).

91. The pace and scope of assessment may need to change to recognise the additional risks the child is exposed to.

92. Where the assessment produces reasonable cause to suspect that a child is experiencing or is at risk and it has not already done so, the local authority must investigate and make inquiries into the circumstances of that child. Where these inquiries indicate the need, the local authority must decide what action, if any, it may need to take to safeguard and promote the child's welfare. The investigation will form an in-depth assessment of the nature of the child's needs and the capacity of his or her parents to meet those needs within the wider family and community context. This duty is set out in section 47 of the Children Act 1989.

**Reviews of Assessments**

93. The duty to undertake an assessment of needs where it appears to a local authority that someone may have needs for care and support is a principle that should be extended to reviews of an assessment. Where the previous assessment has not fully addressed the person's care and support needs, or there may be new needs due to a change in circumstances then a review of an assessment must be undertaken. Where this is not the case there is no duty to review.

94. This is not the same as reviewing the care and support plan, which is a process by which the practitioners and the individual and/or family consider how effective the care and support plan has been in supporting the person to meet their identified outcomes. Requirements relating to the review of care and support plans are covered in the code of practice in relation to Determination of Eligibility and Care and Support Planning under Part 4 of the Act.

95. A local authority must review assessments where there has been a change in identified personal outcomes, or a significant change in the individual's or family's needs or circumstances. The judgement on whether the change is significant should be made with reference to the 5 elements of the assessment. This can include a new barrier, a new risk or a resource has been lost.

96. The transition from child to adult constitutes a significant change in circumstances and so creates a right to a re-assessment of needs.

97. The local authority must review the assessment where the change in the individual's or family's needs or circumstances is such that the 5 elements of the assessment need to be considered anew. That review is likely to encompass a re-assessment that must re-establish whether and to what extent the provision of care and support, preventative services, and/or information, advice and assistance can contribute to the achievement of the person's newly identified outcomes or otherwise meet identified needs. The importance of family and friends in assisting the person to engage and participate fully in the process of re-assessment is fundamental.

98. Where there has been a change in identified personal outcomes, or a change in the individual's or family's needs or circumstances, a local authority must assent to requests to review assessments when this request has been made by the person themselves, persons with parental responsibility for a child, persons with legal rights to act on the person's behalf, and those the person has identified as their advocate for the assessment process.

99. The individual has the right to request a re-assessment of their needs at any time. A formal process for making this request must be developed, published and clearly communicated by the local authority.

100. The local authority must consider whether a different practitioner to the practitioner who undertook the initial assessment should undertake the re-assessment. This will be particularly relevant when an individual has requested a re-assessment because they are not satisfied with the outcome of the original assessment. Where a specialist has been involved in the person's original assessment, the local authority should consider whether the specialist should be involved in the re-assessment.

101. Re-assessments must be acted on quickly and without delay. In case of a re-assessment for a child the re-assessment must meet the required timescales of assessment for children.

**Personal Information Sharing**

102. The willingness and ability to share appropriate and relevant personal information between practitioners and service providers is inherent to the delivery of effective integrated health and social care services.

103. The process of assessment set out in this code is based upon the principle of working with people as full partners in identifying and meeting their care and support.

104. The information in the assessment is owned by the person whose needs are being assessed and practitioners undertaking assessments must ensure that the person giving the consent to share information fully understands what they are consenting to and the implications of giving or not giving this consent. Working with individuals and families within a professional relationship built on trust, respect and confidence should help to ensure that this conversation is not a difficult one. Being open and honest, including being clear about

information sharing and respecting people's wishes wherever possible, will help to maintain this trust and confidence. This conversation is an integral part of making sure that the practitioner fully understands the person's needs and how best to meet those needs, including which other practitioners may be able to support them.

105. This code endorses the Caldicott 2[2]recommendations that '…. there should be a presumption in favour of sharing for an individual's direct care and that the exceptions should be thoroughly explained, not vice versa. The motto for better care services should be: 'To care appropriately, you must share appropriately'.' Therefore the presumption should be that all information is shared.

106. A local authority must work with partners to have a system in place to ensure that, as a minimum, personal information in the national core data set for any individual or family is shared safely and appropriately between partners. Where appropriate, this will include using the Wales Accord for Sharing Personal Information (WASPI)[3] information sharing framework and developing WASPI - compliant information sharing agreements which should ensure to a great extent that the arrangements put in place will be compliant with the Data Protection Act 1998 (DPA). A local authority must also ensure that staff are supported and trained appropriately in both information sharing and compliance with the DPA. Staff accessing or using the data must be trained in good data handling and be aware of security issues. Individuals and families must be informed of this sharing at the start of the assessment and care and support planning process.

107. When a child or adult is identified as being at risk of abuse or neglect the presumption should be that all information is shared among relevant partners at an early stage provided it is lawful to do so and in keeping with the Data Protection Act 1998 and associated guidance.

## Refusal of Assessments

108. The local authority must record any refusal of an offer of an assessment of need.

**Adults:**

109. If an adult refuses an assessment, the local authority's duty to carry out the assessment does not apply except for two cases where the local authority must carry out an assessment notwithstanding a refusal. The first case is where the adult lacks capacity to make the decision to refuse the assessment and an assessment would be in his or her best interests. The second case is where the adult is experiencing or is at risk of abuse or neglect. If the adult experiencing abuse has capacity, and chooses to endure the abuse and

[2] Caldicott 2 - http://www.wales.nhs.uk/sites3/page.cfm?orgid=950&pid=68298

[3] Wales Accord on the Sharing of Personal Information http://www.waspi.org/

refuses to participate in an assessment, the local authority must assess the situation given the information it holds or has received from its partner agencies.

**110.** An adult who refuses an assessment is entitled to change their mind and the local authority must then carry out an assessment. Also, if the adult's needs or circumstances change, the local authority must again offer to carry out an assessment but are not obliged to do so if the adult refuses (unless one of the exceptions applies).

**Children:**

111. The local authority is not obliged to carry out an assessment if a child aged 16 or 17 refuses but in the case of children under 16, there is no presumption in law that they have capacity. In order for a refusal by a child under 16 to discharge the local authority's duty to carry out an assessment, the local authority must be satisfied that the child is able to make an informed decision. This must be recorded on the assessment and eligibility tool.

112. In the case of children aged 16 or 17, the refusal of the child must be overridden by the local authority in two cases:

- where the local authority is satisfied that the child lacks capacity and that an assessment would be in his or hers best interest.

- where the child is experiencing or is at risk of abuse, neglect or other kinds of harm

113. In the case of children under the age of 16, a refusal by a child who is considered capable of making an informed decision must be overridden if the local authority suspects the child is experiencing or is at risk of abuse, neglect or other kinds of harm.

114. A child who refuses an assessment is entitled to change their mind and the local authority must then carry out an assessment. Also, if the child's needs or circumstances change, the local authority must again offer to carry out an assessment but are not obliged to do so if the child refuses (unless one of the exceptions applies).

**Parents:**

115. If anyone with parental responsibility for a child under 16 refuses an assessment for that child then the duty on the local authority to assess does not apply. The refusal of a parent must be overridden in three cases:
    - where the local authority suspects the child is experiencing or is at risk of abuse, neglect or other kinds of harm.
    - where the local authority is satisfied that the parent lacks the capacity to decide.
    - where the local authority is satisfied that the child can make an informed decision and disagrees with the parent's view.

A parent who refuses an assessment for a child is entitled to change their mind and the local authority must then carry out an assessment. Also, if the child's needs, or person with parental responsibility's needs, or circumstances change, the local authority must again offer to carry out an assessment but are not obliged to do so if the parent refuses (unless one of the exceptions applies).

**Carers:**

116. If an adult carer or a carer aged 16 or 17 refuses an assessment then the duty to assess does not apply. A carer who refuses an assessment is entitled to change their mind and the local authority must then carry out an assessment. Also, the local authority must again offer to carry out an assessment if it is satisfied that the carer's circumstances have changed meaning that a further assessment would be beneficial to the carer. Again the local authority is not required to undertake the assessment if the carer refuses.

**The Results of an Assessment**

117. A local authority must record the outcome of the assessment and any advice or guidance given on the assessment and eligibility tool. In all cases the record of the assessment must include an explanation of how the recommended action will help meet the identified outcome or otherwise meet needs identified by the assessment. This is the responsibility of the assessor, not the person being assessed. This applies to those needs which are to be met through the provision of care and support and those met through community based or preventative services, the provision of information, advice and assistance, or by any other means. A copy of this assessment must be offered to the person or family to whom the assessment relates, or to their representative. The recording of the assessment must be proportionate to the identified need and in the language of need, and in 'easy read' or other format as appropriate to the needs of the child or adult whose needs are being assessed.

118. If the assessment concludes that a care and support plan is needed a care and support plan should be produced without delay. Further information about this process is available in the code of practice on Part 4 of the Act.

119. If the assessment concludes that the care and support a person requires to meet their personal outcomes may amount to a deprivation of liberty the appropriate assessments and referrals must be made and completed[4].

120. An assessment will conclude with one of the following:
- there are no needs to be met;
- a more comprehensive assessment is required, which may include more specialist assessments;

[4] Links to the codes of practice for the Mental Capacity Act 2005 and the Deprivation of Liberty Safeguards are attached here:
https://www.wales.nhs.uk/sites3/page.cfm?orgid=744&pid=36235

https://www.wales.nhs.uk/sites3/page.cfm?orgid=744&pid=36239

- needs can be met through the provision of information, advice or assistance;
- needs can be met through the provision of preventative services;
- needs can be met, wholly or in part by the individual themselves (with or without the assistance of others);
- other matters can contribute to the achievement of the personal outcomes, or otherwise meet the needs;
- needs can only be met through a care and support plan, or a support plan.

121. In all cases the potential solutions about how to meet needs and achieve personal outcomes must be considered during the assessment process. The person, and any people involved, including those who may be advocating on that person's behalf should be clear about the options available to them and what this means for them. Where relevant, this must include information about costs, charging and direct payments.

122. The contribution of carers should also be taken in to account and the assessment should clarify and record that they are willing and able to contribute to the care and support of the individual.

123. The completion of an assessment does not inevitably lead to a care and support plan. This is a decision which is dependent upon the result of the assessment, and whether it is agreed that the needs meet the eligibility criteria and a care and support plan is developed for the individual. This will include circumstances where a care and support plan is needed to provide support or assistance that will enable the individual or family to access services, such as community based third sector services or social enterprises, which would otherwise be accessible without the need for a care and support plan. Further detail on this can be found in the code of practice on Part 4 of the Act which covers eligibility and care and support planning.

124. The local authority must enable the person whose needs have been assessed to have a clear understanding of the outcome of the assessment and what will happen next. This may require securing the support of family friends or independent advocate. Detailed guidance on how advocacy can support individuals is contained in the advocacy code of practice under Part 10 and related Parts of the Act.

## Annex 1

### Guidance on the Five Elements of Assessment

**A Person's Circumstances:**

Examples of presenting need are given here. This is not an exhaustive list and it will be for the local authority to identify that the individual has a need for care, support or both care and support.

- The individual is/will be unable to carry out basic personal care activities
- The individual is unlikely to achieve or maintain, or to have the opportunity to achieve or maintain, a reasonable standard of health or development or their health or development is likely to be significantly impaired, or further impaired
- The individual is/will be unable to carry out basic household activities and daily routines.
- An adult is/will be unable to carry out caring responsibilities the adult has for a child
- Where the person is a carer, that person is unable to provide some of necessary care to the adult needing care, or is unable to provide care to other persons for whom the carer provides care.
- Where the carer is a child, the child is unlikely to achieve developmental goals;
- The individual is/will be unable to access support to maintain or develop family or other significant personal relationships
- The individual experiences loss of control, or is likely to experience loss of control, over their immediate environment and/or day-to-day life.
- The individual is unable to undertake, or is likely to be unable to undertake family and social roles and responsibilities that enable them to meet personal outcomes for themselves or others.
- The individual's social support systems are or could be at risk
- The individual is unable to attain or experience good physical and/or mental health
- The individual is/will be unable to access and engage in work, training, education, volunteering or recreational activities.
- The adult's independence is at risk, or likely to become at risk.

The analysis of presenting needs must be considered by reference to the effect that the needs have on the person or family concerned and/or by reference to the person's circumstances. The process of determining eligibility must also take account that individual needs may form part of a combination of needs that affect the person concerned.

**Personal Outcomes:**

Personal outcomes must be identified through the process of proportionate assessment, and although individual to each person, will relate to the national outcomes set out in the well-being statement, which have been defined against the definition of well-being in the Act. The well-being statement is available at: http://gov.wales/docs/dhss/publications/150722wellbeingen.pdf

To meet the eligibility criteria for local authority provided or arranged care and support the personal outcomes to which a need must relate are set out in the regulations as:

For Adults:

- ability to carry out self-care[5] or domestic routines;
- ability to communicate;
- protection from abuse or neglect;
- involvement in work, education, learning or in leisure activities;
- maintenance or development of family or other significant personal relationships;
- development and maintenance of social relationships and involvement in the community; or
- fulfilment of caring responsibilities for a child;

For Children:

- ability to carry out self-care or domestic routines;
- ability to communicate;
- protection from abuse or neglect;
- involvement in work, education, learning or in leisure activities;
- maintenance or development of family or other significant personal relationships;
- development and maintenance of social relationships and involvement in the community; or
- achieving developmental goals;

For Carers:

- ability to carry out self-care or domestic routines;
- ability to communicate;
- protection from abuse or neglect;
- involvement in work, education, learning or in leisure activities;
- maintenance or development of family or other significant personal relationships;

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- development and maintenance of social relationships and involvement in the community; or
- in the case of an adult carer, fulfilment of caring responsibilities for a child;
- in the case of a child carer, achieving developmental goals;

**Barriers:**

A person is facing barriers to achieving their personal outcomes if something related to the individual's condition or circumstances, or something outside their control, is preventing them from meeting their outcomes.

In defining a barrier the assessment will need to take account of:

- The information presented by the person, and/or their family or carer, and other agencies and people about their needs, personal outcomes, resources and risks.
- The professional judgement of the worker and their knowledge of the services or support which would be likely to be most useful to the individual and/or their family or carer, backed up by professional protocols and organisational duties to behave in a way which will protect the best interests of the individual.
- Local information and guidance about available services.

**Risks to meeting personal outcomes:**

An evaluation of risk is essential to determining a need for care and support. Here the analysis of risk is based on an understanding of those risks which will prevent people becoming too dependent on services and undermine their potential for meeting their personal outcomes. For an explanation of the local authorities' duties with regard to risks of abuse neglect or harm please refer to the section on safeguarding and protection in this guidance which must also be adhered to during the assessment process.

When exploring potential risks to meeting personal outcomes the practitioner and the individual should together consider the time-scale, predictability and complexity of the issues that are presented.

It is possible for individuals to have several low risk elements which in themselves would not pose threat to achieving personal outcomes, but the combination and how the risks interact will result in a more serious threat.

Positive risk taking is an essential part of everyday life which enhances independence and choice. The determination of eligibility must encompass a judgment on whether the individual is competent to assess the risks for themselves and is willing and able to accept and bear those risks.

The determination of eligibility must be informed by an appreciation of the balance between ensuring that the health and safety of vulnerable adults and other people, is not put at risk, against curtailing the choice, autonomy and independence of particular individuals. To manage this balance, in making decisions under uncertainty, the assessment has to be undertaken jointly with the user and will be led by their preferences and wishes in relation to achieving and enhancing their ability to meet their personal outcomes.

This analysis may, but may not, lead to a requirement for a care and support plan that includes understanding and anticipating activities which will invoke risk either to the individual and/or others and developing an action plan that can manage the situation appropriately.

**Strengths and Capabilities:**

The skills, capacity, support and materials available to an individual from within themselves, their family and their community, that can be marshalled to meet their needs and promote their well-being.

It is the function of the assessment and care and support planning process to identify these personal resources, enable the individual to make best use of them, and maximise the contribution they make to achieving personal outcomes.

People's needs fluctuate and circumstances change and the assessment process must provide for practitioners to look for and anticipate those changes. At any one time each individual will have needs for which they have sufficient resources to overcome barriers and achieve their personal outcomes and other needs for which they will not have sufficient resources and which will require the design and delivery of a care and support plan. The pattern of: *'these needs I can meet/these needs I need help with'* will vary over time and circumstance for each person.

**Annex 2.**

## Principles Underpinning the Assessment of Children

Important and established principles underpin the approach to assessing children and their families. They are important in considering how an assessment should be carried out.

**PRINCIPLES UNDERPINNING THE ASSESSMENT OF CHILDREN**

Assessments:

_ are child centred;
_ are rooted in child development;
_ are holistic in their approach;
_ ensure equality of opportunity;
_ involve working with children and families;
_ build on strengths as well as identify difficulties;
_ are inter-agency in their approach to assessment and the provision of services;
_ are a continuing process, not a single event;
_ are carried out in parallel with other action and providing services;
_ are grounded in evidence based knowledge.

### Child Centred

This means that the child is seen and kept in focus throughout the assessment and that account is always taken of the child's perspective. In complex situations where much is happening, attention can be diverted from the child to other issues which the family may be facing, such as a high level of conflict between adult family members, or depression being experienced by a parent or acute housing problems. This can result in the child becoming lost during assessment and the impact of the family and environmental circumstances on the child not being clearly identified and understood. The significance of seeing and observing the child throughout any assessment cannot be overstated.

The importance, therefore, of undertaking direct work with children during assessment is emphasised, including developing multiple, age, gender and culturally appropriate methods for ascertaining their wishes and feelings, and understanding the meaning of their experiences to them. Throughout the assessment process, the safety of the child should be ensured.

### Rooted in Child Development

A thorough understanding of child development is critical to work with children and their families. Children have a range of different and complex developmental needs which must be met during different stages of childhood if optimal outcomes are to be achieved. Disabled children, including those with learning disabilities, may have a different rate of progress across the various developmental dimensions. Many disabled children will have quite individual patterns of development. In addition, different aspects of development will have more or less weight at different stages of a child's life.

Each child's development is significantly shaped by his or her particular experiences and the interaction between a series of factors. Some factors are intrinsic to individual children, such as characteristics of genetic inheritance or temperament. Other factors may include particular health problems or an impairment. Others may relate to their culture and to the physical and emotional environment in which a child is living.

Children with care and support needs are frequently very vulnerable and their opportunities to reach their full potential may have been or may be likely to be

compromised in some way, for a variety of reasons. It is, therefore, crucial to know about the importance of developmental milestones which children need to reach, if they are to be healthy and achieve their full potential. This knowledge should recognise also that children are individuals and variations may occur in that sequence of development: such variations, however, may indicate services are necessary. Practitioners should understand the consequences of variations for particular children of different ages, some of whom may have special educational needs and profound difficulties. Furthermore, they have to understand the significance of timing in a child's life. Children may not be getting what they require at a crucial stage in their development and time is passing.

**Holistic Approach**

An understanding of a child must be located within the context of the child's family (parents or caregivers and the wider family) and of the community and culture in which he or she is growing up.

**Assessment, therefore, should take account of three domains:**

- **the child's developmental needs;**
- **the parents' or caregivers' capacities to respond appropriately;**
- **the wider family and environmental factors.**

The interaction between the three domains and the way they influence each other must be carefully analysed in order to gain a complete picture of a child's unmet care and support needs and how these needs should be met. .

**Ensuring Equality of Opportunity**

Children and young people and their parents should all be considered as individuals with particular needs and potentialities differences in bringing up children due to family structures, religion, culture and ethnic origins should be respected and understood, and that those children with 'specific social needs arising out of disability or a health condition' have their assessed needs met and reviewed. Ensuring that all children who are assessed have the opportunity to achieve optimal development, according to their circumstances and age, is an important principle. Furthermore, since discrimination of all kinds is an everyday reality in many children's lives, every effort must be made to ensure that agencies' responses do not reflect or reinforce that experience and indeed, should counteract it. Some vulnerable children may have been particularly disadvantaged in their access to important opportunities, such as those who have suffered multiple family disruptions or prolonged maltreatment by abuse or neglect and are subsequently looked after by the local authority. Their health and educational needs will require particular attention in order to optimise their long-term outcomes in young adulthood.

Ensuring equality of opportunity does not mean that all children are treated the same. It does mean understanding and working sensitively and knowledgeably with diversity to identify the particular issues for a child and his/her family, taking account of experiences and family context.

**Working with Children and their Families**

In the process of assessment, it will be critical to develop a cooperative working relationship, so that parents or caregivers feel respected and informed, that staff are being open and honest with them, and that they in turn are confident about providing vital information about their child, themselves and their circumstances.

Working with family members is not an end in itself; the objective must always be to safeguard and promote the welfare of the child. The child, therefore, must be kept in

focus. It requires sensitivity to and understanding of the circumstances of families and their particular needs.

Parents value taking part in discussions about how and where the assessment will be carried out, as well as what they hope it will achieve. Similarly, according to the age and development of the child, listening to what children have to say and working openly and honestly is valued by them and produces more effective outcomes.

Developing a working relationship with children and family members will not always be easy to achieve and can be difficult especially when there have been concerns about significant harm to the child. However resistant the family or difficult the circumstances, it remains important to continue to try to find ways of engaging the family in the assessment process. Use of mediation may be helpful in assisting professionals and family members to work together. The quality of the early or initial contact will affect later working relationships and the ability of professionals to secure an agreed understanding of what is happening and to provide help.

**Building on Strengths as well as Identifying Difficulties**

It is important that an approach to assessment, which is based on a full understanding of what is happening to a child in the context of his or her family and the wider community, examines carefully the nature of the interactions between the child, family and environmental factors and identifies both positive and negative influences. These will vary for each child. Nothing can be assumed; the facts must be sought, the meaning attached to them explored and weighed up with the family.

Sometimes assessments have been largely in terms of a child or family's difficulties or problems, or the risks seen to be attached to particular behaviours or situations. What is working well or what may be acting as positive factors for the child and family may be overlooked. Working with a child or family's strengths may be an important part of a plan to resolve difficulties. It is important that they not only identify the deficits in assessing a family's situation, but also make a realistic and informed appraisal of the strengths and resources in the family and the relative weight that should be given to each. These can be mobilised to safeguard and promote the child's welfare.

**Inter-Agency Approach to Assessment and Provision of Services**

From birth, all children will become involved with a variety of different agencies in the community, particularly in relation to their health, day care and educational development. A range of professionals, including midwives, health visitors, general practitioners, nursery staff and teachers, will have a role in assessing their general wellbeing and development. Children who are vulnerable are, therefore, likely to be identified by these professionals, who will have an important responsibility in deciding whether to refer them to social services for further assessment and help. The knowledge they already have about a child and family is an essential component of any assessment. These agencies may also be required to provide more specialist assessment for those smaller numbers of children where there are particular causes for concern.

Similarly, responding to the needs of vulnerable children will require services from agencies other than social services or in combination with social services' help. Interagency work starts as soon as there are concerns about a child's welfare, not just when there is an enquiry about significant harm. An important underlying principle of the approach to assessment therefore, is that it is based on an interagency model in which it is not just social services departments which are the assessors and providers of services.

**A Continuing Process, not a Single Event**

Understanding what is happening to a vulnerable child within the context of his or her family and the local community cannot be achieved as a single event. It must necessarily be a process of gathering information from a variety of sources and making sense of it with the family and, very often, with several professionals concerned with the child's welfare.

This assessment process involves one or more of the following:

- establishing good working relationships with the child and family;
- developing a deeper understanding through multiple approaches to the assessment task;
- setting up joint or parallel assessment arrangements with other professionals and agencies, as appropriate;
- determining which types of intervention are most likely to be effective for which needs.

For many children the process will be relatively straightforward and short term. The more complex or serious a child's situation, however, the more time it may take to understand thoroughly what is happening to the child, the reasons why and the impact on the child and the more it is also likely to involve several agencies in that process. Where there are concerns about a child's safety, decisions to safeguard the child may have to be made quickly pending greater understanding of the child's circumstances. Once it has been established whether a child has care and support needs , further questions will remain to be answered about:

- the parents' views of the child's needs and services required;
- the precise nature of these needs;
- the reasons for them;
- the priority for action and/or resources;
- the potential for change in the child and family;
- the best options to be pursued;
- the child's and family's response to intervention;
- how well the child is doing.

Assessment should continue throughout a period of intervention, and intervention may start at the beginning of an assessment.

Assessment is thus an iterative process which for some children will continue throughout work with the child and the family or caregivers. This does not mean that assessment should be over intrusive, repeated unnecessarily or continued without any clear purpose or outcome. Effective discrimination between different types and levels of need are key considerations.

**Action and Services are Provided in Parallel with Assessment**

Although assessment is generally a discrete process which will result in an understanding of need, from which referral to preventative services or a care and support plan and intervention will be developed, in many situations there is inevitably overlap between these different activities. Undertaking an assessment with a family can begin a process of understanding and change by key family members. A practitioner may, during the process of gathering information, be instrumental in bringing about change by the questions asked, by listening to members of the family,

by validating the family's difficulties or concerns, and by providing information and advice. The process of assessment should be therapeutic in itself. This does not preclude taking timely action either to provide immediate services or to take steps to protect a child who is suffering or is likely to suffer significant harm. Action and services should be provided according to the needs of the child and family, in parallel with assessment where necessary, and not await completion of the assessment.

**Grounded in Evidence**

Each professional discipline derives its knowledge from a particular theoretical base, related research findings and accumulated practice wisdom and experience. Social work practice, however, differs in that it derives its knowledge from theory and research in many different disciplines. Practice is also based on policies laid down in legislation and government guidance. It is essential that practitioners and their managers ensure that practice and its supervision are grounded in the most up-to date knowledge and that they make use of the resources described in the practice guidance as well as other critical materials, including:

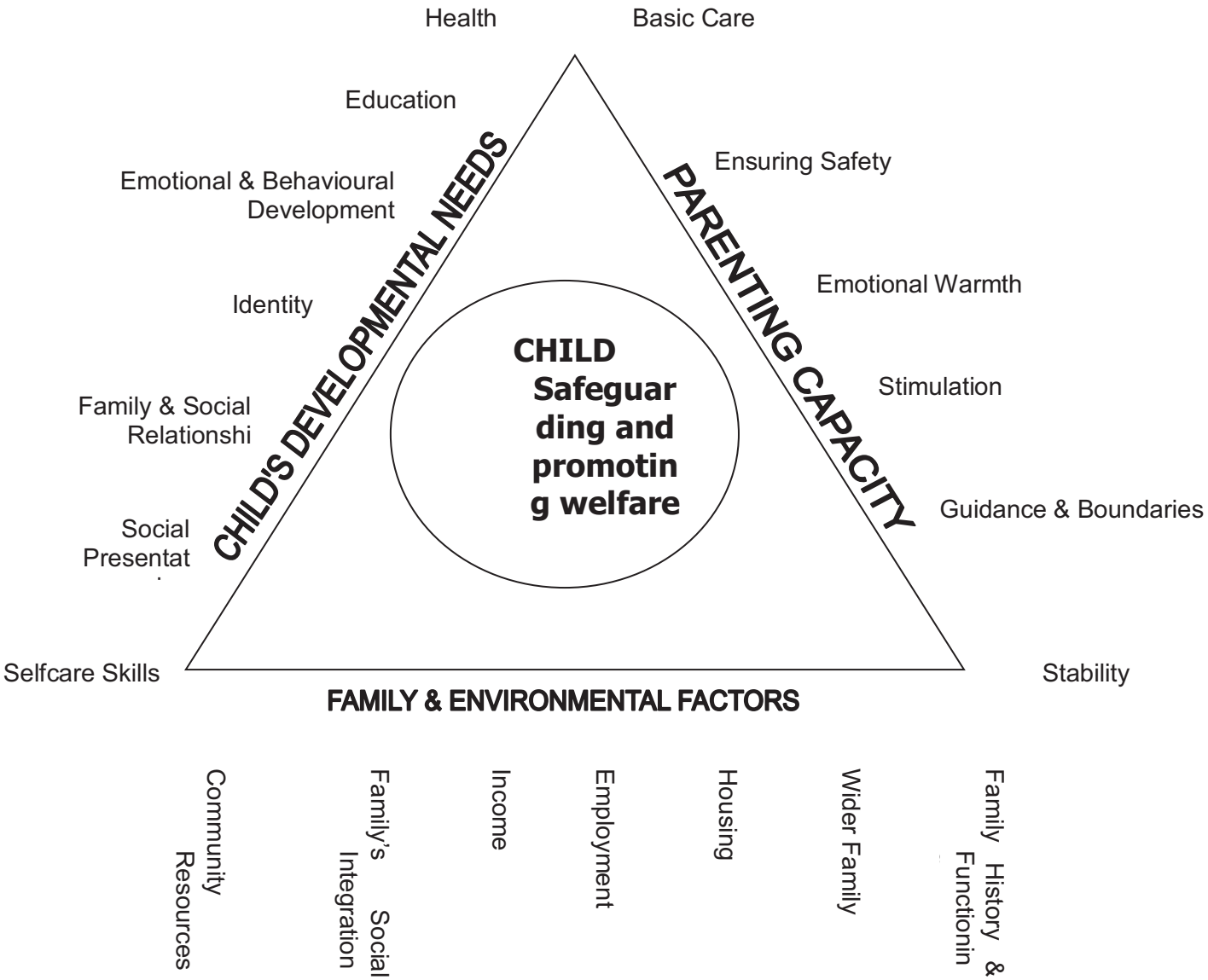
- relevant research findings;
- national and local statistical data;
- national policy and practice guidance;
- The Care and Social Services Inspectorate Wales (CSSIW) Inspection Framework;
- the National Outcomes Framework;
- the Performance Measurement Framework
- lessons learnt from national and local inquiries and reviews of cases of child maltreatment.

Practice is expected to be evidence based, by which it is meant that practitioners:

- use knowledge from research and practice about the needs of children and families and the outcomes of services and interventions critically to inform their assessment and planning;
- record and update information systematically, distinguishing sources of information, for example direct observation, other agency records or interviews with family members;
- learn from the views of users of services i.e. children and families;
- evaluate continuously whether the intervention is effective in responding to the needs of an individual child and family and modifying their interventions accordingly;
- evaluate rigorously the information, processes and outcomes from the practitioner's own interventions to develop practice wisdom.

The combination of evidence-based practice grounded in knowledge, with finely balanced professional judgement is the foundation for effective practice with children and families.

# Framework for the Assessment of Children and their Families




Assessing whether a child has care and support needs and the nature of these care and support needs requires a systematic approach which uses the same conceptual map for gathering and analysing information about all children and their families, It requires a thorough understanding of:

- the developmental needs of children;
- the capacities of parents or caregivers to respond appropriately to those needs;
- the impact of wider family and environmental factors on parenting capacity and children.

These are described as three inter-related systems or domains, each of which has a number of critical dimensions (Figure 2). The interaction or the influence of these

dimensions on each other requires careful exploration during assessment, with the ultimate aim being to understand how they affect the child or children in the family.
This analysis of the child's situation will inform planning and action to secure the best personal outcomes for the child. All assessment activity and subsequent planning and provision of services must focus on ensuring that the child's welfare is safeguarded and promoted.

**Dimensions of a Child's Developmental Needs**

Assessment of what is happening to a child requires that each aspect of a child's developmental progress is examined, in the context of the child's age and stage of development. This includes knowing whether a child has reached his or her expected developmental milestones. Account must be taken of any particular vulnerabilities, such as a learning disability or a physically impairing condition, and the impact they may be having on progress in any of the developmental dimensions. Consideration should also be given to the socially and environmentally disabling factors which have an impact on a child's development, such as limited access for those who are disabled and other forms of discrimination. Children who have been maltreated may suffer impairment to their development as a result of injuries sustained and/or the impact of the trauma caused by their abuse. There must be a clear understanding of what a particular child is capable of achieving successfully at each stage of development, in order to ensure that he or she has the opportunity to achieve his or her full potential.

When practitioners are undertaking an assessment of a child's developmental needs, they should:

- identify the developmental areas to be covered and recorded;
- plan how developmental progress is to be measured;
- ensure proper account is taken of a child's age and stage of development;
- analyse information as the basis for planning future action.

**DIMENSIONS OF CHILD'S DEVELOPMENTAL NEEDS**

**Health**

*Includes* growth and development as well as physical and mental wellbeing. The impact of genetic factors and of any impairment should be considered. Involves receiving appropriate health care when ill, an adequate and nutritious diet, exercise, immunisations where appropriate and developmental checks, dental and optical care and, for older children, appropriate advice and information on issues that have an impact on health, including sex education and substance misuse.

**Education**

Covers all areas of a child's cognitive development which begins from birth.
*Includes* opportunities: for play and interaction with other children; to have access to books; to acquire a range of skills and interests; to experience success and achievement. Involves an adult interested in educational activities, progress and achievements, who takes account of the child's starting point and any special educational needs.

**Emotional and Behavioural Development**

Concerns the appropriateness of response demonstrated in feelings and actions by a child, initially to parents and caregivers and, as the child grows older, to others beyond the family.
*Includes* nature and quality of early attachments, characteristics of temperament, adaptation to change, response to stress and degree of appropriate self control.

**Identity**

Concerns the child's growing sense of self as a separate and valued person.
*Includes* the child's view of self and abilities, self image and self esteem, and having a positive sense of individuality. Race, religion, age, gender, sexuality and disability may all contribute to this. Feelings of belonging and acceptance by family, peer group and wider society, including other cultural groups.

**Family and Social Relationships**

Development of empathy and the capacity to place self in someone else's shoes.
*Includes* a stable and affectionate relationship with parents or caregivers, good relationships with siblings, increasing importance of age appropriate friendships with peers and other significant persons in the child's life and response of family to these relationships.

**Social Presentation**

Concerns child's growing understanding of the way in which appearance, behaviour, and any impairment are perceived by the outside world and the impression being created.
*Includes* appropriateness of dress for age, gender, culture and religion; cleanliness and personal hygiene; and availability of advice from parents or caregivers about presentation in different settings.

**Self Care Skills**

Concerns the acquisition by a child of practical, emotional and communication competencies required for increasing independence. Includes early practical skills of dressing and feeding, opportunities to gain confidence and practical skills to undertake activities away from the family and independent living skills as older children.
*Includes* encouragement to acquire social problem solving approaches. Special attention should be given to the impact of a child's impairment and other vulnerabilities, and on social circumstances affecting these in the development of self care skills.

**Dimensions of Parenting Capacity**

**Basic Care**

Providing for the child's physical needs, and appropriate medical and dental care.
*Includes* provision of food, drink, warmth, shelter, clean and appropriate clothing and adequate personal hygiene.

**Ensuring Safety**

Ensuring the child is adequately protected from harm or danger.
*Includes* protection from significant harm or danger, and from contact with unsafe adults/other children and from self-harm. Recognition of hazards and danger both in the home and elsewhere.

**Emotional Warmth**

Ensuring the child's emotional needs are met and giving the child a sense of being specially valued and a positive sense of own racial and cultural identity.
*Includes* ensuring the child's requirements for secure, stable and affectionate relationships with significant adults, with appropriate sensitivity and responsiveness to the child's needs. Appropriate physical contact, comfort and cuddling sufficient to demonstrate warm regard, praise and encouragement.

**Stimulation**

Promoting child's learning and intellectual development through encouragement and cognitive stimulation and promoting social opportunities.

*Include*s facilitating the child's cognitive development and potential through interaction, communication, talking and responding to the child's language and questions, encouraging and joining the child's play, and promoting educational opportunities. Enabling the child to experience success and ensuring school attendance or equivalent opportunity. Facilitating child to meet challenges of life.

**Guidance and Boundaries**

Enabling the child to regulate their own emotions and behaviour.

The key parental tasks are demonstrating and modelling appropriate behaviour and control of emotions and interactions with others, and guidance which involves setting boundaries, so that the child is able to develop an internal model of moral values and conscience, and social behaviour appropriate for the society within which they will grow up. The aim is to enable the child to grow into an autonomous adult, holding their own values, and able to demonstrate appropriate behaviour with others rather than having to be dependent on rules outside themselves. This includes not over protecting children from exploratory and learning experiences.

*Includes* social problem solving, anger management, consideration for others, and effective discipline and shaping of behaviour.

**Stability**

Providing a sufficiently stable family environment to enable a child to develop and maintain a secure attachment to the primary caregiver(s) in order to ensure optimal development.

*Includes*: ensuring secure attachments are not disrupted, providing consistency of emotional warmth over time and responding in a similar manner to the same behaviour. Parental responses change and develop according to child's developmental progress. In addition, ensuring children keep in contact with important family members and significant others.

Critically important to a child's development is the ability of parents or caregivers to ensure that the child's developmental needs are being appropriately and adequately responded to, and to adapt to his or her changing needs over time. Again, these descriptions are illustrative rather than comprehensive of all parenting tasks.

It is important that parenting capacity be considered in the context of the family's structure and functioning, and who contributes to the parental care of the.

In family situations where there is cause for concern about what is happening to a child, it becomes even more important to gather information about how these tasks are being carried out by each parent or caregiver in terms of:

- their response to a child and his or her behaviour or circumstances;
- the manner in which they are responding to the child's needs and the areas where they are experiencing difficulties in meeting needs or failing to do so;
- the effect this child has on them;
- the quality of the parent – child relationship;
- their understanding of the child's needs and development;
- their comprehension of parenting tasks and the relevance of these to the child's developmental needs;
- the impact of any difficulties they may be experiencing themselves on their ability to carry out parental tasks and responsibilities (distinguishing realisation from aspiration);

- the impact of past experiences on their current parenting capacity;
- their ability to face and accept their difficulties;
- their ability to use support and accept help;
- their capacity for adaptation and change in their parenting response.

Observation of interactions is as critically important as the way they are described by the adults involved.

The parenting tasks undertaken by fathers or father figures should be addressed alongside those of mothers or mother figures. In some families, a single parent may be performing most or all of the parenting tasks. In others, there may be a number of important caregivers in a child's life, each playing a different part which may have positive or negative consequences. A wide range of adults, for example grandparents, step relations, child minders or baby sitters, may have a significant role in caring for a child. A distinction has to be clearly made between the contribution of each parent or caregiver to a child's wellbeing and development. Where a child has suffered significant harm, it is particularly important to distinguish between the capabilities of the abusing parent and the potentially protective parent. This information can also contribute to an understanding of the impact the parents' relationship with each other may have on their respective capacities to respond appropriately to their child's needs.

The quality of the inter-parental relationship, which has an impact on the child's well-being will be considered more explicitly in the following section on family and environmental factors.

**Family and Environmental Factors**

The care and upbringing of children does not take place in a vacuum. All family members are influenced both positively and negatively by the wider family, the neighbourhood and social networks in which they live. The history of the child's family and of individual family members may have a significant impact on the child and parents. Some family members, for example, may have grown up in a completely different environment to the child, others may have had to leave their country of origin because of war or other adverse conditions, and others may have experienced abuse and neglect as children.

The narration and impact of family histories and experiences can play an important part in understanding what is happening currently to a family. An adult's capacity to parent may be crucially related to his or her childhood experiences of family life and past adult experiences prior to the current difficulties. The family may be in transition, for example refugee families.

An understanding of how the family usually functions, and how it functions when under stress can be very helpful in identifying what factors may assist parents in carrying out their parenting roles. Of particular importance is the quality and nature of the relationship between a child's parents and how this affects the child. For example, sustained conflict between parents is detrimental to children's welfare. The quality of relationships between siblings may also be of major significance to a child's welfare. Account must be taken of the diversity of family styles and structures, particularly who counts as family and who is important to the child.

The impact of multiple caregivers will need careful exploration, with an understanding of the context in which the care is being provided. Children can be protected from the adverse consequences of parenting problems when someone else meets the child's developmental needs. It is also important to record when there is evidence that no one is responding appropriately to the child. In some circumstances children who have a number of caregivers may be more vulnerable to being maltreated. Special attention should be given to the needs of disabled children who experience multiple caregivers as part of their regular routine, and to their need for reasonable continuity of caregivers.

**FAMILY AND ENVIRONMENTAL FACTORS**

**Family History and Functioning**

Family history includes both genetic and psycho-social factors.

Family functioning is influenced by who is living in the household and how they are related to the child; significant changes in family/household composition; history of childhood experiences of parents; chronology of significant life events and their meaning to family members; nature of family functioning, including sibling relationships and its impact on the child; parental strengths and difficulties, including those of an absent parent; the relationship between separated parents.

**Wider Family**

Who are considered to be members of the wider family by the child and the parents? *Includes* related and non-related persons and absent wider family. What is their role and importance to the child and parents and in precisely what way?

**Housing**

Does the accommodation have basic amenities and facilities appropriate to the age and development of the child and other resident members? Is the housing accessible and suitable to the needs of disabled family members?

Includes the interior and exterior of the accommodation and immediate surroundings. Basic amenities include water, heating, sanitation, cooking facilities, sleeping arrangements access to appropriate and safe play and cleanliness, hygiene and safety and their impact on the child's upbringing.

**Employment**

Who is working in the household, their pattern of work and any changes? What impact does this have on the child? How is work or absence of work viewed by family members? How does it affect their relationship with the child?

*Includes* children's experience of work and its impact on them.

**Income**

Income available over a sustained period of time. Is the family in receipt of all its benefit entitlements? Sufficiency of income to meet the family's needs. The way resources available to the family are used. Are there financial difficulties which affect the child?

**Family's Social Integration**

Exploration of the wider context of the local neighbourhood and community and its impact on the child and parents.

*Includes* the degree of the family's integration or isolation, their peer groups, friendship and social networks and the importance attached to them.

**Community Resources**

Describes all facilities and services in a neighbourhood, including universal services of primary health care, day care and schools, places of worship, transport, shops and leisure activities.

*Includes* availability, accessibility and standard of resources and impact on the family, including disabled members.

In families where a parent is not living in the same household as the child, it is important to identify what role that parent has in the child's life and the significance to the child of the relationship with that parent. It cannot be assumed that parents who live apart are estranged. This arrangement may be by mutual agreement.

A wide range of environmental factors can either help or hinder the family's functioning. Here it is important to think broadly and creatively about the family and environmental factors described on the previous page.

Careful account should be taken of how these factors are influencing both a child's progress and the parents' responses. This can be illustrated by the following examples of the inter-relationship between such factors and a child's development:

_ **Family history**

A child may have a genetic condition or pre-disposition, such as sickle cell disorder or Huntington's Chorea, which may affect current or future physical or mental health and the need for services.

_ **Family Functioning**

Despite a recent separation, the parents co-operate regarding decisions about key events in a 10 year old boy's life such that he continues to attend the same school, maintains a strong group of friends, and is fully supported in his education by both parents. This enables him to do well in school.

_ **Wider family**

A child may have developed a close, affectionate attachment to a friend's parent who, over a number of years, compensates for chronic parental problems in the family home, giving that child a sense of belonging and self-esteem. This may become a resource to be mobilised at the time of family breakdown.

_ **Housing**

Accommodation which is damp, infested and overcrowded may be contributing to a low birth weight baby's failure to thrive and chronic ear, nose and chest problems, requiring urgent action.

_ **Employment**

The expectation that a 13 year old girl will assist regularly in the family business may result in her sudden failure to keep up with school work and difficult behaviour in class.

_ **Income**

A low income over many years and parents' inability to manage on this income may mean a young adolescent being bullied at school simply because he is wearing clothes which do not have the correct designer logo.

_ **Family's social integration**

Constant racial harassment and bullying in a neighbourhood may result in a teenager from a minority ethnic family being isolated and excluded from positive and affirming friendship group experiences at a formative stage of developing his identity.

_ **Access to community resources**

Knowledge of resources available in the community which are accessible and accommodate disabled children may enable an isolated single mother to organise out of school care and activities for her 6 year old disabled child, thus enabling her to remain in work.

The complex interplay of factors across all three domains should be carefully understood and analysed. Parents may be experiencing their own problems which may have an impact through their behaviour on their capacity to respond to their child's needs. This could cover a variety of situations. It could include parents who are unable to read or write and are therefore unable to respond to notes sent home from school. On the other hand, it could include a child being traumatised by witnessing her mother being regularly assaulted by her father.

The impact of particular parental problems (mental illness, domestic violence, drug and alcohol misuse) on a child's development may adversely affect a parent's ability to respond to the needs of his or her child. While some children grow up apparently unscathed, others exhibit emotional and behavioural disorders as a result of these childhood experiences. This knowledge can assist professionals to be clear about the impact of a parent's difficulties on a child. In some situations, where the parents' problems are severe, such as major psychiatric illness or substance misuse, there may need to be **joint** or **concurrent assessments**; to examine the parent's problems, the impact of those problems on the child, and the effect of the child on the parent. Such assessments should be carried out within a clear focus on the needs of the child.

Research has shown a strong association between domestic violence and child abuse. It has shown also, that not all parents who have suffered childhood abuse or deprivation go on to maltreat their children, but a significant proportion of parents who harm their children have been abused themselves

The interactions between different factors are often not straightforward which is why it is important that:

- information is gathered and recorded systematically with care and precision;
- information is checked and discussed with parents and, where appropriate, with the child;
- differences in views about information and its importance are clearly recorded;
- the strengths and difficulties **within** families are assessed and understood;
- the vulnerabilities and protective factors in the child's world are examined;
- the impact of what is happening on the child is clearly identified.

The assessment process is, therefore, a conceptual map which can be used to understand what is happening to all children in whatever circumstances they may be growing up. For most children referred or whose families seek help, the issues of concern will be relatively straightforward, parents will be clear about requiring assistance and the impact on the child will not be difficult to identify. For a smaller number of children, the causes for concern will be serious and complex and the relationship between their needs, their parents' responses and the circumstances in which they are living, less straightforward. In these situations, further, more detailed and, in some cases, specialist assessment will be required.

**Inclusive Practice**

The assessment process is predicated on the principle that children are children first, whatever may distinguish some children from others. This poses a challenge for staff - how to develop inclusive practice which recognises that all children share the same developmental needs to reach their optimal potential but that the rate or pattern of progress of individual children may vary because of factors associated with health and impairment. At the same time, due weight needs to be given to other important influences on children's development. Prominent amongst these are genetic factors,

the quality of attachment to primary caregivers and the quality of everyday life experiences.

When assessing a child's needs and circumstances, care has to be taken to ensure that issues which fundamentally shape children's identity and wellbeing, their progress and outcomes are fully understood and incorporated into the framework for assessment.

In assessing the needs of children, practitioners have to take account of diversity in children, understand its origins and pay careful attention to its impact on a child's development and the interaction with parental responses and wider family and environmental factors.

Assessment requires that children and families' differences must be approached with knowledge and sensitivity in a non-judgemental way. Ignorance can result in stereotyping and in inappropriate or even damaging assumptions being made, resulting in a lack of accuracy and balance in analysing children's needs. To achieve sensitive and inclusive practice, staff should **avoid**:

- using one set of cultural assumptions and stereotypes to understand the child and family's circumstances;
- insensitivity to racial and cultural variations within groups and between individuals;
- making unreasoned assumptions without evidence;
- failing to take account of experiences of any discrimination in an individual's response to public services;
- failing to take account of the barriers which prevent the social integration of families with disabled members;
- attaching meaning to information without confirming the interpretation with the child and family members.

Assessment, derived from children's developmental needs and which also takes account of the context in which they are growing up, takes on more significance in relation to children for whom discrimination is likely to be part of their life experience. Such children and their families may suffer subsequent disadvantage and a failure of access to appropriate services.

# The Code of Practice on the exercise of social services functions in relation to part 4 (Meeting needs) of the Social Services and Well-being (Wales) Act 2014

*Including eligibility, care and support planning and direct payments*

Issued under Section 145 of the Social Services and Well-being (Wales) Act 2014

(Short title: Code of Practice on Meeting Needs)

## Preamble

1. This code of practice is issued under section 145 of the Social Services and Well-being (Wales) Act 2014. A local authority, when exercising its social services functions, must act in accordance with the **requirements** contained in this code. Section 147 (Departure from requirements in codes) does not apply to any **requirements** contained in this code. In addition, local authorities must have regard to any **guidelines** set out here.

2. In this code a **requirement** is expressed as 'must' or 'must not'. **Guidelines** are expressed as 'may' or 'should/should not'.

3. This code should be read in conjunction with Part 4 of the Act and Regulations made under section 32 (determination of eligibility), sections 54 and 55 (care and support plans and support plans), and sections 50, 51, 52 and 53 (direct payments) in Part 4 of the Act on Meeting Needs.

4. This code of practice on eligibility, care planning and direct payments is fundamentally linked to the code of practice on assessment and review under Part 3 of the Act, as both codes are critical to the design and delivery of the new system for accessing and delivering care services.

## Purpose

5. The Social Services and Well-being (Wales) Act 2014 ( The Act) sets out the duties of a local authority in meeting needs for care and support, or support in the case of a carer, following an assessment. This code :
   - determines the point at which an individual will have an enforceable right to support from the local authority and the authority has a legal duty to provide or arrange care and support.
   - sets eligibility criteria that will apply to all people – children, adults and carers.
   - sets out the requirements of a care and support plan.

- sets out the circumstances required by a local authority when making direct payments.

6. The local application of the determination of eligibility must support a move away from the deficit model of care ('what is wrong?') to an emphasis on strengths, capacity and capabilities ('what can I do? /how can I get help?'). The approach to determining eligibility must be an outcome-based approach to eligibility that relates closely to the national outcomes framework. The starting point is the meaning of well-being as set out in Part 2 of the Act and the local authority must determine whether the provision of care and support, or support in the case of a carer, will assist the person to meet their personal outcomes within that framework of well-being. The local authority must be clear about what matters to the person, and what the person themselves can do to maximise their own well-being.

7. The application of national eligibility criteria for care and support has an important part to play in securing rights for people and ensuring local authorities meet their duties under the Act. The framework for eligibility presented in this code is a rights-based approach enables a person to take a full part in decisions about their life. It requires a local authority to work in partnership with individuals and their families and carers to ensure that services meet the care and support needs identified. It also recognises the contribution people can make to their own well-being, and their responsibility to do so.

8. Local authorities must have due regard to the United Nations Conventions and Principles listed below when exercising functions in relation to an individual. Guidance on the requirements to have due regard are described in the code of practice in relation to Part 2 of the Act.
    - United Nations Principles for Older Persons
    - United Nations Convention on the Rights of the Child
    - United Nations Convention on the Rights of Disabled People

9. It is a principle of the Act that a local authority should respond in a person-centred, co-productive way to each individual's particular circumstances. Individuals and their families must be able to participate fully in the process of determining and meeting their identified care and support needs through a process that is accessible to them. This will include determinations of eligibility for care and support being undertaken through the person's language of need and preferred means of communication and in a style and manner appropriate to their age, disability and cultural needs.

10. An individual must feel that they are an equal partner in their relationship with professionals. It is open to any individual to invite someone of their choice to support them to participate fully and express their views wishes and feelings. This support can be provided by someone's friends, family or wider support network.

11. The dedicated code of practice on advocacy under Part 10 of the Act sets out the functions when a local authority, in partnership with the individual, must reach a judgement on how advocacy could support the determination and delivery of an individual's personal outcomes; together with the circumstances when a local authority must arrange an independent professional advocate. Professionals and individuals must ensure that judgements about the needs for advocacy are integral to the relevant duties under this code.

12. The eligibility criteria sets out the duties of the local authority and the rights of the individual are upheld. These duties and rights are:
    - An enforceable right of the individual whereby the local authority must assess their need for care and support, determine whether any of the needs meet the eligibility criteria or must otherwise be met by the local authority and consider what could be done to meet those needs.
    - Eligibility criteria against which the needs of all individuals are to be assessed,
    - An automatic right to eligibility for those adults at risk of abuse or neglect or in the case of a child, at risk of abuse, neglect or other harm.
    - The presumption that a disabled child has needs for care and support in addition to, or instead of, the care and support provided by the child's family.
    - An approach to determining eligibility for care and support that recognises the distinction between the local authority's general duties (as set out in Part 2 of the Act) and the establishment of an enforceable right for the individual to have their needs met by the local authority providing or arranging the provision of care and support (as required by parts 4 of the Act) if the needs meet the eligibility criteria.
    - A requirement that an individual with needs for care and support has a right to the delivery of care and support provided or arranged by the local authority through a care and support plan where those needs cannot be met by themselves alone (or in the case of a child, together with parents or other persons caring for the child), or with the support of others, or with the assistance of services in the community.

**Context**

13. Determining eligibility is not about giving a right to any one service, it is about guaranteeing access to care and support where without it the person is unlikely to achieve their personal outcomes.

14. Fundamental to this determination is an understanding of what actions the person can contribute to achieving their outcomes, with the support of their carers, family and community where this is available.

15. Where someone appears to have needs for care and support a local authority must carry out an assessment to consider the person's circumstances in the round. The complexity of the assessment process must be appropriate to the presenting need.

16. The eligibility status is conferred on the individual need not on the person – so where there are needs which can only be met through a care and support plan the person will have the right to have those needs met in this way. This means that some needs may be met through the delivery of a care and support plan even where that person is accessing community based services as part of the route to meeting their personal outcomes.

17. Eligibility is one element of the overall care and support system. The general duties on a local authority in relation to the provision of the information, advice and assistance service and preventative services as well as the promotion of social enterprises, co-operatives, user led services and the third sector are a core part of the overall system. The development of these duties will ensure that more people are enabled to access support easily in their communities.

18. The approach to assessment of need and determining eligibility must be one that focuses on people's strengths and capabilities, as well as on their needs and the barriers they face, to achieve their personal outcomes.

19. To promote the well-being of the child a local authority must take steps, which are reasonably practicable, to enable the child to live with his/her family or promote contact between the child and his/her family.

20. A person's changing circumstances can impact on eligibility at any time. A person's capacities and support mechanisms will vary over time and it is essential that this is recognised when determining the status of a need as an eligible need. A local authority's approach to meeting people's needs for care and support must be sufficiently responsive to ensure that an individual has access to the right support to attain their personal outcomes irrespective of their eligibility status.

21. As part of the determination of eligibility, the local authority must also consider the strengths and capabilities of the person themselves and whether the person would benefit from any preventative services; information, advice or assistance; or anything else that may be available in the community. This must be reflected in the assessment process.

## Process

22. The determination of eligibility will flow from, and is a product of, the assessment process as described in the code of practice on Part 3 of the Act. Assessment is the key process for the determination of eligibility and the two sets of Regulations and codes of practice need to be read together.

23. Following the assessment, a judgement must be made about whether the assessed need is eligible for care and support, based on the criteria in the Care and Support (Eligibility) (Wales) Regulations 2015. These Regulations set out separate but parallel descriptions of the needs which meet the eligibility criteria with respect to adults, children and carers.

24. The outcome of the assessment and eligibility decision must be recorded on the assessment and eligibility tool. The record must include all elements of the assessment and eligibility tool and the person should be provided with a copy. The tool provides a framework which includes the minimum requirements for undertaking an assessment and eligibility determination but the tool can be expanded and developed over time to include templates and further guidance. Further information about the assessment and eligibility tool is included in the code on Part 3 of the Act.

25. The determination of eligibility is distinct from any financial assessment that the local authority is required to make under Part 5 of the Act, where it is empowered to seek a contribution to the cost of care and support provided. However the financial assessment may inform the individual's decision on whether to accept the local authority care and support plan or take a different route to achieving their identified outcomes.

## The National Eligibility Criteria

26. Determining eligibility through assessment ensures national eligibility criteria that will be consistently applied across Wales. Although the pattern of service delivery will vary from authority to authority, what remains constant is the right to care and support from a local authority where that care and support is not otherwise available to the individual with needs for care and support.

27. The eligibility Regulations set out the eligibility criteria for adults, children and carers. In each case, there are four separate conditions which must all be met:

    i. The first condition relates to the person's circumstances and is met if the need arises from the kind of circumstances which are specified in the

Regulations, for example physical or mental ill-health. The Regulations specify different kinds of circumstances for adults, children and carers.

ii. The second condition is met if the need relates to one or more of the outcomes specified in the Regulations, for example the ability to carry out self-care or domestic routines. The Regulations specify different outcomes for adults, children and carers.

iii. The third condition is met if the need is such that the person is not able to meet that need alone, with the care and support of others who are able or willing to provide that care and support ; or with the assistance of services in the community. This condition is modified in the case of a child such that it is met if the need is one that neither the child, the child's parents or other persons in a parental role are able to meet either alone or together.

iv. The fourth condition is met if the person is unlikely to achieve one or more of their personal outcomes unless the local authority provides or arranges care and support to meet the need in accordance with a care and support plan or it enables the need to be met by making direct payments.

28. The consideration of the first and second conditions for children, adults and carers set out in the Regulations will establish whether the nature of the person's needs and circumstances is such that a care and support intervention can address the needs identified in the assessment or enhance the resources that will enable the individual to achieve their personal outcomes.

29. If the provision of care and support cannot help the person achieve their outcomes the question of eligibility does not arise. It is not the purpose of the eligibility criteria to draw local authority care and support services into challenges they cannot address (such as provision of health care, employment, or education).

30. The consideration of the third and fourth conditions for children, adults and carers set out in the Regulations will establish whether the individual's needs are such that the needs cannot be met through:

- services available in the community which are accessible to them without the need for a care and support plan
- care and support co-ordinated by themselves, their family or carer, or others
- or by any other means.

…and whether the individual is unlikely to achieve their personal outcomes unless the local authority meets their needs for care and support **either** by providing support to the individual to enable them to co-ordinate the care and support that they need **or** by providing or arranging that care and support.

31. In determining eligibility, the local authority must ensure the individual is involved as a full partner in assessing to what extent they are able to meet their personal

outcomes; or with the support of others who are willing to provide that support; or with the assistance of services in the community to which they have access.

32. The eligibility criteria must not be used as a tool to require individuals to demonstrate they have exhausted every other possible avenue of support before becoming eligible for local authority assistance.

33. It is the responsibility of the local authority to identify and record on the assessment and eligibility tool how the personal outcomes will be achieved. The record must include a statement of how the practitioner assesses the identified action will contribute to the achievement of the personal outcome or otherwise meet needs identified by the assessment. This applies to those needs which are to be met through the provision of care and support and those met through community based or preventative services, the provision of information, advice and assistance, or by any other means.

34. Even where a determination of eligibility is made there remains a general duty on the local authority to support people to access any appropriate community based services where these contribute to meeting the person's outcomes by providing information, advice or assistance under section 17 of the Act.

35. The reference in the eligibility criteria to the local authority preparing a care and support plan, and ensuring that it is delivered, includes a care and support plan which can be self-managed through the use of direct payments.

36. In making a determination of eligibility there should not be an over reliance on any voluntary caring arrangements. Local authorities must ensure that the ability of the carer to provide care is sustainable and that they comply with their general duty to promote the well-being of the carer and the person cared for.

37. Annex 1 contains some short case scenarios to illustrate this approach to eligibility of needs.

**Automatic Requirements to Meet Needs**

38. Where the local authority determines it is necessary to meet the needs of the individual to protect the person from abuse or neglect or the risk of abuse or neglect (and in the case of a child: harm or the risk of harm) there is no need to consider or apply the determination of eligibility and the local authority must not apply that determination where to do so may prevent or delay the local authority from making a response designed to protect and safeguard the person concerned.

Adults

39. A local authority must meet those needs which the local authority considers it is necessary to meet in order to protect an adult from abuse or neglect, or risk of abuse or neglect. This is an overriding duty on a local authority irrespective of any application of, or outcome from, the determination of eligibility.

Children (including young carers)

40. As is the case with adults, a local authority must meet the needs of children which the local authority considers it is necessary to meet in order to protect the child from abuse or neglect or a risk of abuse or neglect or in order to protect the child from other harm or risk of such harm. This is an overriding duty on a local authority irrespective of any application of, or outcome from, the determination of eligibility. A local authority's duties in respect of looked after children are contained within Part 6 of the Act.

41. Local authorities must determine whether the needs of the individual call for the exercise of any function they have under Part 4 (Care and Supervision) or Part 5 (Protection of Children) of the Children Act 1989.

## Discretionary Powers to meet needs

42. Discretionary powers are also provided in the Act to enable a local authority to meet the care and support needs of an individual irrespective of the eligibility determination. These powers also enable a local authority to respond to urgent need, or to act to protect a person without the need for first completing an assessment or determining eligibility. These powers can also be exercised in relation to any person who is within the local authority's area, even if they are not ordinarily resident in the area.

43. Where a local authority (A) meets the urgent needs of person who is ordinarily resident in the area of another local authority in Wales (B) and the other local authority has consented to this, then authority A can recover the costs from authority B. This is a requirement under Section 193, Part 11 of the Act.

## Carers and care and support provided by a child's family

44. The duty on a local authority to meet an adult's needs for care and support does not apply to the extent that the local authority is satisfied that those needs are being met by a carer. The local authority must also satisfy itself that the carer is

willing and able to do so. Where a carer is not currently meeting the adult's needs but is expected to do so (for example on the discharge of the cared for person from hospital) then there is no duty on the local authority to meet those needs.

45. Similarly, the duty to meet a child's needs for care and support does not apply to the extent that the local authority is satisfied that those needs are being are being (or will be) met by the child's family or by a carer. The local authority must also satisfy itself that the carer is willing and able to do so. Where a carer is not currently meeting the child's needs but is expected to do so (for example on the discharge of the cared for person from respite or hospital care) then there is no duty on the local authority to meet those needs.

46. The local authority **must** identify all presenting needs in the assessment, including those needs which would be deemed as eligible if the carer or the child's family was not meeting needs. This is so that the local authority is able to respond appropriately and quickly where the carer or the child's family becomes unable or unwilling to meet some or all of the identified care and support needs.

47. The point at which a carer is unable or unwilling to carry on meeting a care need, or informs the local authority that this is about to happen, will constitute a significant change in circumstances for the cared for person. As a result the local authority **must** undertake a re-assessment of the person's needs for care and support.

48. Where a carer is suddenly unable to meet a care and support need the requirement for a re-assessment **must** not prevent or delay the local authority taking urgent and immediate action to meet the care and support needs of the adult or child. Such action should be informed by the most recent assessment undertaken.

49. The Act **entitles** anyone to have an assessment where there appears to be a need for care and support – even if that care and support is being met by a carer.

50. Where the carer is a child the local authority must have regard to his or her developmental needs and the extent to which it is appropriate for the child to provide the care. This should lead to consideration by the local authority of whether a child carer is actually a child with care and support needs in his or her own right and who therefore should be assessed under section 21 of the Act. For guidance on assessing the needs of children who are carers please refer to the code of practice in relation to Assessment and Review under Part 3 of the Act.

**Disagreement about the determination of eligibility**

51. Where the local authority determination is that the person's needs do not meet the eligibility criteria and the individual disagrees with that determination then the individual will be informed of their right to access the complaints process and supported through that process. This should not lead to undue delay.

52. Where needs and circumstances change the individual has the right to request a re-assessment of their needs for care and support. Further detail about re-assessment is included in the code of practice under Part 3 of the Act.

**Refusal of a Care and Support Plan**

53. Following the determination of eligibility it is strongly advised, but not required, that the individual and the local authority agree the care and support plan. The local authority may also determine that someone has a right to care and support even though that person may refuse to accept it. In these instances the local authority must record why a care and support plan was refused. The eligibility status must be preserved and the local authority must re-frame their support so as to maintain their awareness of the person's needs and enable an appropriate and timely response should the person re-consider their refusal of care and support.

54. Should a person lack capacity to make the decision to refuse a care and support plan the local authority must meet its duties under the Mental Capacity Act 2005 and associated code of practice[1].

55. All reasonable steps should be taken to maximise a person's ability to communicate their wishes so as to ensure that the care and support plan is in the person's best interests and is appropriate to their identified needs.

**Care and Support Planning (including Direct Payments)**

56. In this code of practice, except where otherwise indicated, any reference to duties or powers in relation to care and support plans should be read as applying equally to support plans for carers. Similarly any reference to 'care and support' should be read as referring to 'support' where this applies to carers.

57. Where an individual uses direct payments to manage their own care (either directly or through another) those direct payments will form part or all of a care

[1] Link to the codes of practice for the Mental Capacity Act 2005 https://www.wales.nhs.uk/sites3/page.cfm?orgid=744&pid=36239

and support plan. The Act refers to identifying outcomes for individuals and the delivery of care and support to meet the needs of individuals. This code of practice does not preclude a care and support plan meeting the needs of the individual by the delivery of care and support to members of the individual's family where that is the most appropriate way to meet the needs of individuals within that family and to support those individuals to achieve their personal - outcomes.

**Purpose**

58. Section 54 of the Act provides that a local authority must prepare and maintain a care and support plan or a support plan for a person whose needs it is required to meet. The plans must be kept under review. If the local authority believes that a person's circumstances have changed in a way that affects the plan, it must conduct such assessments and revise the plan in the light of those assessments. A plan must not be closed without a review.

59. This code of practice covers the duties and functions on local authorities with respect to care and support planning and review arrangements for individuals and families.

**The Care Planning Process**

<u>Right to a care and support plan and review of plans</u>

60. A local authority must provide and keep under review care and support plans for people who have needs which meet the eligibility criteria and for people where it appears to the local authority that it is necessary to meet the person's needs in order to protect the person from abuse or neglect or the risk of abuse or neglect (and additionally in the case of a child: harm or the risk of harm).

61. Where the duties to a child fall under Part 6 of the Act (Looked After and Accommodated Children) the local authority must review the care and support plan in line with the requirements of the Regulations made under that part of the Act.

62. A local authority must provide and keep under review support plans for carers whose needs meet the eligibility criteria. This is in order to promote consistency between plans for carers and to treat carers in the same way as people with needs for care and support. In some instances an assessment may identify that where the person is a carer with support needs the local authority can meet those needs by providing care and support to the person cared for. This may be the case even there is no duty to meet the needs of the person cared for and there is no separate care and support plan for that person.

63. A local authority is required to prepare a care and support plan for people whose needs meet the eligibility criteria, or their needs must be met for another reason (such as protection from abuse), where that person is unlikely to achieve their personal outcomes unless the local authority provides or arranges care and support to meet an identified need.

64. Many individuals' and families' needs can be met without a formal care and support plan. In such instances the information, advice and assistance service or other preventative and community based services such as those from social enterprises, co-operatives, third sector, and user-led services must be clearly signposted. A record of how these needs will be met without a formal care and support plan must be made on the assessment and eligibility tool referred to in the code of practice in relation to Part 3 of the Act.

**Preparing and Delivering Care and Support Plans**

65. Local authorities should work with their Local Health Board and NHS Trusts to agree arrangements across the Local Health Board footprint area for delegating practitioners to work with those whose needs require a care and support plan.

66. The Care and Support Plan must be developed in partnership with the individual to ensure there is an agreed understanding of how the needs will be met and personal outcomes achieved.

Care and Support Plan Co-ordinator

67. Where a local authority is required to prepare and maintain a care and support plan or a support plan, it must ensure that there is a named individual to co-ordinate the preparation, completion, review, delivery and revision of the plan.

68. The name of the care and support plan co-ordinator must be recorded on the core data set under part 3 of the Act. In many cases the care and support plan coordinator will be the same practitioner as the assessment co-ordinator.

69. The role of the co-ordinator will include monitoring the delivery of the services and support delivered through the plan where it is agreed that this is required. The responsibilities of this role will include:
    - to draw in additional specialists as required
    - to act as a focus for communication for different practitioners and the individual
    - to make sure that information is recorded correctly and that the care and support plan is made available to the individual; and

- to ensure that any problems or difficulties in the co-ordination or completion of a review are resolved.

70. A local authority must ensure that the care and support plan co-ordinator who is responsible for preparing, reviewing or revising a care and support plan or support plan:
    - has the skills, knowledge and competence to do so
    - has received appropriate training; and
    - is aware of other plans in place for the individual to avoid duplication, omissions or confusion.

It is advised that the appropriate levels of qualification for undertaking these activities include:

- **either** a registered social work / social care professional holding a professional qualification at level 5 or above

- **or** a person holding a social care qualification at level 4 or above, which includes knowledge and skills undertaking person centred assessment, under the supervision of a registered social work / social care professional.

A local authority will also need to be satisfied that all staff undertaking these activities have the skills, knowledge, and competence to work with children and young people, adults and carers, as appropriate.

Services to people who are deafblind

71. A local authority must ensure that services provided to deafblind people are appropriate, recognising that they may not necessarily be able to benefit from mainstream services or those services aimed primarily at blind people or deaf people who are able to rely on their other senses. Local authorities must ensure that deafblind people are able to access specifically trained one-to-one support workers for those people they assess as requiring one. This is illustrated in case scenario 'Dual sensory impairment' in Annex 2. The Director of Social Services must have overall responsibility for deafblind services within his/her responsibilities.

Adoption Services

72. Local authorities must ensure that practitioners preparing, maintaining and reviewing care and support plans for the purposes of adoption fulfil the requirements of the `Restriction on the Preparation of Adoption Reports Regulations 2005'. Staff undertaking linked duties not covered by these

Regulations should have the relevant knowledge and understanding of the lifelong implications of adoption.

**Financial**

73. In cases where the care and support plan identifies care and support which may require a financial contribution from the individual, arrangements must be made to ensure the individual is clear about this, and that a financial assessment is undertaken where this is required under Part 5 of the Act.

74. If an individual has financial means above the financial limit (as set out in Regulations made under section 69 of the Act) the local authority should ensure they continue to have access to good quality information, advice and assistance that enables them to make informed decisions about their care and support needs. This is particularly true for people making critical decisions about their ability to live independently.

75. In some circumstances an individual with means above the financial limit may need support from the local authority to make arrangements for their care and support. The local authority will need to undertake an assessment with the individual and make an eligibility determination. If the needs meet the eligibility criteria and the individual asks the authority to meet those needs, the local authority will be under a duty to make arrangements with the placement provider. In such cases the local authority will be the contract holder with the provider and the individual will be deemed to be ordinarily resident in the area of the local authority in which they were ordinarily resident immediately before the placement, such that the local authority which made the placement would continue to be responsible. The rate at which the local authority commissions the placement is a matter for local authority determination

**Format of Care and Support Plans**

76. The format of the care and support plan must be agreed by the local authorities and Local Health Board and NHS Trusts and, as a minimum, must be consistent across the regional footprint of the Local Health Board. This requirement does not prevent local authorities and Local Health Boards and NHS Trusts working together on a wider, or national basis, to develop a consistent format for care and support plans.

77. Local authorities must work together with Local Health Boards and NHS Trusts to ensure that local and specialist templates for care and support plans meet the national minimum core data set and content required in the following sections. The core data set should enable practitioners to quickly identify and reference

other health, care and support, and well-being assessments and care plans that have been provided to the individual and/or family.

78. To promote consistent practice across Wales the national minimum core data set ensures that individuals can rely on their local agencies to have a common baseline of information in all care and support plans across the country. This will mean that practitioners will share a common data set as the basis for well coordinated services and prevents an individual being asked for the same information more than once. For further guidance on the core data set please refer to the code of practice on Part 3: Assessment and Review.

79. The core data will have been collected during the assessment and should not need to be collected again, although it may need to be checked for accuracy and updated. The named lead practitioner responsible for the co-ordination of the care and support planning and review process should source this information from the record of the assessment and transfer it to the care and support plan.

80. For many people being able to use the Welsh language enables them to communicate and participate in their care as equal partners. Local authorities should make sure Welsh language services are built into the process of care and support planning and ensure that individuals and their families can fully participate in the process of care and support planning by making all relevant information available in a format that is accessible to them through their preferred means of communication.

**Content of Care and Support Plans**

81. A care and support plan could relate to a single service meeting one or more care and support needs or be more complex and involve mapping out several different services meeting one or more needs. A care and support plan could include actions which are self-managed alongside those which are managed by the local authority.

82. Local authorities must ensure that they have information technology systems to support the care planning process to ensure that the care plan is recorded electronically. This does not preclude local authorities providing copies to individuals in their preferred and most accessible format.

83. It is the responsibility of the practitioner who has developed the plan with the individual (including any formal or informal advocacy support) to ensure there is a clear and concise confirmation of the agreed actions, and who will undertake them within the plan.

84. Care and Support Plans must cover the following:
    - the outcomes which have been identified in relation to the person to whom the plan relates
    - the actions to be taken by the local authority and other persons to help the person achieve those outcomes
    - the needs that will be met through the delivery of care and support
    - how progress towards achieving those outcomes will be monitored and measured
    - the date of the next review of the care plan.

85. Where appropriate Care and Support plans should also set out:
    - the roles and responsibilities of the individual, carers and family members, and practitioners
    - the resources (including financial resources) required from each party.

86. Where some or all of the person's needs are to be met by making direct payments, a care and support plan and a support plan must also contain a description of:
    - the needs which are to be met by direct payments; and
    - the amount and frequency of the direct payments.

87. Where enquiries have been made by the local authority in accordance with its duty under section 126 (2) of the Act (adults at risk), or section 47 of the Children Act 1989, the care and support plan for the individual who is the subject of those enquiries must contain a record of the conclusion of the enquiries. The conclusion should include whether the person is or is not at risk and what action should be taken and by whom. Should a care and support plan be refused, or not required if the assessment concludes that needs can be met through other means, the findings of enquiries should be recorded in the individual case record as referenced in the Statutory Guidance relating to Part 7 of the Act. The Care Plan may also incorporate any protection plan that is in place.

88. Care and Support Plans must contain a clear date, which should be agreed with the individual and/or family, by which the plan will be reviewed however:
    - in the case of a child the date of review must not exceed 6 months
    - in the case of an adult the date of review must not exceed 12 months.

89. Local authorities, with their partners, must have in place arrangements to review or re-assess more promptly whenever it may appear that the current plan is not meeting the individual or family's needs.

Common Considerations for Care and Support Planning

90. The following principles should underpin the process of preparing care and support plans and should be used as the basis for testing the fitness of any local or specialist arrangements:

- **People centred**: Individual and family views and wishes will shape the form of engagement with services where this is appropriate. This will include the option of individuals receiving direct payments to meet their care and support needs, or in the case of carers, their support needs.
- **Promote Well-being**: Services will build on people's and families' strengths and abilities and enable them to maintain an appropriate level of autonomy with the appropriate level of care and support provided this is consistent with their well-being.
- **Outcome Based**: work with people and families will be based on a comprehensive analysis of needs, personal outcomes, risks, and the strengths and capabilities people and families have available to them.
- **Involving wider family, community and carers**: recognise the contribution of the wider community, family and carers and seek to provide support to them whenever appropriate.
- **Proportionate**: the provision of care and support will be appropriate to the person's or family's needs. All practitioners will play a pro-active role in helping people and their families to get appropriate early help and support.
- **Use appropriate language and communication methods**: Individuals and their families will be able to fully participate in their care and support planning process by having all relevant information available in a format that is accessible to them including through their language of need and preferred means of communication.
    - Local authorities must provide information in formats and methods that are accessible to deafblind people where it is necessary to do so to meet this principle.
    - Information should be accessible through the medium of Welsh and English reflecting the Welsh Government Strategy 'More than Just Words'. In particular, the Active Offer principle must be embedded to ensure individuals do not have to ask for their language of choice. This means that the local authority should be proactive in its approach and the individual should be asked which language they would prefer at the beginning of the process. This will ensure that they are able to receive services in their own language throughout the process of identifying and meeting care and support needs.
- **Clear**: work with individuals and families will be straightforward and understandable for them. People will be informed of the process and their rights. Support will be based on evidence and research about what works. This should not exclude innovative practice.

- **Safeguarding and Protecting**: all practitioners will be alert to any risk or harm to the individual or to others – including others in their care. Assessment and care and support planning will explore the possible responses to those risks and agree approaches to risk management and/or mitigation.
- **Integrated**: support for people and families will be based on a consistent and common framework across services, and jointly owned and operated by practitioners, in order to ensure that people receive timely and effective access to safe care and support.
- **Multi-agency**: ensure that all of the roles and responsibilities of different agencies contributing to an individual's well-being are included to promote joint working and an integrated approach to care and support planning and delivery.
- **Sustainable**: Services will be based on proven methods, be cost effective and keep families together where it is safe and appropriate to do so. This will include supporting people at home and minimising the potential for the breakdown of support. This should not exclude innovative practice.
- **Informed**: information and specialist assessments about a person, family or carer will be shared between relevant agencies wherever agreed by the individual, and be of a depth and detail appropriate to the person's needs.
- **Equitable**: services and systems will provide equity of opportunity and will respect diversity of needs.
- **Delivered by the right people**: care and support will be delivered through an appropriate mix of suitably experienced and qualified staff.
- **Performance Measured**: the effectiveness of care and support services will be judged on a combination of individual service user, family and colleague feedback, regular local evaluation with service users and other stakeholders, and national performance measures that relate to the national outcomes framework.

91. The depth and detail of the care and support planning process must be appropriate to the individual's needs. The complexity or severity of the person's, or family's, need will determine the scope and detail of the care and support plan and the range of interventions, including the type of support, and the frequency of reviews.

92. The process of identifying care and support needs and preparing a care and support plan must ensure that people are empowered to express their needs and are able to fully participate as equal partners.

93. An individual must feel that they are an equal partner in their relationship with professionals. It is open to any individual to invite someone of their choice to support them to participate fully and express their views wishes and feelings.

This support can be provided by someone's friends, family or wider support network.

94. The dedicated code of practice on advocacy under part 10 of the Act sets out the functions when a local authority, in partnership with the individual, must reach a judgement on how advocacy could support the determination and delivery of an individual's personal outcomes; together with the circumstances when a local authority must arrange an independent professional advocate. Professionals and individuals must ensure that judgements about the needs for advocacy are integral to the relevant duties under this code.

95. The local authority should provide a copy of the care and support plan, support plan or closure statement (as the case may be) to the person to whom the plan or closure statement relates and to any person authorised to act on behalf of that person. These plans must be made available in the person's language of need and in a format that is accessible to them through their preferred means of communication.

**Length of Visits**

96. Where the care and support plan involves visits to the person's home for the purpose of providing care and support, those visits must be of sufficient length to ensure the appropriate delivery of the care and support identified to meet the assessed needs and contribute to enabling the person to meet their personal outcomes. The length of these visits must be identified in the care and support plan.

**Overlapping Duties to Prepare Care and Support Plans**

97. The process of preparing, reviewing or revising a care and support plan may link in with the preparation, review or revision of plans by other bodies for the person in question. Local authorities may co-ordinate the preparation and review of plans where another body is preparing a relevant plan at the same time.

98. Where there are overlapping duties to prepare plans that are nationally or legally prescribed (for example a Care and Treatment Plan prescribed under the Mental Health (Wales) Measure 2010 or a 'section 31A plan' prepared for the purposes of Part 4 of the Children Act 1989), and there is a plan that meets the requirements of a care and support plan; the preparation, delivery and review of that plan can be regarded as the way for the local authority to meet its duties to prepare, deliver and review a care and support plan.

99. There is also an overlapping duty in respect of assessments for adoption support services under the Adoption and Children Act 2002 and the associated Regulations and Guidance. The duty to prepare an adoption support plan is enhanced by the provisions of this Act. Where, following the assessment, the local authority is satisfied that the conditions and eligibility for a care and support plan are met it must prepare a care and support plan in line with these Regulations and code of practice. Eligibility and entitlement to adoption support services remains as outlined in the Adoption and Children Act 2002, the associated Regulations and Guidance.

100. Where there are well-being or specialist plans which do not meet the requirements of a care and support plan the local authority must ensure that practitioners have regard to the requirement of the Regulations on care planning and this code of practice but must combine the care arrangements into a single integrated care and support plan. This will include plans relating to the safeguarding of the individual.

101. The section on information sharing (below) sets out the responsibilities on agencies to share appropriate and relevant information between practitioners and service providers to support the preparation, delivery, and review of a single integrated care and support plan that meets the assessed needs of the individual or family.

**Information Sharing**

102. The willingness and ability to share appropriate and relevant information between practitioners and service providers is inherent to the delivery of effective care and support services.

103. The process of care and support planning set out in this code is based upon the principle of working with people as full partners in identifying and meeting their care and support needs. The information in the care and support plan is owned by the person whose needs are being met through that plan and practitioners undertaking care and support planning must ensure that the person giving the consent to share information fully understands what they are consenting to and the implications of giving or not giving this consent.

104. Working with individuals and families within a professional relationship built on trust, respect and confidence should help to ensure that this conversation is not a difficult one. Being open and honest, including being clear about information sharing and respecting people's wishes wherever possible, will help to maintain this trust and confidence. This conversation is an integral part of making sure that

the practitioner fully understands the person's needs and how best to meet those needs, including which other practitioners may be able to support them.

105. This code endorses the Caldicott 2[2] recommendations that '…. there should be a presumption in favour of sharing for an individual's direct care and that the exceptions should be thoroughly explained, not vice versa. The motto for better care services should be: "To care appropriately, you must share appropriately".' Therefore the presumption should be that all information is shared.

106. Local authorities must work with their partners to have systems in place to ensure that, as a minimum, information in the national core data set for any individual or family is shared safely and appropriately between partners. This will include using the Wales Accord on the Sharing of Personal Information[3] (WASPI) information sharing framework and developing WASPI - compliant information sharing agreements which should ensure to a great extent that the arrangements put in place will be compliant with the Data Protection Act 1998 (DPA).

107. A local authority must also ensure that staff are supported and trained appropriately in both information sharing and compliance with the DPA. Staff accessing or using the data must be trained in good data handling and be aware of security issues. Individuals and families must be informed of this sharing at the start of the assessment and care and support planning process.

108. When a child or adult is identified as being at risk of abuse or neglect the presumption should be that all information is shared among relevant partners at an early stage provided it is lawful to do so and in keeping with the Data Protection Act 1998 and associated guidance.

**Portability of Care and Support Plans**

109. When an individual who is in receipt of services or support through a care and support plan has informed the authority from which they intend to move that they will be moving to another area in Wales and the authority is satisfied that the move is likely to happen, that authority ('the sending authority') must notify the authority to which the person intends to move ('the receiving authority') of this information and must ensure that the information contained within the assessment and the care and support plan is made immediately available to the new authority. At this point, the receiving authority must, if it satisfied the move is likely to happen, carry out a new assessment of the person's needs, having

[2] Caldicott 2 - http://www.wales.nhs.uk/sites3/page.cfm?orgid=950&pid=68298

[3] Wales Accord on the Sharing of Personal Information http://www.waspi.org/

regard in particular to any change in the person's needs for care and support arising from the move. If, on the day the person moves, such an assessment has not yet been carried out, the receiving authority must, in so far as reasonably practicable, meet the person's needs for care and support in accordance with the care and support plan prepared by the sending authority until a new assessment is undertaken.

110. These portability arrangements do not apply where the sending authority is meeting a person's needs in accordance with its discretionary power. In such cases there will still be a duty on the receiving authority to carry out a new assessment (in accordance with its responsibilities under section 19 or section 21 of the Act).

111. In cases where a carer moves to the area of another local authority but there is no change in the residence of the person cared for, the portability arrangements do not apply as there is no change to the identity of the local authority which is responsible for the preparation and maintenance of the support plan for the carer.

112. There is an expectation that good practice will apply when a person moves across national boundaries to minimise disruption of the care and support provided to that person. UK cross border principles on the continuity of care have been developed and are included in Annex 2. Local authorities should follow these good practice principles when a person moves across national boundaries.

**Review of Care and Support Plans**

113. A local authority must keep care and support plans under review to understand whether the provision of that care and support is meeting the identified needs of the individual, and to consider if their needs have changed and if a re-assessment is required. The agreed date for the review of the plan must be set out in the plan.

114. The purpose of a review is to systematically revisit the care and support plan to:

- monitor progress and changes
- consider the extent to which the delivery of the plan is meeting assessed needs and how it has helped the individual or family to achieve their outcomes
- determine what support is needed in future, and confirm, amend or end the services involved.

This must be reflected in the recording of the review.

115. A review is a key part of effective care and support and good arrangements can ensure that services remain appropriate, well targeted and relevant to the individual, and encourage the individual to continue to maintain control over their support.

116. The review arrangements must ensure that the individual and/or their carer, family members or advocate is an active participant in the review.

117. When carrying out a review the local authority must involve the person who is the subject of the plan and, in the case of a care and support plan relating to a child, any person with parental responsibility for the child. In the case of a care and support plan relating to an adult, the authority must, where feasible, also involve any carer of the person. In the case of a support plan relating to a carer, the authority must, where feasible, also involve the person for whom the carer provides or intends to provide care.

118. In all cases, where appropriate and with the agreement of the person concerned[4], the local authority should also involve:

- any person whom the person (or parent in the case of a child) asks the local authority to involve
- other practitioners/ professionals who have undertaken or will need to undertake a related assessment
- other practitioners/ professionals with expertise in the circumstances or needs of the person concerned
- any other person, including carers, whom the local authority considers to have sufficient involvement in the care or support arrangements for the person; or
- an advocate

119. In the case of a person who lacks the capacity to be involved, the authority should involve any person authorised to make decisions about the individual under the Mental Capacity Act 2005

120. Local authorities must carry out further assessments and revise the care and support plan if there has been a change in the person's circumstances. Where a specialist has been involved in the person's initial assessment, the local authority should consider whether the specialist should be involved in the review. Local authority responsibilities relating to this requirement are set out in more detail in the code of practice in relation to assessments and review under part 3 of the Act. Such assessments may be carried out at the same times the local authority

[4] or the parent in the case of a child, or any person duly authorised to make decisions on behalf of a person who lacks capacity to agree

carries out an assessment under other legislation or at the same time as another body carries out an assessment under other legislation. In such cases, the local authority may carry out the assessment on behalf of or jointly with the other body or jointly with another person who is carrying out the other assessment.

121. All care and support plans must have a review date. This date must be agreed or set at the inception of the care and support plan and each subsequent review. A care and support plan and a support plan must be reviewed within such period as is agreed between the local authority and the person to whom the plan relates and any person who the local authority is required to involve in the preparation and review of the care and support plan. This will include an advocate where required to enable the person to engage and participate fully in the care and support planning process. In the case of a child the date of review must not exceed 6 months and in the case of an adult the date of review must not exceed 12 months.

122. If it appears to the local authority that the care and support plan is not meeting the assessed needs the local authority must undertake a review irrespective of the agreed review date. This may be at the request of the individual, persons with parental responsibility, or any person authorised to act on their behalf.

123. Where the plan contains details of direct payments, any review of the direct payments must involve a review of the care and support plan. Where someone is in receipt of direct payments and the review of the care and support plan results in a change to the care and support plan there must be a review of the direct payments.

**Closure**

124. A review must be undertaken before a care plan is closed.

125. Following the review, the local authority must consider whether to confirm, revise or close the plan. If it is decided to confirm the plan, the decision and the reasons for the decision must be recorded. If it is decided to close the plan, the local authority must prepare a closure statement.

126. A care plan must not be closed while a young person is known to the Youth Offending Team.

127. Where it is planned that services will no longer be provided the review must include a closure statement covering reasons for closure; an evaluation of the extent to which the outcomes were achieved; and confirmation that the individual

or family has appropriate information, advice or assistance and / or access to community based preventative services to meet their needs. The closure statement must be recorded.

**Direct Payments**

128. Direct payments are monetary amounts made available by local authorities to individuals, or their representative, to enable them to meet their care and support needs; or in the case of a carer, their support needs. Direct payments are an important mechanism by which people can exercise choice, voice and control to decide how to meet their needs for care and support and achieve their personal outcomes. As such direct payments are an integral part of meeting people's needs through care and support planning, and must not be seen as a separate, secondary, consideration.

129. Direct payments replace care and support provided directly, or commissioned by, a local authority. They can be for all, or part, of a person's care and support needs, in the latter case the remainder of their care and support needs being met in an alternative manner.

130. Under the Act local authorities have powers to provide direct payments under:

- section 50 – to meet the care and support needs of an adult
- section 51 – to meet the care and support needs of a child
- section 52 – to meet the support needs of a carer.

In the provision of, and operation of direct payments, authorities must follow the provisions of the relevant section of the Act. They must also follow the relevant section(s) of the Regulations on direct payments, 'The Care and Support (Direct Payments) (Wales) Regulations 2015' made under sections 50, 51, 52 and 54 of the Act. In cases where the care and support plan identifies care and support which may require a financial contribution from the individual, arrangements must be made to ensure the individual is clear about this, and that a financial assessment is undertaken where this is required under Part 5 of the Act.

**Offer and Scope of Direct Payments**

131. 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. A local authority must be innovative and creative when working in partnership with recipients or their representatives to explore ways a direct payment can be used to secure the

personal outcomes. Direct payments must only be refused where it is clear after extensive exploration that a direct payment would not secure the outcomes required.

132. Individuals must not be refused a direct payment purely because they are unable to manage the payment, or apprehensive about managing one. A local authority, in partnership with the person, must explore all options for supporting the individual to manage a direct payment. Where areas of difficulty are identified, local authorities must ensure the correct level of support to overcome such barriers is available.

133. Direct payments can be provided for any identified need for care and support a local authority is to meet. This includes community care and support and short and long term residential care and support. However, section 47 of the Act prevents local authorities from meeting needs through the provision of healthcare, unless doing so would be incidental or ancillary to doing something else to meet a citizen's needs. Consequently, such a restriction applies to the provision of a direct payment.

134. In developing care and support plans which are delivered via a direct payment, a local authority must be satisfied that the person's requirements and their personal outcomes can and will be met through this provision. Where a person's needs fluctuate over time, a local authority must work in partnership with the individual, or their representative, to agree how the direct payment will be used to secure care and support that varies according to requirement.

135. Where barriers to achieving personal outcomes exist, a local authority must work in partnership with the individual, or their representative, to explore alternative ways to overcome them.

136. Local authorities must promote self-management and aim to increase independence by enabling people to become actively involved in shaping their care and support. In the development of, and provision of a direct payment, a local authority must encourage and support people to determine their own personal outcomes and the care and support they require to achieve these taking into account their existing support networks. People must be encouraged to find creative, flexible and innovative ways to maximise their personal outcomes.

**Capacity to Consent - Appointing a Suitable Person**

137. If an adult lacks capacity to manage a direct payment or chooses not to manage the payment themselves, the direct payment can be paid to, and managed by, someone acting on their behalf - a 'Suitable Person'. A suitable

person may be appointed by a court to act on an individual's behalf, appointed by a local authority, or be someone the individual chooses to act on their behalf (see Capacity to Consent paras 142-145). A suitable person can themselves have support to manage a direct payment if required.

### Direct Payment Recipients as Employers

138. Where a direct payment is used to employ someone, local authorities must ensure recipients, or their representatives, are fully aware of their legal responsibilities as an employer and that they receive the necessary support and resources to manage their employment responsibilities. This includes supporting recipients to ensure employees are legally entitled to work in the UK.

### Calculating the Amount of Direct Payments

139. A local authority must ensure the value of a direct payment made is equivalent to its estimate of the reasonable cost of securing the care and support required, subject to any contribution or reimbursement the recipient is required to make. The value must be sufficient to enable the recipient, or their representative, to secure the care and support required to a standard the local authority considers reasonable. While there is no limit on the maximum or minimum amount of a direct payment, it must be sufficient to enable the outcomes to be met.

140. In calculating the value of a direct payment a local authority must include inherent costs associated with being a legal employer or by providing sufficient financial support to purchase an adequate legal service to ensure the recipient complies with the legalities of being an employer. A local authority must also consider including, on a case by case basis, discretionary costs associated with the requirements for achieving the recipient's personal outcomes. For example, non statutory liabilities such as an ex gratia bonus payment.

141. A local authority must keep abreast of any external factors such as regulatory changes imposed by central government which could determine the value of a payment. Adjustments to incorporate any changes must be made in a timely manner.

### Review of Direct Payments

142. A local authority must review the arrangements for the making of direct payments and how they are being used at intervals determined by the local authority in line with the requirements in this code for reviewing care and support

plans, but in any event at intervals no greater than 6 months after the first payment is made and 12 months following the first review.

## The Operation of Direct Payments

### Developing Direct Payments

143. In addition to working with individuals to develop ways in which they can meet their requirements, a local authority must develop its direct payment scheme to be responsive to solutions and outcomes, and more relevant to the communities they serve. A local authority must work in partnership with local care and support providers to support initiatives which will meet well-being outcomes not only in the traditional way but through the development of citizen led direct payment co-operatives and social enterprises.

### Information and Support

144. A local authority must provide appropriate, accessible information and support to enable people, or their representatives, to decide whether they wish to receive direct payments. The information and support provided must be suitable to meet their communication needs and must be sufficient for the person, or their representative, to be able to make an informed decision.

145. A local authority must develop local support services for direct payment recipients which are able to provide the help and assistance a recipient, or their representative, requires to receive and manage a direct payment. Support services must be able to meet the support requirements of a recipient to enable them to achieve their personal outcomes. Local authorities must explore, in partnership with recipients, the different models and ways support can be provided to ensure the arrangements they have in place are effective, responsive to recipients' requirements and are person centred.

146. In order to make an informed decision on whether to receive a direct payment, individuals need to understand what is involved in managing a direct payment. A local authority must provide, or arrange the provision of as early in the process as possible, information and support on what receiving direct payments will involve and ensure the person fully appreciate what this entails.

147. Managing direct payments is not simply about handling money. A local authority must ensure those requesting a direct payment fully understand this and that it involves them making their own arrangements to secure their care and

support, with assistance if necessary. Where appropriate, individuals must be advised that they are able to receive direct payments even if they manage part or none of it and their representative manages the remainder or all of the direct payments on their behalf.

148. When discussing how needs might be met via direct payments, a local authority must be prepared to be open to new ideas and be as flexible as possible. People must be encouraged to explore innovative and creative ways to identify how they might most effectively achieve outcomes in a way that aligns with their personal preferences.

**Ability to Manage**

149. A local authority must work with people to establish whether they are able to manage all aspects of their direct payments. Open, honest and frank discussions with the individual must take place to identify any areas of managing the direct payments they find difficult.

150. Where difficulties are identified, a local authority must ensure the right level of support to overcome this is available. Individuals must not be refused direct payments purely because they are unable to manage, or are apprehensive about managing, all or part of one. A local authority, in partnership with the person, must explore all the options in supporting the individual to manage their direct payments; this may include support on a short term basis to help the individual to familiarise themselves or on a medium or long term basis.

**Capacity to Consent - Appointing a Suitable Person**

151. In the case of adults with needs for care and support who lack capacity for the purposes of the Mental Capacity Act 2005, Direct Payments can be made to a willing and appropriate suitable person who receives and manages direct payments on their behalf. If an adult lacks capacity, and a suitable person is willing to receive direct payments on their behalf, the suitable person must be capable of managing the direct payments either on their own or with support. Provided that the suitable person is able to manage the direct payments, either with or without support, and is considered to have the individual's best interests at heart, the local authority must provide the direct payments to that suitable person.

152. In most instances the suitable person will be a close friend or family member involved in the care and support of the individual. Whatever the relationship a local authority must ensure that the best interests of the person lacking capacity are prioritised above all other considerations. Priority in respect of suitable

persons must be given to the following:

- someone who has been awarded Lasting Power of Attorney (LPA) but not just a financial LPA on its own

- someone who has been appointed a deputy for the person needing support by the Court of Protection under section 16 of the Mental Capacity Act 2005

- someone who offers to act as a suitable person and who the local authority considers is acting in the best interests of the person lacking capacity

- someone who the local authority themselves agree is suitable to act as a suitable person

- someone employed by an organisation or third party appointed by a local authority to act as a suitable person.

144. A local authority must be satisfied that direct payment recipient's needs, and personal outcomes, can be met via direct payments involving a suitable person before putting the mechanism in place. The authority must be satisfied that the relevant suitable person is capable of managing all aspects of the direct payments or if that is not the case, that they can with appropriate support.

145. The suitable person must understand what is involved in managing direct payments. A local authority must provide, or arrange the provision as early in the process as possible, information and support detailing what receiving direct payments involves. A local authority must ensure that the suitable person fully understands they have responsibility for making the arrangements to obtain the care and support for the individual they act for and that the person's best interest must be central to the arrangements. A suitable person must be aware they are able to seek assistance if necessary.

**Making Payments**

146. A local authority must be satisfied before it begins to make payments that the recipient, or their representative, understands all of the conditions they will be required to meet. Circumstances where the local authority might wish to consider seeking repayments must be discussed from the outset to dispel any misunderstandings.

147. A local authority must take into consideration the financial circumstances of the recipient when deciding whether to make a direct

payment gross or net.

148. A local authority must work in partnership with direct payment recipients, or their representative, to agree how frequent their direct payments should be made. Recipients, or their representatives, must be in a position to be able to pay for care and support or pay the wages of staff employed when payments are due. The arrangements to pay direct payments must be reliable, as late or incorrect payments may jeopardise the recipients' ability to obtain the care and support they need. A local authority must put in place the most appropriate payment arrangement in each case and must ensure that each recipient is clear about the arrangements applicable to them before the direct payments commence.

149. A local authority must have arrangements in place for making additional payments in emergencies. Recipients or their representatives must be made aware of these procedures and how they obtain additional payments if an emergency arises. This information must be made known at the outset to alleviate further pressure on the recipient.

150. The flexibility inherent in direct payments means that recipients, or their representatives, must be able to adjust the amount of the direct payment they use from week to week. They must be able to 'bank' any unused payment to use as and when extra needs arise (this might particularly be relevant for those whose needs fluctuate). As long as overall the payment is being used to achieve the recipient's personal outcomes, the actual weekly pattern of care and support does not need to be predetermined.

**Addressing Risks**

151. A local authority must work with direct payment recipients, or their representatives, to support them to take responsibility for identifying and managing any risks associated with the provision of their direct payments, particularly those in relation to their statutory responsibilities. Recipients must be supported to make choices about the risks they are comfortable with and about positive risk taking. Direct payment recipients must have access to timely information in connection with the risks identified and know how to get help when things go wrong. A local authority must support a recipient when they raise any concerns.

152. Local authorities must ensure their Disclosure and Barring Service (DBS) policies in relation to direct payments comply with current legislation and guidance. Local authorities must ensure that DBS checks, where required, comply with DBS safeguarding guidelines.

## Health and Safety

153. Local authorities must support direct payment recipients to be compliant with health and safety requirements arising from their direct payment. Local authorities must ensure they support those recipients who are employers with health and safety assessments of their employees and that resources are available to support this, particularly in relation to manual handling needs of their staff.

154. As part of the process local authorities must share with recipients, or their representatives, the results of any risk assessments that were carried out as part of the care and support assessment. This enables the individual to share the risk assessment with their employees and care and support providers.

## Direct Payment Recipients as Employers

155. A local authority must ensure that direct payment recipients, or their representatives, are fully aware of their legal responsibilities as an employer; this includes supporting recipients to ensure employers are legally entitled to work in the UK. Recipients or their representatives must receive the necessary support and resources to manage their employment responsibilities. A local authority must ensure that in each case, appropriate up to date liability insurance is in place and that recipients appreciate they have a legal duty of care for those they employ.

156. In promoting a person's personal outcomes, a local authority may authorise direct payments to pay a relative living in the same household as the recipient if they provide care and support or they manage the recipient's direct payments. When considering whether employing the relative will provide the best well-being outcome for that individual, the local authority must consider the views of the recipient before coming to a decision. Where appropriate safeguards are in place the employment of a relative living in the same household is often the most suitable way of providing care as it enables and supports continuity of care, recognition of personal choice and promotes early intervention. In each case, the local authority, after considering the recipient's views, must be satisfied that the employment of a close relative living in the same household is the best way of promoting and delivering their personal outcomes.

## Financial Monitoring

157. Local authorities must ensure their financial monitoring arrangements for direct payments are proportionate. Reports which are completed by a direct payment recipient or their representative must be user friendly and not over burdensome.

158. Local authority financial monitoring arrangements must ensure no decision to cancel or suspend a direct payment is taken without the prior involvement of the recipient, or their representative, and the authority's direct payments care and support coordinators.

159. How the direct payment is determined, whether gross or net of any contribution imposed, must be decided in collaboration with the local authority and the recipient or their representative.

160. When auditing accounts consideration must be given to the flexibility inherent to direct payments and the fluctuating weekly expenditure they inspire. Sufficient assets must remain in a recipient's direct payment account to enable them to meet their care and support requirements and any employment commitments they have.

**When Difficulties Arise**

161. A local authority must only make direct payments where it is satisfied the individual is capable of managing the payment, by themselves or with assistance. Where a local authority is concerned that an individual who wishes to receive direct payments will not be capable of managing the payments, even with support, it must ensure it takes into account, and subsequently records, all relevant factors as to why that decision is being made. The views of the individual and the help available must be recorded.

162. A local authority must not make blanket assumptions that whole groups of people will or will not be capable of managing direct payments. If a local authority concludes that an individual is not, even with assistance, able to manage a direct payment, it must discuss with them (and with any family, friends or representatives, as appropriate) the reasons for coming to such a conclusion. Where an individual, or their representative, does not agree with the authority's judgement they retain their right to access the local authority's complaints procedures.

163. If a direct payment recipient is unable to use their direct payments, a local authority must identify the reasons and in partnership with the person or their representative make appropriate modifications. This could include providing the direct payments to a representative, or a different

representative than present, to receive and manage the direct payments on that individual's behalf (either on a temporary or permanent basis), where that representative is willing to do so.

**When to Seek Repayment**

164. A local authority is able to require some or all of the money they have paid via a direct payment scheme to be repaid if they are satisfied it has not been used to secure the care and support a recipient requires, and their personal outcomes have not been achieved. They may also require repayment if the individual has not met any condition the local authority originally attached to the provision of the direct payments.

165. A local authority must assess when it is appropriate to seek recovery on a case by case basis, based on the individual circumstances. They must not operate a blanket policy of recovery that does not take into account the individual circumstances. Repayment must be aimed at recovering money that has been diverted from the purpose for which it was intended, or has simply not been spent at all. It must not be used to penalise honest mistakes, nor should repayment be sought where the individual has been the victim of fraud.

166. A local authority must take hardship considerations into account when deciding whether to seek repayments. A local authority must bear in mind there might be legitimate reasons for unspent funds, such as outstanding legal liabilities necessitating an individual to build up an apparent surplus (e.g. periodic employment payments for tax or national insurance purposes, or to pay periodically for care and support provision).

**Discontinuation of Direct Payments**

167. Prior to discontinuing a direct payment local authorities must explore all feasible options to continue to meet a recipient's care and support needs via direct payments. Only when it is not possible to achieve this should the direct payment be discontinued.

168. A local authority must stop making a direct payment where it is satisfied that the recipient's care and support needs, or their personal outcomes, are not being met and it is not possible to amend the provision of the direct payment to do so.

169. Direct payment recipients, or their representatives, may at any time voluntarily decide to terminate their direct payments. If a local authority decides to withdraw direct payments, or they are voluntarily terminated, and

the recipient has care and support needs which would otherwise be met by the authority it must make alternative arrangements for their delivery. A local authority must make recipients aware of the contractual responsibilities they have and the consequences they face when discontinuing direct payments.

170. In the event of a direct payment recipient's death the local authority must discontinue their direct payments. The situation must be handled with the utmost sensitivity and respect. The local authority must secure the name of an executor or next of kin to ensure the closure of the direct payment account and to make payment for any outstanding responsibilities without causing undue stress to the remaining relatives.

## Annex 1

**Case Scenarios to illustrate approach to eligibility of needs:**

### Learning Disabilities

Mr. Evans, a 45 year old man with learning disabilities who has been living with an elderly parent who has perhaps been over protective and done everything for him may need some form of reablement programme to help him move to new accommodation and take more responsibility for looking after himself. He is unable to carry out basic personal care activities and may need help to develop social networks. He will have short term intensive eligible needs where he has become very dependent but has the potential to develop skills to make him more independent. He will receive community based services alongside managed services delivered through a care and support plan. Productive social work and wellbeing services should, over time, support Mr. Evans to develop such independence skills that his needs no longer become eligible and he is either fully independent or is supported solely by community based services.

### Sensory Impairment

Mr. Davies recently presented with a serious sight impairment (blind) and may need to develop mobility, communication and life skills (e.g. meal preparation) from a rehabilitation officer. He may need some emotional support to come to terms with the fact that there is no further treatment available to improve his sight. He may also need specialist equipment. Where each of these can be provided by community based services - supporting Mr. Davies' capacity to self-care - then Mr. Davies will not be regarded as having eligible needs. Should any of these services not be available or be insufficient to help Mr. Davies to meet his personal outcomes, then that need will become an eligible need and services will be provided through a care and support plan.

### Dual sensory impairment

Iris, 78, has acquired deafblindness – she is hard of hearing and partially sighted. Following a specialist assessment for deafblind people by a suitably qualified assessor, Iris's personal outcome is identified as: I can socialise and engage with people in my local community.

They conclude that Iris will require a care and support plan, alongside accessing preventative community services, to enable her to meet her personal well-being

outcome. Iris's deteriorating hearing and eyesight mean that she will require one-to-one support from a specialist support worker trained to work with deafblind people to support her in using transport to reach the town centre. She attends a weekly social group for older people at the community hall in her town and requires her specialist support worker to make social engagement at the group accessible to her.

**Older Person**

Mr Jones is in hospital and his suitability for reablement service has been identified by hospital staff. Through a proportionate assessment, a reablement team identifies needs and agrees outcomes with Mr Jones and (carer) Mrs Jones. Mr. Jones has identified his personal outcomes:

1. I want to be able to wash and dress myself independently
2. I want to be able to have a bath but need help to get in and out of bath
3. I want to feel confident enough to be able to walk to the local shops
4. I want to take up some of my social activities I have drifted from over the last few years

Reablement is seen as a community based, preventative service and Mr Jones has no needs that require a managed care and support plan

At the review there is agreement that reablement has been a success and outcomes have been achieved. No further assistance is required. Mr and Mrs Jones are given information of how to get help should they require it in the future. Mr. Jones has received services that restore his level of functioning and without ever meeting the eligibility criteria for managed care and support.

Alternatively the review towards the end of the programme concludes that Mr Jones has recovered some measure of independence with support from the reablement programme but needs continuing care and support to help him with his personal care. Mr. Jones now meets the eligibility criteria and managed care and support services are delivered through a care and support plan. Community based services will continue where they are helping Mr Jones towards his personal outcomes and meeting his needs.

**Children & Family**

Megan, aged 6, lives with her mother and two year old brother. She receives additional support at school but bullies other children and is aggressive towards her mother. Mother is struggling to cope with Megan's behaviour.

The home is poorly furnished with no heating although there are toys for the children. Proportionate assessment is undertaken involving the manager of a children's centre and a teacher: practical advice is provided around managing behaviour and improving living conditions at home. These services are provided although neither Megan nor her family require a managed care and support plan and their needs do not meet the eligibility criteria.

A possible scenario is that Mother improves her skills in managing Megan's behaviour and Megan's behaviour improves both at home and school. Megan is now making better progress at school. Mother has received help with furniture from a local charity. Contact ends as the family are achieving objectives and there is no need for formal social services input with a formal care and support plan.

An alternative scenario is that although safeguarding issues have not arisen there is no improvement in the family circumstances and there is a serious risk of family breakdown. The family will meet the eligibility criteria because it cannot meet their needs and outcomes without the authority providing care and support which will be managed through a care and support plan.

A third scenario is that there is no improvement in Megan's behaviour at home or school and Mother is increasingly finding Megan's behaviour very stressful to deal with. Mother takes Megan to school and admits to teacher that last night she struck Megan across the back of the head. Safeguarding procedures are now applied. Social services are now formally involved and more intensive support is provided and managed through a formal care and support plan. This does not mean that Megan and her family cannot access preventative services if they are still appropriate.

**Carer**

Mrs Lloyd approached the Information, Advice and Assistance service as she is experiencing a level of carer's stress due to the caring role. Mrs Lloyd appeared tense and tired during the assessment but expressed that she did not feel that she required support from the general practitioner at this time. Mrs Lloyd stated that she had lost two stone in weight since May. However Mrs Lloyd states that when her husband gained weight so quickly they both went on a diet. It is now felt that her husband's weight gain was due to fluid retention. Mrs Lloyd expressed that she had disturbed sleep but it was not clear if this was due to anxiety or that her husband woke during the night. Mrs Lloyd expressed that she was coping and that their general situation at home had improved as her husband's health has improved.

Mrs Lloyd reported no difficulties with family or her husband's relationship and expressed that children and grandchildren are all very supportive.

Mrs Lloyd is over the age of retirement and did not express an interest in education pursuits

Mrs Lloyd stated that she did not feel that she was experiencing financial difficulty due to the caring role. Mr and Mrs Lloyd have not had a financial assessment to maximise their income and appear to be frugal by nature. A benefits advice referral will be made.

Mrs Lloyd has clearly been experiencing a degree of carer stress and an exploration of methods to relax and enjoy social activity may be of benefit to her. Mrs Lloyd was given details of the activities of and contacts for the local Carers Support Group which she felt confident in being able to access independently.

**Young Carer**

Lee is a 14 year old male who is the sole carer for his single mother Sian. He provides all but personal care needs for his mum. Sian has a number of physical impairments leading to frequent medical interventions and mobility problems spending the majority of her time in her bedroom. Sian has also developed dependency on prescription drugs with additional side effects of heightened anxiety. Lee will frequently leave or not attend school and when in school Lee is frequently disruptive and challenging.

Lee is unable to meet his well-being outcome in relation to education and development without the provision of a support plan and so meets the eligibility criteria. But in this case the support plan involves the provision of care and support services to Lee's mum. Care and support services are provided for Sian during the day through a care and support plan and Sian is assisted to seek medical and psychiatric intervention to address her anxiety levels.

## Annex 2

### Principles of cross-border continuity of care within the United Kingdom

These principles set out how responsible authorities in the United Kingdom should ensure continuity of care for adults who receive care and support and are moving to another country within the United Kingdom.

The aims of the principles are to maintain the adult's wellbeing and prevent them from falling into crisis; ensure that the adult is at the centre of the process; and to require that responsible authorities should work together and share information in a timely manner to ensure needs are being met both on the day of the move and subsequently.

Responsible authorities should meet the adult's assessed care needs and support the outcomes they want to achieve. It is recognised that those needs may be met in a different way when the adult moves to the new country.

These principles should be applied in a manner consistent with existing legislation for the delivery of care and support in each of the four UK countries.

The principles of cross-border cooperation are:

1. Responsible authorities should ensure a person-centred process and take into account the outcomes an adult wishes to achieve.
2. Responsible authorities should work together and share information about their local care and support system and services.
3. The adult moving should be given relevant information, in an accessible format, about local care and support provision in the authority they are moving to.
4. Responsible authorities should work together to support a move across national boundaries to ensure the adult's care and support is continued during the move.
5. Responsible authorities should share relevant information about the adult's care and support needs and any other information which they believe necessary in a timely manner and with the consent of the adult involved.

### Definition

'Responsible authorities' means the local authority, Integration Authority or Health and Social Care (HSC) Trust responsible for the assessment of an adult's care during the period of their move.

**Care and Support (Eligibility) (Wales) Regulations 2015**

**Changes to the Code of Practice on Part 3 and 4.**

The Health and Social Care Committee scrutinised the Care and Support (Eligibility) (Wales) Regulations 2015 and the associated code of practice to consider whether they will achieve the aim of the Social Services and Well-being (Wales) Act 2014. The Committee issued a call for written evidence and heard oral evidence from a range of stakeholders at the meeting on 11 June.

The purpose of this work was to inform Assembly Members' preparation for their consideration of the regulations in Plenary on 14 July. Whilst the evidence presented did not suggest that the Assembly should reject the regulations, concerns were raised with regards to a number of issues. The Committee advised that these concerns should be addressed by making changes to the code of practice on eligibility. The following table documents the changes made to reflect the points raised.

| **HSC Committee Comments** | **Response** | |
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| | **Part 3** | **Part 4** |
| **Community resources**<br>We note the concerns raised by stakeholders around the consistency and availability of community preventative services across Wales, particularly given the Welsh Government's intention that more people can be signposted to these services, and fewer people will require formal care and support services. We believe that the eligibility framework should set out explicitly that if a suitable preventative service (or alternative option) is not available to meet an individual's needs and well-being outcomes, they must automatically become eligible. We recommend that the code of practice accompanying these regulations be amended to:<br>➢ include a requirement to record a person's need and well-being outcome; and<br>➢ specify exactly how a particular community | The code of practice has reinforced the requirement in the assessment regulations to record the outcome and how it will be met with a specific reference to this requirement. The outcome must be recorded in the National Assessment and Eligibility Tool. | Additional text added to the section on the National Eligibility Criteria on page 7.<br><br>New reference added to the section on the Care Planning Process on page 15. |

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| service would be meeting that need and well-being outcome. | | |
| **'Can and can only' test**<br>We note concerns raised regarding a potential delay in accessing services should an individual be required to demonstrate that they had tried all other options (such as a generic community service) before they can become eligible for care and support arranged by a local authority. We agree with the view expressed by stakeholders that individuals should not experience delays in accessing services or feel under unnecessary pressure to demonstrate that they are unable to meet their well-being outcomes without care and support arranged by the local authority. We recommend that steps are taken through guidance to local authorities to firmly clarify their responsibilities prior to the commencement of the regulations.<br>We strongly believe that the code of practice should be clear that the responsibility for demonstrating that an individual's needs and well-being outcomes can be met through community services should be placed on the local authority rather than on the individual. We recommend that the code of practice be amended to reflect this. | Included in National Assessment and Eligibility Tool p13.<br><br>Included in section on Results of an Assessment p 23. | Additional text under section on Process P5<br><br>Expanded paragraph to set out the process of determining eligibility in more detail under the section headed National Eligibility Criteria on p5.<br><br>Also added text in same section on P7. |
| **Impact on carers**<br>We would be very concerned if the introduction of these regulations resulted in increased pressure on unpaid carers to fulfil the care needs of their family and friends in place of local authority provided care. We recommend that the code of practice be amended | Reference to record under section on common principles for assessment on p12.<br><br>Additional text under section on results of assessment p24. | Additional text included in section on National Eligibility Criteria on p7. |

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| to:<br>• make it clear that there should not be an over-reliance on voluntary caring arrangements; and<br>• include a requirement for the willingness and ability of a carer to provide care, at present and in the future, to be recorded as part of the eligibility criteria process. | | |
| **Best interests of the person**<br>We believe that when making decisions about a person's needs, it is vital that the local authority interpret the 'can and can only' criteria in a way that meets the best interests of that individual and enables them to achieve their well-being outcomes. We recommend that this should be made clear to local authorities through guidance on the implementation of the regulations. | The well-being of an individual is central to the Act and the model of social care set out in the codes. Reference to best interests has been included in the section on additional considerations for children on p16 to maintain the requirement in the Framework for Assessment of Children in Need and their Families. The well-being and personal outcomes of adults is central to the assessment process throughout the codes. | |
| **Advocacy**<br>We share the views of stakeholders that access to independent advocacy should be available as a matter of course to all children and for adults who require this assistance. We recommend that the code of practice be amended to strengthen these provisions. This is particularly important to ensure that support is provided to anyone involved in the eligibility process who needs access to an independent | New paragraph added on page 3 and further guidance under Part 10 of the Act. | New paragraph added on page 3 and further guidance under Part 10 of the Act. |

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| advocate to enable them to understand their rights and how decisions are taken. | | |
| **Reviewing decisions**<br>We welcome the clarification provided in the Minister's letter of 10 June that someone can request a review or re-assessment at any time should they feel that the care service they receive does not meet their needs. However, we believe that the code of practice should set out a prescribed mechanism that:<br>• enables an individual to challenge formally eligibility decisions; and<br>• sets out clearly the timescale within which an individual should receive a re-assessment.<br>We strongly believe that service users should feel confident in their ability to seek redress if they believe that the solution provided by the local authority does not – or will not - meet their needs and well-being outcomes. We also believe that, in requesting a re-assessment, service users should not have to demonstrate that their circumstances have changed significantly. In order to provide clarity to local authorities and service users, we recommend that the code of practice is amended to:<br>• reflect the information about re-assessment outlined in the Minister's letter of 10 June; and<br>• set out the formal arrangements for users to seek redress outlined above. | Additional text added on Re-assessments section p20. | |
| **UN convention on the Rights of Disabled People**<br>We believe that consistency across the relevant pieces of primary and secondary legislation is | | Reference inserted on page 2. |

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| important for ensuring that provisions are implemented fairly and that service users can access the care they require to meet their needs. We therefore recommend that the code of practice on eligibility make reference to the United Nations Convention on Disabled People, as well as the United Nations Convention on the Rights of the Child and the United Nations Principles for Older People. | | |
| **Reviewing the implementation of the Regulations**<br>We believe that service providers have a responsibility to ensure that people's needs are being met in order to allow them to fulfil their well-being outcomes. We recommend that the Welsh Government and local authorities monitor closely the implementation of these regulations at an early stage to ensure that the needs of individuals are being met. Additionally, in the legacy report which we will publish at end of this Assembly, we will recommend that our successor committee review the implementation of these regulations at an appropriate time. | A commitment has been made in previous correspondence with the Committee and Plenary which supports the need for close monitoring and evaluation. | |