

# **SOCIAL SERVICES AND WELL- BEING (WALES) ACT 2014**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 25 – Refusal of a needs assessment for an adult carer***

76. **Section 25** provides that the local authority's duty to assess an adult carer's needs does not apply if the carer refuses a needs assessment and has capacity to decide whether to refuse the assessment.
77. Similarly, the duty to assess an adult carer's needs does not apply if the carer lacks capacity to decide whether to refuse an assessment, and an authorised person makes the decision to refuse the assessment on their behalf. An 'authorised person' is defined in subsection (4) as a person authorised under the Mental Capacity Act 2005 (whether in general or specific terms) to decide whether to refuse, or ask for, a needs assessment on the carer's behalf.
78. However, if an adult carer refuses a needs assessment in circumstances in which the local authority is satisfied that the carer lacks capacity and that there is no authorised person who can act on the carer's behalf, the local authority is nonetheless required to undertake an assessment of the carer's needs if it is satisfied that having the assessment would be in the carer's best interests.
79. Where the duty to assess a carer's needs has been discharged by a refusal, the duty is re-engaged if the carer (or an authorised person acting on his or her behalf) asks at a later date for an assessment or if the local authority is satisfied that the carer's circumstances have changed.