

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

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 47– Exception for provision of health services***

173. **Section 47** sets out limitations on a local authority’s powers to provide health services.
174. The starting point (subsection (1)) is that a local authority is not permitted to meet a person’s needs for care and support by providing health care services which are required to be provided under a health enactment (defined in subsection (10)). This prohibition also applies in relation to a local authority’s powers to provide preventative services under section 15.
175. However, this prohibition does not apply to the provision of health care services which are “incidental or ancillary” to something else that the local authority is doing to meet a person’s needs under sections 35 to 45 or to the provision of other services under section 15. Local authorities can in certain circumstances allow staff with appropriate training, support and supervision to take on certain specified health related tasks whilst providing social care. An example of this is the provision of support with the administration of some medication.
176. Subsection (3) enables the Welsh Ministers to make regulations as to whether local authorities do, or do not have, powers to provide certain types of services or facilities and as to whether the provision of health care services is “incidental or ancillary”.
177. Even where a local authority does have the power to provide health care services, they are still prohibited from meeting needs or providing preventative services by providing or arranging the provision of nursing care by a registered nurse. “Nursing care” is defined in subsection (10).
178. Subsection (6) makes clear the prohibition on a local authority providing nursing care does not prevent it from arranging for the provision of accommodation in a nursing home, provided consent has been obtained from the relevant NHS body (specified in regulations), or the case is an urgent one and consent is obtained as soon as possible after the arrangements are made. In these circumstances, the nursing care element will be funded by the NHS in accordance with arrangements for NHS funded nursing care.
179. Subsection (8) enables regulations to be made requiring arrangements to be made in connection with the resolution of disputes between local authorities and NHS bodies.
180. Regulations under subsection (8) can also require local authorities to be involved in the process for assessing a person’s needs for health care and deciding how those needs will be met. Regulations could be made under this subsection, for example, to require local authority involvement in the procedures for determining eligibility for Continuing Health Care.

*These notes refer to the Social Services and Well-being (Wales)  
Act 2014 (c.4) which received Royal Assent on 1 May 2014*

181. Subsection (9) makes clear this section does not prohibit local authorities from doing anything that they, as local authorities, have the power to do under the National Health Service (Wales) Act 2006. This includes, in particular, entering into partnership arrangements with NHS bodies under section 33 of the 2006 Act.