



Social Services and Well-being (Wales) Act 2014

2014 anaw 4

PART 4

MEETING NEEDS

Deciding what to do following needs assessment

32 Determination of eligibility and consideration of what to do to meet needs

- (1) Where a local authority is satisfied, on the basis of a needs assessment, that a person has needs for care and support or, if the person is a carer, needs for support, the authority must—
 - (a) determine whether any of the needs meet the eligibility criteria;
 - (b) if the needs do not meet the eligibility criteria, determine whether it is nevertheless necessary to meet the needs in order to protect the person from—
 - (i) abuse or neglect or a risk of abuse or neglect (if the person is an adult);
 - (ii) abuse or neglect or a risk of abuse or neglect, or other harm or a risk of such harm (if the person is a child);
 - (c) determine whether the needs call for the exercise of any function it has under this Act or Parts 4 or 5 of the Children Act 1989, in so far as the function is relevant to that person;
 - (d) consider whether the person would benefit from the provision of anything that may be provided by virtue of section 15 (preventative services) or 17 (information, advice and assistance) or anything else that may be available in the community.
- (2) If a local authority determines that any needs must be met, or are to be met, under sections 35 to 45, the authority must—
 - (a) consider what could be done to meet those needs;

- (b) consider whether it would impose a charge for doing those things, and if so, determine the amount of that charge (see Part 5).
- (3) Regulations must make provision about the discharge of the duty under subsection (1)
 - (a).
- (4) Needs meet the eligibility criteria if they—
 - (a) are of a description specified in regulations, or
 - (b) form part of a combination of needs of a description so specified.
- (5) The regulations may, for example, describe needs by reference to—
 - (a) the effect that the needs have on the person concerned;
 - (b) the person's circumstances.

33 Procedure for regulations under section 32

- (1) Before making regulations under section 32(3) or (4), the Welsh Ministers must carry out the following steps.
- (2) The Welsh Ministers must consult—
 - (a) such persons as appear to them likely to be affected by the regulations,
 - (b) such organisations as appear to them to represent the interests of persons likely to be affected by the regulations, and
 - (c) such other persons as they consider appropriate,on the proposed draft regulations.
- (3) The Welsh Ministers must—
 - (a) allow those persons a period of at least 12 weeks to submit comments on the proposed draft regulations,
 - (b) consider any comments submitted within that period, and
 - (c) publish a summary of those comments.
- (4) The Welsh Ministers must lay a draft of the regulations before the National Assembly for Wales.
- (5) Draft regulations laid under subsection (4)—
 - (a) must be accompanied by a statement of the Welsh Ministers giving details of any differences between the draft regulations consulted on under subsection (2) and the draft regulations laid under subsection (4), and
 - (b) may not be approved by a resolution of the National Assembly for Wales in accordance with section 196(6) until after the expiry of the period of 60 days beginning with the day on which the draft regulations are laid.

34 How to meet needs

- (1) The following are examples of the ways in which a local authority may meet needs under sections 35 to 45—
 - (a) by arranging for a person other than the authority to provide something;
 - (b) by itself providing something;
 - (c) by providing something, or by arranging for something to be provided, to a person other than the person with needs for care and support (or, in the case of a carer, support).

- (2) The following are examples of what may be provided or arranged to meet needs under sections 35 to 45—
- (a) accommodation in a care home, children’s home or premises of some other type;
 - (b) care and support at home or in the community;
 - (c) services, goods and facilities;
 - (d) information and advice;
 - (e) counselling and advocacy;
 - (f) social work;
 - (g) payments (including direct payments);
 - (h) aids and adaptations;
 - (i) occupational therapy.
- (3) Where a local authority is meeting a person’s needs under sections 35 to 45 by providing or arranging care and support at the person’s home, the local authority must satisfy itself that any visits to the person’s home for that purpose are of sufficient length to provide the person with the care and support required to meet the needs in question.
- (4) A code issued under section 145 must include guidelines as to the length of visits to a person’s home for the purpose of providing care and support.
- (5) See sections 47 (exception for provision of health services), 48 (exception for provision of housing etc) and 49 (restrictions on provision of payments) for limitations on what may be provided or arranged to meet needs for care and support and the way in which it may be provided or arranged.