



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2015 Rhif 1305 (Cy. 111)

2015 No. 1305 (W. 111)

**GOFAL CYMDEITHASOL,
CYMRU**

SOCIAL CARE, WALES

**Rheoliadau Gofal a Chymorth
(Asesu) (Cymru) 2015**

**The Care and Support (Assessment)
(Wales) Regulations 2015**

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Mae adrannau 19, 21 a 24 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 yn gosod dyletswyddau ar awdurdod lleol i asesu anghenion oedolyn am ofal a chymorth, anghenion plentyn am ofal a chymorth ac anghenion gofalwr am gymorth. Mae'r Rheoliadau hyn yn gwneud darpariaeth bellach ynghylch asesiadau o'r fath.

Sections 19, 21 and 24 of the Social Services and Well-being (Wales) Act 2014 impose duties on a local authority to assess an adult's needs for care and support, a child's needs for care and support and a carer's needs for support. These Regulations make further provision about such assessments.

Mae rheoliad 2 yn gwneud darpariaeth ynghylch cydgyssylltu asesiadau. Mae rheoliad 3 yn gwneud darpariaeth ynghylch hyfforddiant ac arbenigedd personau sy'n cynnal asesiad.

Regulation 2 makes provision about the co-ordination of assessments. Regulation 3 makes provision about the training and expertise of persons carrying out an assessment.

Mae rheoliad 4 yn gwneud darpariaeth ynghylch y materion y mae'n rhaid i'r awdurdod lleol roi sylw iddynt wrth gynnal asesiad.

Regulation 4 makes provision about the matters to which the local authority must have regard when carrying out an assessment.

Mae rheoliad 5 yn gwneud darpariaeth ar gyfer cofnodi asesiadau ac mae rheoliad 6 yn ymdrin â'r personau y mae'n rhaid i'r awdurdod lleol gynnig rhoi copi o'r cofnodion hynny iddynt.

Regulation 5 makes provision for the recording of assessments and Regulation 6 deals with the persons to whom the local authority must offer to give a copy of such records.

Mae rheoliad 7 yn gwneud darpariaeth ar gyfer adolygu asesiad, gan gynnwys yr amgylchiadau lle y mae'n rhaid i'r awdurdod lleol adolygu'r asesiad, y personau a gaiff ofyn am adolygiad o'r asesiad, yr amgylchiadau lle y mae'n rhaid i'r awdurdod lleol gydymffurfio â'r cais hwnnw a'r amgylchiadau lle y caiff wrthod gwneud hynny.

Regulation 7 makes provision for the review of an assessment, including the circumstances in which the local authority must review the assessment, the persons who may request a review of the assessment, the circumstances in which the local authority must comply with such a request and the circumstances in which they may refuse to do so.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi drwy gysylltu â'r Adran Iechyd a Gwasanaethau Cymdeithasol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained by contacting the Department for Health and Social Services, Welsh Government, Cathays Park, Cardiff CF10 3NQ.

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Gwnaed 6 Mai 2015

Made 6 May 2015

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 8 Mai 2015

Laid before the National Assembly for Wales
8 May 2015

Yn dod i rym 6 Ebrill 2016

Coming into force 6 April 2016

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adran 30 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(1), yn gwneud y Rheoliadau a ganlyn:

The Welsh Ministers, in exercise of the powers conferred by section 30 of the Social Services and Well-being (Wales) Act 2014(1), make the following Regulations:

Enwi, cychwyn, cymhwyso a dehongli

Title, commencement, application and interpretation

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Gofal a Chymorth (Asesu) (Cymru) 2015.

1.—(1) The title of these Regulations is the Care and Support (Assessment) (Wales) Regulations 2015.

(2) Daw'r Rheoliadau hyn i rym ar 6 Ebrill 2016 ac maent yn gymwys o ran Cymru.

(2) These Regulations come into force on 6 April 2016 and apply in relation to Wales.

(3) Yn y Rheoliadau hyn—

(3) In these Regulations—

ystyr “asesiad” ac “asesu” (“*assessment*”) yw asesiad a gynhelir gan awdurdod lleol o dan adran 19, 21 neu 24 o'r Ddeddf;

“assessment” (“*asesiad ac asesu*”) means an assessment which is carried out by a local authority under section 19, 21 or 24 of the Act;

ystyr “canlyniadau personol” (“*personal outcomes*”) yw'r canlyniadau sydd wedi eu nodi mewn perthynas â pherson yn unol ag adran 19(4)(a), 21(4)(b) neu 24(4)(c) neu (d) o'r Ddeddf;

“personal outcomes” (“*canlyniadau personol*”) means the outcomes which have been identified in relation to a person in accordance with section 19(4)(a), 21(4)(b) or 24(4)(c) or (d) of the Act;

ystyr “y Ddeddf” (“*the Act*”) yw Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014.

“the Act” (“*y Ddeddf*”) means the Social Services and Well-being (Wales) Act 2014.

Cydgysylltu

Co-ordination

2. Rhaid i'r awdurdod lleol sy'n gyfrifol am gynnal asesiad sicrhau bod unigolyn a enwir a chanddo'r

2. The local authority responsible for carrying out an assessment must ensure that there is a named

(1) 2014 dccc 4.

(1) 2014 anaw 4.

swyddogaeth o gydgyssylltu'r modd y mae'r asesiad yn cael ei gynnal.

Hyfforddiant, arbenigedd ac ymgynghori

3.—(1) Rhaid i awdurdod lleol sicrhau bod unrhyw berson sy'n cynnal asesiad—

- (a) yn meddu ar y sgiliau, yr wybodaeth a'r cymhwysedd i gynnal yr asesiad o dan sylw, a
- (b) wedi cael hyfforddiant i gynnal asesiadau.

(2) Wrth gynnal asesiad, rhaid i awdurdod lleol ystyried a yw natur anghenion y person yn galw am ymglymiad person a chanddo sgiliau arbenigol, gwybodaeth arbenigol neu arbenigedd.

(3) Os yw'r awdurdod lleol yn penderfynu bod galw am ymglymiad o'r fath, rhaid iddo naill ai ymgynghori â pherson a fyddai'n gallu darparu'r sgiliau hynny neu'r wybodaeth honno neu'r arbenigedd hwnnw neu drefnu i'r asesiad gael ei gynnal gan berson a chanddo'r sgiliau arbenigol, yr wybodaeth arbenigol neu'r arbenigedd sy'n ofynnol.

Ystyriaethau y mae'n rhaid i'r awdurdod lleol roi sylw iddynt

4. Wrth gynnal asesiad, rhaid i awdurdod lleol—

- (a) asesu amgylchiadau'r person a rhoi sylw iddynt,
- (b) rhoi sylw i'r canlyniadau personol,
- (c) asesu unrhyw rwystrau i sicrhau'r canlyniadau hynny a rhoi sylw i'r rhwystrau hynny,
- (d) asesu unrhyw risgiau i'r person ac i bersonau eraill os na chaiff y canlyniadau hynny eu sicrhau, a rhoi sylw i'r risgiau hynny, ac
- (e) asesu cryfderau a galluedd y person a rhoi sylw iddynt.

Cofnodion ysgrifenedig o asesiadau

5.—(1) Pan fydd asesiad wedi ei gwblhau, rhaid i'r awdurdod lleol wneud cofnod ysgrifenedig o ganlyniadau'r asesiad a'r materion y mae'r awdurdod wedi rhoi sylw iddynt wrth gynnal yr asesiad.

(2) Os yw'r awdurdod lleol, yng nghwrs cynnal yr asesiad, yn ystyried y gallai darparu gwasanaethau ataliol, darparu gwybodaeth, cyngor neu gynhorthwy, neu faterion eraill, gyfrannu at gyflawni'r canlyniadau personol neu fel arall ddiwallu'r anghenion a nodwyd yn yr asesiad, rhaid i'r cofnod ysgrifenedig—

- (a) cynnwys manylion y ddarpariaeth honno neu'r materion hynny, a

individual whose function is to co-ordinate the carrying out of the assessment.

Training, expertise and consultation

3.—(1) A local authority must ensure that any person carrying out an assessment—

- (a) has the skills, knowledge and competence to carry out the assessment in question, and
- (b) has received training in the carrying out of assessments.

(2) When carrying out an assessment, a local authority must consider whether the nature of the person's needs calls for the involvement of a person who has specialist skills, knowledge or expertise.

(3) If the local authority decides that such involvement is called for, it must either consult with a person who it considers will be able to provide those skills or that knowledge or expertise or arrange for the assessment to be carried out by a person with the required specialist skills, knowledge or expertise.

Considerations to which the local authority must have regard

4. In carrying out an assessment, a local authority must—

- (a) assess and have regard to the person's circumstances,
- (b) have regard to the personal outcomes,
- (c) assess and have regard to any barriers to achieving those outcomes,
- (d) assess and have regard to any risks to the person or to other persons if those outcomes are not achieved, and
- (e) assess and have regard to the person's strengths and capabilities.

Written records of assessments

5.—(1) When an assessment has been completed, the local authority must make a written record of the results of the assessment and the matters to which the authority has had regard in carrying out the assessment.

(2) If, in the course of carrying out the assessment, the local authority considers that the provision of preventative services, the provision of information, advice or assistance or other matters could contribute to the achievement of the personal outcomes or otherwise meet needs identified in the assessment, the written record must—

- (a) include details of that provision or those matters, and

- (b) cynnwys manylion ynghylch sut y gallai'r ddarpariaeth honno neu'r materion hynny gyfrannu at gyflawni'r canlyniadau personol neu fel arall ddiwallu'r anghenion a nodwyd yn yr asesiad.

Copiau o gofnodion

6.—(1) Pan fo'r asesiad yn asesiad o anghenion oedolyn (gan gynnwys anghenion gofalwr sy'n oedolyn), rhaid i'r awdurdod lleol gynnig rhoi copi o'r cofnod i—

- (i) yr oedolyn,
- (ii) unrhyw berson sydd wedi ei awdurdodi i weithredu ar ran yr oedolyn, a
- (iii) pan na fo gan yr oedolyn alluedd i fedru gofyn i berson weithredu ar ei ran ac nad oes unrhyw berson wedi ei awdurdodi i weithredu ar ei ran, unrhyw berson sy'n gweithredu er lles pennaf yr oedolyn ym marn yr awdurdod lleol.

(2) Pan fo'r asesiad yn asesiad o anghenion plentyn (gan gynnwys anghenion gofalwr sy'n blentyn), rhaid i'r awdurdod lleol gynnig rhoi copi o'r cofnod i—

- (i) y plentyn,
- (ii) unrhyw berson sydd â chyfrifoldeb rhiant dros y plentyn, oni fyddai gwneud hynny'n anghyson â llesiant y plentyn,
- (iii) unrhyw berson sydd wedi ei awdurdodi i weithredu ar ran y plentyn, a
- (iv) pan na fo gan y plentyn alluedd neu pan na fo'n gymwys i ofyn i berson weithredu ar ei ran ac nad oes unrhyw berson wedi ei awdurdodi i weithredu ar ei ran, unrhyw berson sy'n gweithredu er lles pennaf y plentyn ym marn yr awdurdod lleol.

(3) Yn y rheoliad hwn ac yn rheoliad 7, mae person wedi ei awdurdodi i weithredu ar ran oedolyn neu blentyn—

- (a) os yw'r oedolyn neu'r plentyn wedi gofyn i'r person weithredu ar ei ran, neu
- (b) os nad oes gan yr oedolyn neu'r plentyn alluedd a bod y person wedi ei awdurdodi o dan Ddeddf Galluedd Meddwl 2005 (p'un ai yn nhermau cyffredinol neu benodol) i wneud penderfyniadau ynghylch asesu anghenion y person.

- (b) include details of how that provision or those matters could contribute to the achievement of the personal outcomes or otherwise meet needs identified in the assessment.

Copies of records

6.—(1) Where the assessment is of an adult's needs (including the needs of an adult carer), the local authority must offer to give a copy of the record to—

- (i) the adult,
- (ii) any person authorised to act on behalf of the adult, and
- (iii) where the adult lacks capacity to be able to request a person to act on their behalf and there is no person authorised to act on their behalf, any person who the local authority considers to be acting in the best interests of the adult.

(2) Where the assessment is of a child's needs (including the needs of a child carer), the local authority must offer to give a copy of the record to—

- (i) the child,
- (ii) any person with parental responsibility for the child, unless doing so would be inconsistent with the child's well-being,
- (iii) any person authorised to act on behalf of the child, and
- (iv) where the child lacks capacity or is not competent to request a person to act on their behalf and there is no person authorised to act on their behalf, any person who the local authority considers to be acting in the best interests of the child.

(3) In this regulation and in regulation 7, a person is authorised to act on behalf of an adult or a child if—

- (a) the adult or the child has requested the person to act on their behalf, or
- (b) the adult or child lacks capacity and the person is authorised under the Mental Capacity Act 2005 (whether in general or in specific terms) to make decisions about the assessment of the person's needs.

Adolygiadau

7.—(1) Rhaid i awdurdod lleol adolygu asesiad os yw'n ymddangos iddo fod newid sylweddol wedi bod yn amgylchiadau'r person neu yn ei ganlyniadau personol.

(2) Caiff y personau canlynol ofyn am adolygiad o asesiad—

- (a) pan fo'r asesiad yn asesiad o anghenion oedolyn (gan gynnwys anghenion gofalwr sy'n oedolyn)—
 - (i) yr oedolyn;
 - (ii) unrhyw berson sydd wedi ei awdurdodi i weithredu ar ran yr oedolyn;
- (b) pan fo'r asesiad yn asesiad o anghenion plentyn (gan gynnwys anghenion gofalwr sy'n blentyn)—
 - (i) y plentyn;
 - (ii) unrhyw berson sydd â chyfrifoldeb rhiant dros y plentyn;
 - (iii) unrhyw berson sydd wedi ei awdurdodi i weithredu ar ran y plentyn.

(3) Rhaid i'r awdurdod lleol gydymffurfio â'r cais os yw wedi ei fodloni bod newid sylweddol wedi bod yn amgylchiadau'r person neu yn ei ganlyniadau personol.

(4) Caiff yr awdurdod lleol wrthod cydymffurfio â'r cais os yw wedi ei fodloni nad oes unrhyw newid sylweddol wedi bod yn amgylchiadau'r person neu yn ei ganlyniadau personol ers i'r asesiad gael ei gwblhau.

Reviews

7.—(1) A local authority must review an assessment if it appears to it that there has been a significant change in the person's circumstances or in their personal outcomes .

(2) The following persons may request a review of an assessment—

- (a) where the assessment is of an adult's needs (including the needs of an adult carer)—
 - (i) the adult;
 - (ii) any person authorised to act on behalf of the adult;
- (b) where the assessment is of a child's needs (including the needs of a child carer)—
 - (i) the child;
 - (ii) any person with parental responsibility for the child;
 - (iii) any person authorised to act on behalf of the child.

(3) The local authority must comply with the request if it is satisfied that there has been a significant change in the person's circumstances or in their personal outcomes.

(4) The local authority may refuse to comply with the request if it is satisfied that there has not been any significant change in the person's circumstances or in their personal outcomes since the assessment was completed.

Mark Drakeford

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol,
un o Weinidogion Cymru

6 Mai 2015

Minister for Health and Social Services, one of the
Welsh Ministers

6 May 2015

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£4.25

W2387/08/15

ON

ISBN 978-0-348-11138-5



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