



# Social Services and Well-being (Wales) Act 2014

2014 anaw 4

## PART 3

### ASSESSING THE NEEDS OF INDIVIDUALS

#### *Assessing children*

#### **21 Duty to assess the needs of a child for care and support**

- (1) Where it appears to a local authority that a child may need care and support in addition to, or instead of, the care and support provided by the child's family, the authority must assess—
  - (a) whether the child does need care and support of that kind, and
  - (b) if the child does, what those needs are.
- (2) The duty under subsection (1) applies in relation to—
  - (a) a child who is ordinarily resident in the authority's area, and
  - (b) any other child who is within the authority's area.
- (3) The duty under subsection (1) applies regardless of the local authority's view of—
  - (a) the level of the child's needs for care and support, or
  - (b) the level of the financial resources of the child or any person with parental responsibility for the child.
- (4) In carrying out a needs assessment under this section, the local authority must—
  - (a) assess the developmental needs of the child,
  - (b) seek to identify the outcomes that—
    - (i) the child wishes to achieve, to the extent it considers appropriate having regard to the child's age and understanding,

*Status: Point in time view as at 06/04/2016.*

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- (ii) 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, and
  - (iii) persons specified in regulations (if any) wish to achieve in relation to the child,
  - (c) assess whether, and if so, to what extent, the provision of—
    - (i) care and support,
    - (ii) preventative services, or
    - (iii) information, advice or assistance,
 could contribute to the achievement of those outcomes or otherwise meet needs identified by the assessment,
  - (d) assess whether, and if so, to what extent, other matters could contribute to the achievement of those outcomes or otherwise meet those needs, and
  - (e) take account of any other circumstances affecting the child's well-being.
- (5) A local authority, in carrying out a needs assessment under this section, must involve—
- (a) the child, and
  - (b) any person with parental responsibility for the child.
- (6) The nature of the needs assessment required by this section is one that the local authority considers proportionate in the circumstances, subject to any requirement in regulations under section 30.
- (7) For the purposes of subsection (1) 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.
- (8) This section does not apply to a child looked after by—
- (a) a local authority,
  - (b) a local authority in England,
  - (c) a local authority in Scotland, or
  - (d) a Health and Social Care trust.

#### Commencement Information

**II** S. 21 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

## 22 Refusal of a needs assessment for a child aged 16 or 17

- (1) If a child aged 16 or 17 (or, where applicable, an authorised person) refuses a needs assessment under section 21, the duty under that section to assess the child's needs does not apply.
- (2) If a person with parental responsibility for a child aged 16 or 17 refuses a needs assessment for that child under section 21 in circumstances in which the local authority is satisfied that—
  - (a) the child lacks capacity to decide whether to refuse to have the assessment, and
  - (b) there is no authorised person to make the decision on the child's behalf,
 the duty under that section to assess the child's needs does not apply.
- (3) But a refusal under subsection (1) or (2) does not discharge a local authority from its duty under section 21 in the following cases—

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CASE 1 - the local authority is satisfied, in the case of a refusal given by a child, that the child lacks capacity to decide whether to refuse to have the assessment;

CASE 2 - the local authority is satisfied, in the case of a refusal given by a person with parental responsibility for the child, that the person lacks capacity to decide whether to refuse the assessment;

CASE 3 - the local authority is satisfied, in the case of a refusal given by a person with parental responsibility for the child, that not having the assessment would not be in the child's best interests;

CASE 4 – the local authority suspects that the child is experiencing or at risk of abuse, neglect or other kinds of harm.

(4) Where a local authority has been discharged from its duty under section 21 by a refusal under this section, the duty is re-engaged if—

- (a) the child (or, where applicable, an authorised person) subsequently asks for an assessment,
- (b) a person with parental responsibility for the child subsequently asks for an assessment in the circumstances described in subsection (2), or
- (c) the local authority considers that the child's needs or circumstances, or the needs or circumstances of a person with parental responsibility for the child, have changed,

(subject to any further refusal under this section).

(5) In this section “authorised person” means 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 child's behalf.

#### **Commencement Information**

**I2** S. 22 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

### **23 Refusal of a needs assessment for a child aged under 16**

(1) If—

- (a) a child aged under 16 refuses a needs assessment under section 21, and
- (b) the local authority is satisfied that the child has sufficient understanding to make an informed decision about the refusal of the assessment,

the duty under that section to assess the child's needs does not apply.

(2) If a person with parental responsibility for a child aged under 16 refuses a needs assessment for that child under section 21, the duty under that section to assess the child's needs does not apply.

(3) But a refusal under subsection (1) or (2) does not discharge a local authority from its duty under section 21 in the following cases—

CASE 1 - the local authority is satisfied, in the case of a refusal given by a person with parental responsibility for the child, that the person lacks capacity to decide whether to refuse the assessment;

CASE 2 - the local authority is satisfied, in the case of a refusal given by a person with parental responsibility for the child, that the child—

- (a) has sufficient understanding to make an informed decision about the refusal of the assessment, and

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- (b) does not agree with the refusal given by the person with parental responsibility for the child;  
CASE 3 - the local authority is satisfied, in the case of a refusal given by a person with parental responsibility for the child, that not having the assessment would be inconsistent with the child's well-being;  
CASE 4 – the local authority suspects that the child is experiencing or at risk of abuse, neglect or other kinds of harm.
- (4) Where a local authority has been discharged from its duty under section 21 by a refusal under this section, the duty is re-engaged if—
- (a) the child subsequently asks for an assessment and the local authority is satisfied that the child has sufficient understanding to make an informed decision about having an assessment,
  - (b) a person with parental responsibility for the child subsequently asks for an assessment, or
  - (c) the local authority considers that the child's needs or circumstances, or the needs or circumstances of a person with parental responsibility for the child, have changed,
- (subject to any further refusal under this section).

**Commencement Information**

**I3** S. 23 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

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**Changes to legislation:**

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