

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

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 28 – Combining needs assessments for a carer and a cared for person***

89. **Section 28** allows a local authority to combine a person's needs assessment with the needs assessment of his or her carer. However, the local authority may only do so if valid consent is given by or in respect of those persons, or if the circumstances are such that the requirement for valid consent may be dispensed with.
90. An adult or a child aged 16 or 17 is presumed to have capacity to give valid consent to the combining of the assessments. A child under the age of 16 can give valid consent to the combining of the assessments if the child has sufficient understanding to make an informed decision about the matter.
91. A person with parental responsibility for a child can give valid consent on behalf of a child under the age of 16, although this consent will be invalid if the child has sufficient understanding to make an informed decision about the combining of assessments and does not agree with the consent given by the person with parental responsibility.
92. Where the local authority is satisfied that an adult or a child aged 16 or 17 lacks capacity to give valid consent, such consent can be given instead by an authorised person. An 'authorised person' is defined in subsection (7) 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 adult or child's behalf.
93. Where a local authority is satisfied that an adult lacks capacity to give valid consent and that there is no authorised person who can do so, the local authority can dispense with the requirement for valid consent and combine the adult's assessment if it is satisfied that this would be in the adult's best interests.
94. Where a local authority is satisfied that a child aged 16 or 17 lacks capacity to give valid consent to the combining of the assessments and that there is no authorised person who can do so, the valid consent of a person with parental responsibility for the child is required. However, the local authority can dispense with need for this consent if it is satisfied that combining needs assessments would be in the child's best interests.
95. In the case of a child under the age of 16 who does not have sufficient understanding to be able to give valid consent to the combining of the assessments, the valid consent of a person with parental responsibility is required. However, the need for this consent can be dispensed with if the local authority is satisfied that combining the needs assessments would be consistent with the child's well-being.