



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

2014 anaw 4

## PART 3

### ASSESSING THE NEEDS OF INDIVIDUALS

#### *Assessing carers*

#### **24 Duty to assess the needs of a carer for support**

- (1) Where it appears to a local authority that a carer may have needs for support, the authority must assess—
  - (a) whether the carer does have needs for support (or is likely to do so in the future), and
  - (b) if the carer does, what those needs are (or are likely to be in the future).
- (2) The duty under subsection (1) applies in relation to a carer who is providing or intends to provide care for—
  - (a) an adult or disabled child who is ordinarily resident in the authority's area, or
  - (b) any other adult or disabled child who is within the authority's area.
- (3) The duty under subsection (1) applies regardless of the authority's view of—
  - (a) the level of the carer's needs for support, or
  - (b) the level of the financial resources of the carer or the person for whom the carer provides or intends to provide care.
- (4) In carrying out a needs assessment under this section, the local authority must—
  - (a) assess the extent to which the carer is able, and will continue to be able, to provide care for the person for whom the carer provides or intends to provide care,
  - (b) assess the extent to which the carer is willing, and will continue to be willing, to do so,

*Status: Point in time view as at 02/04/2018.*

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- (c) in the case of a carer who is an adult, seek to identify the outcomes that the carer wishes to achieve,
  - (d) in the case of a carer who is a child, seek to identify the outcomes that—
    - (i) the carer wishes to achieve, to the extent it considers appropriate having regard to the carer's age and understanding,
    - (ii) the persons with parental responsibility for the carer wish to achieve in relation to the carer, to the extent it considers appropriate having regard to the need to promote the carer's well-being, and
    - (iii) persons specified in regulations (if any) wish to achieve in relation to the carer,
  - (e) assess whether, and if so, to what extent, the provision of—
    - (i) 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, and
  - (f) assess whether, and if so, to what extent, other matters could contribute to the achievement of those outcomes or otherwise meet those needs.
- (5) A local authority, in carrying out a needs assessment under this section, must have regard to—
- (a) whether the carer works or wishes to do so,
  - (b) whether the carer is participating in or wishes to participate in education, training or any leisure activity, and
  - (c) in the case of a carer who is a child—
    - (i) the developmental needs of the child, and
    - (ii) whether it is appropriate for the child to provide the care (or any care) in light of those needs.
- (6) A local authority, in carrying out a needs assessment under this section, must involve—
- (a) the carer, and
  - (b) where feasible, the person for whom the carer provides or intends to provide care.
- (7) 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.

#### **Commencement Information**

**II** S. 24 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

## **25 Refusal of a needs assessment for an adult carer**

- (1) If a carer who is an adult (or, where applicable, an authorised person) refuses a needs assessment under section 24, the duty under that section to assess the carer's needs does not apply.
- (2) But a refusal under subsection (1) does not discharge a local authority from its duty under section 24 in the following cases—

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CASE 1 - the local authority is satisfied, in the case of a refusal given by the carer, that—

(a) the carer lacks capacity to decide whether to refuse to have the assessment, but

(b) there is an authorised person to make the decision on the carer's behalf;

CASE 2 - the local authority is satisfied, in the case of a refusal given by the carer, that—

(a) the carer lacks capacity to decide whether to refuse to have the assessment,

(b) there is no authorised person to make the decision on the carer's behalf, and

(c) having the assessment would be in the carer's best interests.

(3) Where a local authority has been discharged from its duty under section 24 by a refusal under this section, the duty is re-engaged if—

(a) the carer (or, where applicable, an authorised person) subsequently asks for an assessment, or

(b) the local authority considers that the carer's needs or circumstances have changed,

(subject to any further refusal under this section).

(4) 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 carer's behalf.

#### **Commencement Information**

**I2** S. 25 in force at 6.4.2016 by S.I. 2016/412, art. 2 (with art. 4, Schs. 1, 2)

## **26 Refusal of a needs assessment for a carer aged 16 or 17**

(1) If a carer aged 16 or 17 (or, where applicable, an authorised person) refuses a needs assessment under section 24, the duty under that section to assess the carer's needs does not apply.

(2) If a person with parental responsibility for a carer aged 16 or 17 refuses a needs assessment for the carer under section 24 in circumstances in which the local authority is satisfied that—

(a) the carer lacks capacity to decide whether to refuse to have the assessment, and

(b) there is no authorised person to make the decision on the carer's behalf,

the duty under that section to assess the carer'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 24 in the following cases—

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

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

- (4) Where a local authority has been discharged from its duty under section 24 by a refusal under this section, the duty is re-engaged if—
- (a) the carer (or, where applicable, an authorised person) subsequently asks for an assessment,
  - (b) a person with parental responsibility for the carer subsequently asks for an assessment in the circumstances described in subsection (2), or
  - (c) the local authority considers that the carer's needs or circumstances, or the needs or circumstances of a person with parental responsibility for the carer, 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 carer's behalf.

#### **Commencement Information**

**I3** S. 26 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

## **27 Refusal of a needs assessment for a carer aged under 16**

- (1) If—
- (a) a carer aged under 16 refuses a needs assessment under section 24, and
  - (b) the local authority is satisfied that the carer has sufficient understanding to make an informed decision about the refusal of the assessment,
- the duty under that section to assess the carer's needs does not apply.
- (2) If a person with parental responsibility for a carer aged under 16 refuses a needs assessment for the carer under section 24, the duty under that section to assess the carer'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 24 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 carer, 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 carer, that the carer—
- (a) has sufficient understanding to make an informed decision about the refusal of the assessment, and
  - (b) does not agree with the refusal given by the person with parental responsibility for the carer;
- CASE 3 - the local authority is satisfied, in the case of a refusal given by a person with parental responsibility for the carer, that not having the assessment would be inconsistent with the carer's well-being.

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- (4) Where a local authority has been discharged from its duty under section 24 by a refusal under this section, the duty is re-engaged if—
- (a) the carer subsequently asks for an assessment and the local authority is satisfied that the carer has sufficient understanding to make an informed decision about having an assessment,
  - (b) a person with parental responsibility for the carer subsequently asks for an assessment, or
  - (c) the local authority considers that the carer's needs or circumstances, or the needs or circumstances of a person with parental responsibility for the carer, have changed,
- (subject to any further refusal under this section).

**Commencement Information**

**14** S. 27 in force at 6.4.2016 by S.I. 2016/412, art. 2 (with art. 4, Schs. 1, 2)

**Status:**

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