
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the test which a local authority must apply to determine whether or not an individual with needs identified in an assessment under section 19, 21 or 24 of the Social Services and Well-being (Wales) Act 2014 (“the Act”) is entitled to have those needs met by a local authority. The Regulations set out the tests to be applied in relation to adults, to children and to carers.

Regulations 3, 4 and 5 set out the eligibility criteria for adults, for children and for carers respectively. In each case the criteria include a requirement about how the need in question arises, about whether it relates to one of the well-being-related factors, about whether or not the need can be met by the person alone or with assistance, and about whether or not a person is likely to achieve personal outcomes without provision of care and support by the local authority.

Regulation 6 provides that for the purposes of judging whether or not a person is able to meet one of their needs, whether with assistance or without it, the person should be regarded as unable to do so even if they can in fact meet the need but only by enduring significant pain, anxiety or distress, by endangering him or herself or another person, or by taking a significantly longer time than would normally be expected.

Where needs do meet these eligibility criteria, section 32 requires a local authority to consider what could be done to meet those needs and whether it should impose a charge in accordance with Part 5 of the Act.

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.