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WELSH STATUTORY INSTRUMENTS

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**2015 No. 1335 (W. 126)**

**SOCIAL CARE, WALES**

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

<i>Made</i>	- - - -	<i>21 May 2015</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>1 June 2015</i>
<i>Coming into force</i>	- -	<i>6 April 2016</i>

The Welsh Ministers, in exercise of the powers conferred by sections 54(5), 54(6), 55 and 126(3) of the Social Services and Well-being (Wales) Act 2014<sup>(1)</sup>, make the following Regulations:

**Title, commencement, application and interpretation**

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

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

(3) In these Regulations—

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

“care and support plan” (“*cynllun gofal a chymorth*”) means a plan which a local authority is required to prepare and maintain under section 54(1) of the Act;

“eligible needs” (“*anghenion cymwys*”) in relation to a person means those needs which the local authority is required to meet under section 35, 37, 40 or 42 of the Act;

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

“support plan” (“*cynllun cymorth*”) means a plan which a local authority is required to prepare and maintain under section 54(2) of the Act.

**Training and skills**

2. A local authority must ensure that any person responsible for preparing, reviewing or revising a care and support plan or support plan—

- (a) has the skills, knowledge and competence to do so, and
- (b) has received appropriate training.

### **Content of plans**

3.—(1) A care and support plan and a support plan must contain a description of—

- (a) the person’s eligible needs,
- (b) the personal outcomes,
- (c) the actions to be taken by the local authority and the actions to be taken by other persons to help the person achieve the personal outcomes or to otherwise meet their eligible needs,
- (d) the arrangements for monitoring the extent to which the personal outcomes have been achieved, and
- (e) the arrangements for the review of the plan.

(2) Where some or all of the person’s needs are to be met by making direct payments, a care and support plan and a support plan must also contain a description of—

- (a) the eligible needs which are to be met by direct payments<sup>(2)</sup>, and
- (b) the amount and frequency of the direct payments.

(3) Where enquiries have been made by the local authority in accordance with its duty under section 126(1) of the Act (adults at risk), the care and support plan for the individual who is the subject of those enquiries must contain a record of the conclusion of the enquiries.

### **Review of plans**

4.—(1) The local authority must review a care and support plan or a support plan if it appears to the authority that the plan is not meeting the eligible needs of the person to whom the plan relates.

(2) Where the plan contains details of direct payments in accordance with regulation 3(2), the plan must be reviewed at the same time as any review of the direct payments in accordance with regulations under section 53(1).

### **Requests for review of plans**

5.—(1) The following persons may request a review of a care and support plan or support plan (as the case may be)—

- (a) where the plan relates to meeting the needs of an adult (including the needs of an adult carer)—
  - (i) the adult, and
  - (ii) any person authorised to act on behalf of the adult;
- (b) where the plan relates to meeting the needs of a child (including the needs of a child carer) —
  - (i) the child,
  - (ii) any person with parental responsibility for the child, and
  - (iii) any person authorised to act on behalf of the child.

(2) The local authority must comply with the request if it is satisfied that the plan is not meeting the eligible needs of the person to whom the plan relates.

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(2) Regulations under sections 50 to 53 of the Act may require or allow a local authority to make payments to a person towards the cost of meeting their needs. Such payments are referred to in the Act as “direct payments”.

(3) The local authority may refuse to comply with the request if it is satisfied that the plan is meeting the eligible needs of the person to whom the plan relates.

(4) In this regulation, and in regulations 7 and 8, 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(3) (whether in general or in specific terms) to make decisions about how the person’s needs are to be met.

### **Action following review**

6.—(1) Following the review, the local authority must consider whether to confirm, revise or close the care and support plan or support plan (as the case may be).

(2) In deciding whether to confirm, revise or close the plan, the local authority must have regard in particular to the following—

- (a) any changes to the personal outcomes or the person’s circumstances,
- (b) any changes to the person’s eligible needs,
- (c) whether the actions taken by the authority or other persons are helping the person to achieve the personal outcomes or to otherwise meet their eligible needs, and
- (d) whether there are other ways in which the local authority or other persons can help the person to achieve the personal outcomes or to otherwise meet their eligible needs.

(3) If the local authority decide to confirm the plan, the authority must record the decision and the reasons for the decision.

(4) If the local authority decide to revise the plan, the authority must prepare a revised plan.

(5) If the local authority decide to close the plan, the authority must prepare a closure statement.

(6) A closure statement is a document which contains the following information—

- (a) the reasons for the closure of the plan,
- (b) an evaluation of the extent to which the personal outcomes were achieved, and
- (c) where the local authority is still satisfied that the person to whom the plan relates has needs for care and support, confirmation that the authority is satisfied that the person’s needs can be met by the provision of information, advice or assistance, preventative services or anything else that may be available in the community.

### **Copies of care and support plans etc**

7.—(1) The local authority must give a copy of the care and support plan to the persons described in paragraph (5).

(2) If, following a review of a care and support plan, the local authority decides to revise the plan it must give a copy of the revised plan to the persons described in paragraph (5).

(3) If, following a review of a care and support plan, the local authority decides to confirm the plan it must give a copy of the record of the decision and the reasons for the decision to the persons described in paragraph (5).

(4) If, following a review of a care and support plan, the local authority decides to close the plan, it must give a copy of the closure statement to the persons described in paragraph (5).

(5) For the purposes of paragraphs (1) to (4) the persons are—

- (a) if the care and support plan has been prepared for an adult—
  - (i) the adult for whom the plan has been prepared,
  - (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;
- (b) if the care and support plan has been prepared for a child—
  - (i) the child for whom the plan has been prepared,
  - (ii) any person with parental responsibility for the child, unless this 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 interest of the child.

**Copies of support plans etc.**

8.—(1) The local authority must give a copy of the support plan to the persons described in paragraph (5).

(2) If, following a review of a support plan, the local authority decides to revise the plan it must give a copy of the revised plan to the persons described in paragraph (5).

(3) If, following a review of a support plan, the local authority decides to confirm the plan it must give a copy of the record of the decision and the reasons for the decision to the persons described in paragraph (5).

(4) If, following a review of a support plan, the local authority decides to close the plan, it must give a copy of the closure statement to the persons described in paragraph (5).

- (5) For the purposes of paragraphs (1) to (4) the persons are—
  - (a) if the support plan has been prepared for an adult carer—
    - (i) the adult carer for whom the plan has been prepared,
    - (ii) any person authorised to act on behalf of the adult carer, and
    - (iii) where the adult carer 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 carer;
  - (b) if the support plan has been prepared for a child carer—
    - (i) the child carer for whom the plan has been prepared,
    - (ii) any person with parental responsibility for the child carer, unless this would be inconsistent with the child carer’s well-being,
    - (iii) any person authorised to act on behalf of the child carer, and
    - (iv) where the child carer 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 interest of the child carer.

21 May 2015

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

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 54 of the Social Services and Well-being (Wales) Act 2014 imposes a duty on a local authority to prepare and maintain a care and support plan for an adult or child to whom it owes a duty to meet needs under section 35 or 37 of the Act and to prepare a support plan for a carer to whom it owes a duty to meet needs under section 40 or 42 of the Act. These Regulations make further provision about such plans.

Regulation 2 makes provision about the training and expertise of persons who prepare, maintain or revise plans.

Regulation 3 makes provision about the content of plans, including where some or all of the person's needs are to be met by the making of direct payments.

Regulation 4 makes provision about the review of plans and the circumstances in which a local authority must review a plan. Regulation 5 makes provision for who can request a review of a plan and the circumstances in which the local authority must comply with such a request and the circumstances in which it may refuse to do so.

Regulation 6 makes provision for the action the local authority must take following a review, depending on whether it is decided to confirm, revise or close the plan. Regulations 7 and 8 make provision for the persons to whom copies of the plan, revised plan, closure statements and other records must be given.

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.