

Explanatory Memorandum to the Care and Support (Assessment) (Wales) Regulations 2015

This Explanatory Memorandum has been prepared by the Department of Health and Social Services and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Care and Support (Assessment) (Wales) Regulations 2015. I am satisfied that the benefits outweigh any costs.

Mark Drakeford

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

6 May 2015

Part 1 – OVERVIEW

1. Description

The Social Services and Well-being (Wales) Act 2014 (the Act) brings together local authorities' duties and functions in relation to improving the well-being of people who need care and support, and carers who need support. The Act provides the statutory framework to deliver the Welsh Government's commitment to integrate social services to support people of all ages, and support people as part of families and communities. Sections 19, 21 and 24 of the Act place a duty on local authorities to provide a single process of assessment that will apply to all individuals.

Sections 19, 21 and 24 of the Social Services and Well-being (Wales) Act 2014 impose duties on a local authority to assess an adult's needs for care and support, a child's needs for care and support and a carer's needs for support. The regulations make further provision about such assessments.

This Explanatory Memorandum should be read in conjunction with the Explanatory Memorandum to The Care and Support (Eligibility) (Wales) Regulations 2015.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

No specific matters identified.

3. Legislative background

The powers enabling these regulations to be made are contained in Sections 19, 21 and 24 of the Social Services and Well-being (Wales) Act 2014. The Act creates a right to an assessment for all people, where it appears to the local authority that the individual may have need for care and support, or support in the case of carers. The Act will simplify the assessment process so that it is appropriate to the needs of the individual and considers the person's circumstances.

This instrument is subject to the annulment procedure by the National Assembly for Wales (the negative procedure).

The Regulations will come into force in April 2016.

Current legislation

The current legislative framework is complex and the provision of social care is currently found within a broad array of Acts, which legislate separately for children and adults.

Assessment for adults is covered by the NHS & Community Care Act 1990, Carers and Disabled Children Act 2000 and the Chronically Sick and Disabled Persons Act 1970.

For children Schedule 2 of the Children Act 1989 provides for assessment of children in need.

The principal tools / guidance to assist the assessment of children and adults under the respective pieces of legislation are:

- The Framework for the Assessment of Children in Need and their Families (2001)
- Creating a Unified and Fair System for Assessing and Managing Care (2002).
- The Integrated Assessment, Planning and Review Arrangements for Older People (2013)

Each of these was issued under section 7 of Local Authority Social Services Act 1970 (LASSA).

Section 47 (1) (b) of the NHS and Community Care Act 1990 places a duty on local authorities to decide whether, following assessment, an adult's needs require a service to be provided. Specifically, in Wales the statutory guidance: '*Creating a Unified and Fair System for Accessing and Managing Care*' (FACS) guidance¹ was implemented in 2002, which provides a standardised framework within which local authorities should decide local criteria about which needs should be met. In 2013, this guidance was superseded, for adults over the age of 65, by the 'Integrated Assessment, Planning and Review Arrangements for Older People' issued under section 7 of the Local Authority Social Services Act 1970.

For adults under 65 the FACS guidance requires the use of the Unified Assessment Process (UAP) to evaluate an individual's presented needs and circumstances and how they constrain or support their capacity to live a full and independent life.

Key sub-sets (specialist assessment) have been developed and work within the UAP for mental health and substance misuse domains. These are known as:

- Care and Treatment Planning under the Mental Health Measure (2010), which in June 2012 superseded the Care Programme Approach (CPA) in Wales (although the CPA continues to operate in England) *and*
- The Wales In-Depth Integrated Substance Misuse Assessment Toolkit (WIISMAT).

The Mental Health (Care Coordination and Care and Treatment Planning) (Wales) Regulations 2011 prescribe a care and treatment plan for people in receipt of secondary mental health services. Many of these people will have multiple needs and be eligible for an assessment for community care services. The UAP is the tool that practitioners continue to use as a multi-agency assessment for secondary mental health services and community care services.

¹ Creating a unified and fair system for assessing and managing Care (FACS), Welsh Government, 2002

Schedule 2 of the Children Act 1989 provides for assessment of children in need and the principal guidance to assist the assessment of children is the *Framework for Assessment for Children in Need and their Families*² issued under section 7 of the Local Authority Social Services Act 1970 (LASSA).

The *Framework for the Assessment of Children in Need and their Families* provides a systematic basis for collecting and analysing information to support professional judgements about how to help children and families in the best interests of the child. Practitioners use the framework to gain an understanding of a child's developmental needs; the capacity of parents or caregivers to respond appropriately to those needs, including their capacity to keep the child safe from harm; and the impact of wider family and environmental factors on the parents and child. There are three main aspects of the framework:

- the child's developmental needs;
- parenting capacity, and
- wider family and environmental factors.

The framework is used for the assessment of all children in need, including those where there are concerns that a child may be suffering significant harm.

There are three Acts of Parliament and a Welsh Measure under the National Assembly for Wales, which are directly concerned with the needs of carers. These are:

- Carers (Recognition and Services) Act 1995
- Carers and Disabled Children Act 2000
- Carers (Equal Opportunities) Act 2004
- Carers Strategies (Wales) Measure 2010

In addition, Disabled Persons (Services, Consultation and Representation) Act 1986 Section 8 requires that during an assessment of a disabled person the views of Carers who 'provide a substantial amount of care on a regular basis' should be taken into account. There is no definition of "substantial amount of care on a regular basis".

Under the Carers (Recognition and Services) Act 1995 individuals who provide or intend to provide regular and substantial care are entitled to request an assessment in their own right regarding their ability to provide care and sustain this caring role.

The Carers and Disabled Children Act 2000 gave carers the right to an assessment independent of the community care assessment for the cared-for person.

The Carers (Equal Opportunities) Act 2004 gave local authorities the duty to inform carers of their right to an assessment which should now also consider the carer's wishes in relation to leisure, education, training and work activities.

Children (anyone under the aged of 18 years) who are carers should be routinely assessed under the Children Act 1989. As a matter of law, they could be assessed

² Framework for the Assessment of Children in Need and their Families, The Stationary Office, London, 2001

under the 1995 Act but in practice it is more common for young carers assessments to be carried out in line with the Children Act 1989 guidance.

Proposed Legislation

The statutory framework will consist of three main elements, the Act itself, regulations made under the Act, and codes of practice/statutory guidance. These three elements work together to form the framework within which social services will operate from April 2016.

The Social Services and Well-being (Wales) Act 2014 will change the way that all individuals and families, including carers, are assessed.

- Section 19 places a duty on local authorities to assess the needs of an adult for care and support where it appears that an adult may have needs for care and support.

This is a wider duty on local authorities than is set out in section 47 of the NHS and Community Care Act which requires that where it appears to a local authority that any person for whom they may provide or arrange for the provision of community care services may be in need of any such services, the authority shall carry out an assessment of his needs for those services; and shall then decide whether those needs call for the provision by them of any such services.

The difference is that whereas the NHS and Community Care Act 1990 requires local authorities to assess whether someone is in need of local authority services the Social Services and Well-being (Wales) Act 2014 requires local authorities both to identify whether someone has needs for care and support (and what those needs are), and also to seek to identify to what extent the provision of care and support, preventative services, Information Advice and Assistance, or other matters could contribute to the outcomes the adult wishes to achieve in day to day life or otherwise meet those needs.

- Section 21 places a duty on local authorities to assess the needs of a child for care and support where it appears 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 Act refers to a child in need of care and support whereas Section 17 of the Children Act 1989 defines a child as being in need in law if:

- He or she is unlikely to achieve or maintain or to have the opportunity to achieve or maintain a reasonable standard of health or development without provision of services from the LA;
- His or her health or development is likely to be significantly impaired, or further impaired, without the provision of services from the LA;
- He or she has a disability.

In practice there is little difference here and the distinction is in terminology. The Act creates a broader duty to establish whether a child is in need of care and support and that understanding is refined in the regulations made under the Act.

- Section 24 places a duty on local authorities to assess the needs of a carer for support where it appears to a local authority that a carer may have needs for support;

For the first time carers will have the same rights to assessments and support to meet their needs, as do adults and children in need of care and support.

The Act removes from legislation the requirement that only carers providing a 'substantial amount of care on a regular basis' are entitled to a carer's assessment and defines a carer as someone who provides or intends to provide care to an adult or disabled child.

Purpose and intended effect of the legislation

There have been two valuable reports which have informed the development of the regulations. Primarily the 2011 report "*Better Support at Lower Cost*" commissioned by the Social Services Improvement Agency for Wales (SSIA)³, reviewed the current practice on the approaches used by local authorities in delivering efficient care and support services for older people. This report was used to inform the first stages of the legislation reform.

An Assessment and Care Planning Technical Group was established by the former Deputy Minister for Social Services to advise the Welsh Government on producing a suite of regulations and code of practice on the determination of assessment, care planning and review under the Act. The report of that group was also informed by a 2013 SSIA report on "Access to Care and Well-being in Wales"⁴, commissioned by the Welsh Government and co-produced with the Institute of Public Care at Oxford Brookes University. The 2013 report was accepted by the then Deputy Minister and published for comment; and subsequently informed the work of the Eligibility Technical Group⁵ which preceded, and made recommendations to, the Assessment and Care Planning Technical Group.

In relation to assessment, the final report from the Assessment and Planning Technical Group⁶ recommended that there should be a duty on local authorities, with the help of local health boards where required, to offer a proportionate assessment to anyone seeking help to meet their personal well-being outcomes.

The case for change is set out in the "Better Support at Lower Cost" report where it is identified that the single biggest challenge which many Welsh local authorities are facing is how to change the prevailing culture within adult social care. The report recognises that there needs to be a further culture shift towards a service which offers real opportunity to help people become more independent; both in the way they live their lives and how flexibly they can use services. The report, however, notes that there are examples where local authorities have already started to reshape their services for older people, with much evidence of a shift towards a re-ablement approach to care.

³ Better Support at Lower Cost - Improving efficiency and effectiveness in services for older people in Wales – SSIA – April 2011

⁴ Access to Care and Well-being in Wales – SSIA – March 2013

⁵ Report of the Eligibility Technical Group – Welsh Government - June 2014

⁶ Assessment and Planning Technical Group – Final Report – Welsh Government – September 2014

The current system can be unclear and confusing, with the focus being placed on the process of the assessment instead of the outcome. Intervention is often triggered at the point of crisis, rather than intervening early through preventative measures. The Act will encourage a renewed focus on prevention and early intervention. The 2011 SSIA report echoes the support for early intervention and prevention, and states that such services will help local authorities to meet their savings targets whilst improving outcomes for individuals.

The report of the Commission on Public Service Governance and Delivery⁷ observed:

“We are very clear that public services in Wales face severe and prolonged challenges. The effects of recession and austerity on public-sector budgets will continue to be felt for many years. At the same time, our population is growing, becoming older, and public expectations on the providers of public services are higher than ever before. This creates severe pressures – demand for public services is growing while resources to provide them are falling”.

The pressures on local authority social services departments relate to many factors including, but not limited to:

- People are living longer. Projections show that by 2030 there will be twice the number of people aged over 85 there are currently. The associated costs to social care are explored further in the attached Regulatory Impact Assessment;
- Changing behaviours and expectations; and
- An increase in people with long standing and complex disabilities.

Although demands on social services are increasing, there is no commensurate increase in routine funding to support service delivery. The current financial settlement for 2015/16 has been decreased by 3.4% compared to 2014/15, as a consequence of the large scale budget reductions by the UK Government.

Due to this increase in demand it is essential that the future delivery of social care is transformed. The current system is unsustainable. Specifically there is a need to simplify and improve service efficiency and effectiveness of the system. The system must be improved to deliver better integration, improved collaboration, a stronger workforce, and to provide people with a greater voice and control over their services and well-being.

Intended effect of the Regulations

The primary objective of the policy is to promote an individual’s independence and ensure they have a stronger voice and control over their care and support. The changes are crucial to enable current and future generations to live their lives independently, providing the correct level of support to maintain their well-being.

The overall effect of the regulations is to provide greater clarity, consistency and quality of care and support for individuals and carers. The aim is that the assessment process

⁷ Report of the Commission on Public Service and Delivery – January 2014 <http://gov.wales/topics/improving-services/public-service-governance-and-delivery/report/?lang=en>

will be more proportionately applied so that it is appropriate to the needs of the individual and considers the person's circumstances. The process will be simplified by introducing a uniform approach to assessment for all people and by simplifying the process itself.

The proposed approach to assessment is consistent with the mental health model in that it is about enabling each individual to achieve their outcomes, as well as with the social model of disability, in that it is about removing the barriers that prevent people achieving those outcomes.

The approach to assessment is also informed by the report of the Independent Commission on Social Services in Wales⁸ which observed that "Negative media coverage of social work has, however, promoted a risk averse culture and an over reliance on process. The need is to rebalance towards professional judgment and reflective practice, to assist, safe confident, evidence based-practice".

The proposed approach to assessment in the regulations, sets out that the assessment must be appropriate to the needs of the individual and consider the person's circumstances in the round. The approach supports a move away from the deficit model of care to an emphasis on strengths, capacity and personal resources and focusses on enabling services. The Act and its associated regulations introduce an assessment and eligibility test based on a comprehensive analysis of 5 inter-related elements to ensure that local authorities consider the person's circumstances in the round. These five inter-related elements are set out in the regulations by requiring that in carrying out an assessment, a local authority must:

- assess and have regard to the person's circumstances,
- have regard to their personal outcomes,
- assess and have regard to any barriers to achieving those outcomes,
- assess and have regard to any risks to the person or to other persons if those outcomes are not achieved, and
- assess and have regard to the person's strengths and capabilities.

The assessment process will be proportionate and responsive to people's needs, and will support practitioners to exercise their professional judgement working in partnership with people to agree solutions that are in the best interests of the individual and their families.

The regulations set out the assessment process for individuals as follows:

Section 19 – assessing the needs of an adult for care and support

The duty is triggered where it appears to a local authority that an adult may have needs for care and support.

Section 21 – assessing the needs of a child for care and support

⁸ From Vision to Action: The Report of the Independent Commission on Social Services in Wales – November 2011 - <http://www.icssw.org/vision/?lang=en>

The duty is triggered 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.

Section 24 – assessing the needs of a carer for support

The duty is triggered where it appears to the local authority that the carer may have needs for support.

Section 24 replaces the existing law, and removes the requirement that the carer must be providing “a substantial amount of care on a regular basis”. This will mean more carers are able to access an assessment, and that the duty is comparable to that for the people they support. This will also replace the existing law which applies to young carers, and a carer of a disabled child.

Additionally, the Act provides for refusal of assessment, but equally prescribes the circumstances in which a refusal is to be disregarded. The local authority's duty would not be discharged, for example, where there is a risk of abuse or neglect. It also provides for the combining of different assessments (to better support the integration of assessments required under other statutes / programmes e.g. mental health, special education needs); and creates regulation-making powers for the Welsh Ministers to provide greater detail in relation to assessments. The local authorities' duties with respect to these aspects of the assessment of need are detailed in the Code of Practice for Part 3 of the Act: Assessing the Needs of Individuals.

To support local government and its partners in making the transition to the new arrangements of the Act, a Delivering Transformation Grant was made available to the six regional partnerships and selected national partners to enable local government and its partners to put in place the requirements of the new Act in 2013/14 and 2014/15. Welsh Government has doubled the funding available through this grant to £3m in 2015/16.

4. Consultation

A 12 week consultation on the regulations ran between 6 November 2014 and 2 February 2015. Further details on the consultation are set out in the Regulatory Impact Assessment attached at Part 2.

PART 2 – REGULATORY IMPACT ASSESSMENT

This Regulatory Impact Assessment should be read in conjunction with the Regulatory Impact Assessment for the Care and Support (Eligibility) (Wales) Regulations 2015.

The current assessment process is unwieldy and time consuming for both individuals and practitioners to complete. It is not a sufficiently person centred process and does not adequately support people to remain in control of decisions about how their needs are met. With the projected rise in population of those receiving social care in Wales likely to be around 43,000 people by 2030, compared to figures for 2015 the current assessment process is unsustainable.

From an existing 650 fields to be completed during an assessment under the Unified Assessment Process (UAP), the new national assessment and eligibility tool has been redesigned to contain less than 30 fields for completion, seeing a 95% reduction.

The proposed 'National Assessment and Eligibility Tool' contains three sections: The national minimum core data set; five elements to achieve well-being; and action / outcome statements.

Research shows that social workers currently spend more time on administrative work and less time on face to face contact with service users. A UNISON survey indicated that 96% of practitioners felt that too much of their time was spent with paper work. Of those surveyed, 73% felt the time they had available to spend with service users was "insufficient" or "very insufficient".⁹

Similarly, research from 2003 found that three of the activities most frequently reported by social workers were office-based paperwork relating to caseload, negotiating and arranging social services for users, and completing assessment documentation in the office.¹⁰

The new process will enable resources currently focussed on process and paperwork to be re-invested in supporting people to meet their identified personal well-being outcomes.

This section of the Regulatory Impact Assessment presents two different options in relation to the policy objectives of the proposed regulations. Both of the options are analysed in terms of how far they would achieve the Welsh Government's objectives, along with the risks associated with each. Both options have been explored to identify the costs and benefits. However, it is recognised that there are limitations and challenges with projecting future demand for social care in Wales.

- Option 1: Do the minimum and retain the current approach to assessment.

⁹ UNISON, *Not Waving But Drowning: Paperwork and Pressures in Adult Social Work Services* (2009), <http://www.unison.org.uk/acrobat/B4710a.pdf> (last visited 4 April 2011). These figures relate to all social work, not just adult social care. We see no reason to suppose there is a significant difference between child work and adult work.

¹⁰ A Weinberg and others, "What Do Care Managers Do? A Study of Working Practice in Older Peoples' Services" (2003) 33 *British Journal of Social Work* 901, 914.

- Option 2: Create a national system for assessments.

As a basis for making projections about the future expenditure on social care under each option the actual expenditure for 2010/11 (as reported on in the Community Care Statistics report¹¹) and 2013/14 (most recent data collection) has been used to make estimates on the predicted expenditure for 2030. These projections correspond with baseline projections by House of Lords Committee on Public Service and Demographic Change¹². The data contained in the Regulatory Impact Assessment is used for illustrative purposes and offers indicative costings and scenarios, rather than an accurate statement of fact.

This Regulatory Impact Assessment has explored the options and costings. Further details and the analysis of these options are contained in the evidence paper at annex 1.

Option 1: Do the minimum and retain the current approach to assessment

Under this option the current approach to assessment will remain, with the exception of the assessment process for carers. Primary legislation, contained in Section 24 of the Act, sets out the additional duties for assessing the support needs of a carer. On the whole, if the current approach is retained, the assessment process will remain complex and costly without assisting individuals to address their concerns or achieve their desired outcomes, enabling people to maintain their independence or supporting families to remain together.

Costs

As noted in annex 1, the continuing cost of providing social care for adults in Wales is considered high, particularly in relation to those aged over 85 years and expected to receive local authority social care services in 2030¹³. The projections currently estimate that the number of those aged 85 years and over and in need of social care will increase by 45% between 2013 - 2030. As shown in annex 1 the estimated total cost of assessments for all adults is likely to increase by £19.5m between 2013 and 2030. This is the difference between expenditure in 2013 and 2030, as shown in table 7.

The attached evidence paper (annex 1) shows that within Option 1, 11.1% of gross expenditure on adult social services will be spent on assessment and care management. However, given the projected increase in the older population it is likely that more funding will be required to provide social care in Wales in the coming years. In the absence of any available supporting data, if the projected population levels are realised, and no additional interventions are applied, it is expected that local authorities

¹¹ Community Care Statistics, Social Care Activity, England, 2013/14 - <http://www.hscic.gov.uk/catalogue/PUB14397>

¹² Report: Ready for ageing? | Committee on Public Service and Demographic Change | House of Lords - 2012/13

¹³ Lord Filkin, Chair of the Lords Committee on Public Service and Demographic Change.

will need to spend more of their social services budget to cover the required assessment and care management costs, and accordingly the assessment costs. This means that expenditure on assessment and care management could likely rise above the current 11.1% of gross expenditure.

Based on evidence from the Audit Commission report 2012¹⁴ '*Spending on Assessment and Care Management in English local authorities*', spending on assessment and care management varied between 8% and 17%. Using these figures the evidence paper shows what the additional costs would mean for local authorities in Wales if they had to cover an increase from the 11.1% estimate of their current operating level, to the highest level identified by the Audit Commission i.e. 17% of their gross expenditure. Local authorities in Wales would have to find an additional £82m (based on 2013/14 figures).

The Local Government Association estimated that there would be a spending gap in the budget for adult social care in England of 29% by 2019/20¹⁵. Using the same assumptions, and applying this figure of 29% to Wales's budgets, this would represent an additional shortfall of £44m that local authorities would need to find.

Annex 1 identified that some 35% of adult assessments did not result in a service being provided. Under Option 1 these assessments would still need to be conducted and are likely to cost £23m in total, across all local authorities in Wales, in 2030.

Applying the adult costs to children's assessments would mean that by 2030 the costs of assessments for children would exceed £12 million – increasing at a rate of over £100,000 per year.

Whilst there is no evidence on which to base a solid projection of what will happen with carers and their assessments, past experience suggests that a spike in activity may be seen when the new Act comes into force but that this is likely to settle down over time.

Benefits

If the system remains the same local authorities will not need to change any of their processes and procedures nor require any further training of staff of those already working in the social care system. No further benefits have been identified under this option

Risks

The Report of the Independent Commission on Social Services in Wales¹⁶: "From Vision to Action" observed that " Helping to make service users co-producers in their own solutions wherever possible is also much more likely to help people to retain or

¹⁴ Reducing the cost of assessment and reviews - Audit commission – August 2012 - <http://www.audit-commission.gov.uk/2012/08/reducing-the-cost-of-assessments-and-reviews/>

¹⁵ Adult social care funding: 2014 state of the nation report – Local Government Association - October 2014 - http://www.local.gov.uk/publications/-/journal_content/56/10180/6659174/PUBLICATION

¹⁶ "From Vision to Action": The Report of the of the Independent Commission on Social Services in Wales – November 2010

regain whatever degree of independence is achievable rather than allow them to slip into avoidable dependency. Avoidable dependency is a poor outcome for individuals as well as a continuing drain on resources.

Without a more nationally consistent model that is less complex and process based the current weaknesses within the system are likely to become more evident as more people are anticipated to be receiving social care services in the future. This in turn may lead to resources becoming more limited and may lead to more care and support needs being judged as ineligible as local authorities attempt to manage their limited resources. The Care and Social Services Inspectorate Wales (CSSIW) has already reported this trend in their publication *National Review of Access and Eligibility Criteria in Adult Social Care, Sept 2010*¹⁷ where it was reported that the current system is a potential barrier to individuals receiving services and screening individuals out of eligibility.

Retaining the existing system may create further unnecessary burdens on local authorities and impede individuals in accessing support services.

The Independent Commission on Social Services in Wales¹⁸ commented that “Proper assessment and proper records are important but it is about finding the right balance in professionals’ workloads, particularly at a time of rising demand and shrinking resources. In our view there are important opportunities for streamlining the processes.” and recommended that the Welsh Government should “review assessment systems for both adults and children as a significant contribution to improved efficiency and the better use of professional time and skills”.

If the system is not changed, in light of the evidence for the need for change, there is a risk of reputational damage for the Welsh Government.

The current model cannot deliver the Welsh Government’s commitments to equality of provision set out in the Sustainable Social Services (SSS) framework. The current system provides different systems for children, adult and carers and does not provide an integrated service for all people, which is a requirement of the Sustainable Social Services framework.

Ultimately, the current system is unlikely to cope with an increased number of people needing care and support, and the pressure on the system, in future years, will result in system failure and people failing to achieve their outcomes.

¹⁷ National Review of Access and Eligibility Criteria in Adult Social Care, Care and Social Services Inspectorate Wales, September 2010

¹⁸ From Vision to Action: The Report of the Independent Commission on Social Services in Wales, November 2010

Option 2: Create a national system for assessments.

Under this option a single process of assessment will apply, through the regulations, to all individuals, whilst introducing distinct considerations for adults, children, and carers as set out in the Code of Practice. The proposed option will introduce changes to local authorities' core processes and ensure that assessments are based on a holistic understanding of each individual. The assessment will be based on identifying and understanding:

- a person's well-being outcomes,
- the resources available to the person,
- the barriers to achieving those outcomes,
- the risks to themselves and others, and
- their needs for care and support,

in order to agree the most appropriate support for each individual.

Costs

Under this option the Welsh Government considers that there will be long term cost savings both through a reduction in the length and complexity of the assessment process, and through the practice of supporting individuals and families at an earlier stage through the Information, Advice and Assistance Service and preventative services. All local authorities in Wales currently operate an information system, although these differ in structure and approach.¹⁹ Although there is an expectation that local authorities will need to invest to further to develop and expand these into an Information, Advice and Assistance Service as detailed under the Act it has not been possible to quantify what this will mean because the starting points for local authorities will be different.

As noted in annex 1, currently on average 48% of adults over the age of 85 receive local authority social care services all having completed the Unified Assessment Process, which is known to be time consuming for both individuals and practitioners²⁰. By 2030 the numbers of individuals requiring a care and support assessment is likely to equate to around 160,000 individuals (table 2). The proposed new model will deliver efficiencies by simplifying the structure of the assessment process and by placing a focus on early intervention and prevention services. It is therefore predicted that the percentage of these individuals who will receive local authority social care services will be reduced. The 2011 SSIA Report: *"Better Support at Lower Cost"* concluded that "Typically, a council which has an effective domiciliary care re-ablement service can expect to see a 10% reduction in demand for domiciliary care through a combination of [preventative] measures"

¹⁹ Provision of Information Advice and Assistance on Social Services and Well-being across Wales – SSIA – April 2014

²⁰ UNISON, *Not Waving But Drowning: Paperwork and Pressures in Adult Social Work Services* (2009)

Annex 1 shows the cost savings that could be reached if local authorities reduced expenditure on assessment and care management from the current 11.1% to 8%. Under Option 2, the expectation is that local authorities in Wales would follow this pattern and realise similar efficiencies. If these efficiencies can be met, they could represent savings amounting to £43m based on the gross social services expenditure in Wales in 2013/14. This is the difference between spending at 8% and spending at 11.1% of the gross expenditure for adult social services as at 2013/14 (Table 5). If these savings were realised then these costs could be reallocated for service delivery.

The funding gap of £44m identified in Option 1 is still relevant for Option 2. However, the potential saving of £43m, identified in the above paragraph, could be used to off-set this funding gap if local authorities were to operate at 8% of the gross expenditure

Annex 1 has shown that the estimated total cost of assessment for all adults is likely to increase by £19.5m between 2013 and 2030. This is the difference between expenditure in 2013 and 2030 as shown in Table 7. However, under Option 2 the amount of assessments undertaken is expected to reduce considerably as these would be applied proportionately. This could result in a £19.5m cost saving, which could be used to off-set this funding gap of £44m, as identified in the paragraph above.

The new assessment process proposed under Option 2 for children is considered to be in keeping with the assessment process that is currently in place under the Children Act 1989. As a result it is anticipated that costs for children's services will not be expected to alter significantly.

In practice, the proposed system under Option 2 could address the needs of many carers through the initial Information Advice and Assistance service. Carers will be provided with access to relevant, accurate, high quality and timely information, advice and assistance, which may meet their needs without the requirement for a complex, in-depth, UAP-style assessment. Instead, the assessment process will be applied in a manner proportionate to the presenting support needs of the carer; but there are no specific costs that can be evidenced.

The report to Welsh Local Government Association and NHS Confederation on the transitional and longer-term implications of the Social Services and Well-being (Wales) Bill commented²¹: "The push for greater integration of assessments and the introduction of proportionate assessments should allow local authorities to manage and respond to demand as it changes, and there is no reason to assume that the changes proposed will inevitably lead, in the long term, to greater costs for local authorities. Indeed there is the potential for savings and greater cost-effectiveness if individual authorities get their assessment practice right".

²¹ Transitional and longer-term implications of the Social Services and Well-being (Wales) Bill 2013 – Welsh Local Government Association and NHS Confederation – IPC September 2013

Benefits

The critical benefit, under Option 2, is the expectation that there will be fewer individuals needing to receive a disproportionately complex assessment for care and support, or support if they are a carer. The proposed approach will offer a proactive approach which encourages people to seek help earlier and supports them to help themselves to retain their independence in a proportionate way.

Individuals will be provided with a greater voice and control over their care and support arrangements and there will be an expected reduction in the amount of time practitioners spend in completing paper work, with the 95% reduction in the fields requiring completion in the new National Assessment and Eligibility Tool. Research from Portsmouth in 2013, demonstrates that it is possible to achieve a 70% reduction in the time practitioners spend on assessment meetings and associated paperwork²².

The proposed regulations will bring greater clarity, consistency and improved quality of care and support for all individuals.

The approach will support people to remain in control of decisions about their own care and how they will be supported to achieve their outcomes.

Individuals are likely to benefit from improved consistency and equality to access care and support, quicker proportionate assessments of their needs, and have the burden of having to repeat information, to many different practitioners during the assessment process removed.

The first report of the Review of Child Protection undertaken for the Department of Education in England by Professor Eileen Munro²³ commented that: “ The (current) assessment framework and process is inefficient and does not easily facilitate professional judgment about risk and safe next steps for a child, young person and their family ...” and “social workers are required to spend too much time completing documentation”

Risks

The proposals under Option 2 are based on a new model of social care, for which there is no precedent. This includes the assumptions that have been made in Annex 1, which are based on data that has not been fully tested. The risk is that potential outcomes may differ from those that have been predicted. However, we know that the current model of assessment is too costly, with respect both to its operation and to its effectiveness as a method for ensuring that people are accessing the right care, in the right place, at the right time. The cost and efficacy of the existing assessment process is a significant factor in the analysis that leads to the conclusion that the current model

²² <http://www.communitycare.co.uk/blogs/adult-care-blog/2013/09/saying-goodbye-to-unnecessary-paperwork-in-personalisation/>

²³ The Munro Review of Child Protection. Part One: A Systems Analysis - Professor Eileen Munro – Department of Education 2010

for identifying needs and delivering social care is not a sustainable model in the long term.

Preparing the workforce and the population is a key element to ensuring that there is a smooth transition to the new system. There will be considerable transitional costs associated with the training / re-training of local authority staff and producing associated supporting resources associated with this option. As the assessment process is such a fundamental part of the proposed new social care system, the costs of introducing these regulations will consume a greater proportion of the overall transitional costs.

To militate against this risk Welsh Government has commissioned the Care Council for Wales to lead on the development and implementation of a national learning and development strategy.

The strategy is critical to the implementation of the Act and will need sustained, deliberate and high-profile leadership, which can reach out across a wide range of organisations and partners beyond the boundaries of the traditional social care sector.

The Care Council has developed this work with key stakeholders to ensure that the strategy covers all of those involved in the provision of social care, together with their key partners, and that it is delivered jointly and in collaboration with those partners.

The strategy includes a training deployment plan and the development of a one-stop-shop resource hub, playing a key supporting role for the sector in readiness for the changes and a place where Care Council for Wales can host their training resources. The Care Council for Wales will also update and promote the basic awareness raising materials. These awareness raising materials will be a common tool for use across partners to support and encourage delivery. The resources and material developed by the Care Council will be made available free of charge to all organisations and will be published online.

These developments have been supported by £1m in 2015/16 through the Social Care Workforce Development Programme (SCWDP). A further £7.1m has been made available through the programme, in previous years, together with the local authority match funding - making a total of some £11m which will support the development and implementation of cross-sector regional training plans, which align with both the national strategy and regional implementation plans.

In 2013/14 and 2014/15, a Delivering Transformation Grant was made available to the six regional partnerships, and selected national partners, to enable local government and its partners to put in place the requirements of the new Act. The Welsh Government has doubled the funding available through this grant to £3m in 2015/16. This is in addition to the £20m already announced this year to carry on the work of projects funded through the Intermediate Care Fund, and the £10m increase in the Revenue Support Grant for Social Services. To ensure that support for implementation of the Act evolves into support for the embedding process post April 2016 a further £3m in grant funding will be made available in 2016/17, subject to budgetary decisions.

The Welsh Government intends to commission an evaluation to enable the impact of the new national model of assessment and eligibility to be considered.

Summary and preferred option

Welsh Government considers that Option 1 - retaining the current model, is not sustainable. The costs of providing social care using the current model are too high.

The Welsh Government considers Option 2 to be the preferred option to ensure that greater clarity, consistency and quality of care and support for individuals and carers. The introduction of the regulations will ensure that the assessment process is proportionately applied, so that it is appropriate to the needs of the individual, and considers the individual's circumstances.

The proposed model will also ensure individuals are able to live their lives independently and are provided with a stronger voice and control over the decision that affect them. Option 2 is also consistent with case for change as set out in the many reports that have been referenced in the Explanatory Memorandum.

	Current model: at 2013/14	Option 1: at 2030	Option 2: at 2030
Total cost for Assessment and Care Management expenditure (noted in table 1)	£153m	£235m	£110m

Consultation

The Welsh Government undertook a 12 week consultation on the regulations between 6 November 2014 and 2 February 2015. The consultation on parts 3 and 4 covered 'assessing the needs of individuals, eligibility, direct payments and care planning'.

There were 103 responses received from a variety of stakeholders, including the Welsh Local Government Association (WLGA), The Children's Commissioner, The Older People's Commissioner, Social Services Improvement Agency (SSIA), Local Government representatives and Third Sector Organisations

There was general support for the proposed system change to an outcomes-based approach with a simplified assessment and care planning process and greater integration of services.

The consultation responses identified a need to ensure that the Code of Practice provided a clear explanation of the process of assessment and determination of eligibility. In response to points raised during the consultation process, amendments were made to the regulations, and the codes of practice were re-drafted to ensure that the process for assessment is clear to follow.

A priority from many responders is to reallocate resources to staff training and workforce development. The Care Council for Wales, as the lead body for workforce development, has been commissioned to lead on the development and implementation

of a national learning and development strategy. The strategy is critical to the implementation of the Act and will need sustained, deliberate and high-profile leadership, which can reach out across a wide range of organisations and partners beyond the boundaries of the traditional social care sector.

Further detail on the consultation process can be found in annex 2.

A detailed consultation response report has been published on the Welsh Government's website.

Competition Assessment

Competition Filter Test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulations do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisations?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

The filter test shows that it is not likely that the regulation will have any detrimental effect on competition; therefore a detailed assessment has not been conducted.

Post implementation review

The Social Services and Well-being (Wales) Act 2014 contains provisions to allow for Ministers to monitor functions of the Act carried out by local authorities and other bodies. Ministers may require these bodies to report on their duties in implementing these regulations.

The Welsh Government intends to commission an evaluation to enable the impact of the new national model of assessment and eligibility to be considered.

Additionally, the Welsh Government will continue to monitor the impact of the regulation on areas such as the Welsh language, the UN rights of the child and Older People and Equality.