

Coronavirus: Local Authority care and support in Wales

On 1 April 2020 section 15 and schedule 12 of the Coronavirus Act 2020 come into force in Wales, by virtue of regulation 3 of the Coronavirus Act 2020 (Commencement No. 1) (Wales) Regulations 2020.

They provide that local authorities in Wales do not have to comply with certain duties contained in the Social Services and Well-being (Wales) Act 2014 in respect of **adults**.

They include:

- a. The duty to carry out a needs assessment in accordance with section 19;
- b. The duty to determine whether any assessed needs meet the eligibility criteria pursuant to section 32 (but see below);
- c. The duty to meet eligible needs in accordance with section 35 (but see below);
- d. The duty to have in place a care and support plan in accordance with section 54.

However, local authorities will still be under a duty, pursuant to sections 32 and 35, to meet the needs of adults if it is necessary to meet them in order to protect the person from abuse or neglect or a risk thereof.

Section 197 of the 2014 Act defines “*abuse*” as physical, sexual, psychological, emotional or financial abuse (and includes abuse taking place in any setting, whether in a private dwelling, an institution or any other place). “*Neglect*” is defined as a failure to meet a person's basic physical, emotional, social or psychological needs, which is likely to result in an impairment of the person's well-being.

Therefore, a local authority still needs to meet an adult’s needs if without care and support from the local authority, their basic physical, emotional, social and/or psychological needs would not be met and this would impair their well-being. When withdrawing care and support plans or refusing to carry out a needs assessment, local

authorities are still under a duty to consider whether there would otherwise be a risk of neglect.

It should be noted that these changes apply to adults in respect of whom the local authority already provide care and support; paragraph 34 of schedule 12 of the 2020 Act. Thus, it is open to local authorities to withdraw care and support that they are currently providing.

Those who may be concerned about young adults with learning difficulties who currently benefit from residential provision at specialist colleges should be alive to the ongoing duties on local authorities. This is because, pursuant to section 37 and schedule 16 of the 2020 Act, the Welsh Ministers and the Secretary of State for Education have the power to direct closure of providers of education or training within the meaning of sections 31(1)(a) or 32(1)(a) or (b) of the Learning and Skills Act 2000 that are in receipt of funding for provision of that education or training from the Welsh Ministers or a local authority. Thus young adults may be returning to their alternative residence and the local authority will have to assess whether their basic physical, emotional, social and/or psychological needs will be met.

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