



Older People's Commissioner for Wales
Comisiynydd Pobl Hŷn Cymru

Navigating Social Services

Factsheet 1: Introduction to the Social Services & Wellbeing (Wales) Act



The Older People's Commissioner for Wales

The Older People's Commissioner for Wales is an independent voice and champion for older people across Wales. The Commissioner and her team work to ensure that older people have a voice that is heard, that they have choice and control, that they don't feel isolated or discriminated against and that they receive the support and services that they need.

The Commissioner and her team work to ensure that Wales is a good place to grow older, not just for some but for everyone.

How to contact the Commissioner:

The Older People's Commissioner for Wales
Cambrian Buildings
Mount Stuart Square
Cardiff
CF10 5FL

Phone: 029 2044 5030

Email: ask@olderpeoplewales.com

Website: www.olderpeoplewales.com

Twitter: [@talkolderpeople](https://twitter.com/talkolderpeople)

Introduction to the Act

The Social Services and Wellbeing (Wales) Act 2014 is a new Welsh law that aims to make your care and support personal to your needs, helping you to live the life you choose and stay independent for longer. It came into force on 6 April 2016 and will change how social services operate across the whole of Wales. The Act aims to create a national approach to the way in which Local Authorities promote wellbeing and protect people from abuse and neglect. For the first time, the Act ensures that carers are treated on the same basis as those using services and have a right to support if they are assessed as needing it. Unlike the older system, there is now no threshold of caring hours to be eligible for a carer's assessment.

From April 2016, social services will have to focus on what is important to you. This new approach is all about finding the right solutions for you, by working with you. It will give you and your family more of a say in the way you receive care and support services (or support service if you are a carer).

The main principles of the Act are:

- **Voice and control** – putting you and your needs at the centre of care, and giving you a voice in, and control over, your care and support.
- **Prevention and early intervention** – increasing the number of services within the community that will help to prevent, reduce or delay support needs, minimise the effects of disabilities and promote independence.
- **Well-being** – supporting you to improve your wellbeing and measuring how well care and support does this.
- **Working together (Co-production)** – encouraging you to become more involved in the design and delivery of services.

The Act and its underpinning regulations and codes of practice are published online and can be viewed on the Social Services and Well-being (Wales) Act Information and Learning Hub website (www.ccwales.org.uk/the-act/). Alternatively, hard copies can be purchased from TSO by calling 0333 200 2425.

What does the new Act mean for people?

The introduction of the new Social Services & Wellbeing (Wales) Act 2014 means that:

- Everyone in Wales has a right to wellbeing. The Local Authority must do their best to support you (and your carer) to improve your wellbeing.

'Wellbeing' means that people:

- Are physically, mentally and emotionally happy
- Are able to enjoy their rights
- Have access to education, training, sports and play
- Are protected from abuse, harm and neglect
- Have positive relationships with family and friends
- Have a social life and enough money to live a healthy life
- Have a good home
- Are part of the community

A Local Authority must ensure that there is easily accessible information, advice and assistance about care and support services available to everyone. This includes information, advice and assistance for carers too.

You have the right to have control over what support you need and to make decisions about your care and support as an equal partner. A Local Authority must presume that you are the best person to judge your own well-being and to know what is best for you.

You have a right to participate in discussions about your care and support. A Local Authority must find out and listen to your views, wishes and feelings. They must think about whether you need an independent professional advocate to allow you to participate fully in the assessment, care and support planning, review and safeguarding processes. You have a right to an independent professional advocate provided free of charge if you have specific difficulties in expressing your views, wishes and feelings.

The Local Authority will focus on making sure you get the right help at the right time. You have a right to a needs assessment if it appears that you may have a need for care and support services (or a need for support services if you are a carer).

When conducting a needs assessment, a Local Authority must assess what you wish to achieve in day to day life – the outcomes you want. They must then assess whether information, advice and assistance (IAA), preventative services or care and support services would help you achieve your outcomes. The Local Authority must also assess whether help other than support from the Local Authority could help meet your outcomes.

Under the new Act, there is new National Eligibility Criteria that will be used by all Local Authorities. If you meet the criteria, you have a right to care and support and a right to a Care and Support Plan (or a Support Plan if you are a carer). You have a right to be involved in the creation of your Care and Support Plan (or Support Plan).

You may be required to pay for your care and support (or your support if you are a carer). You have a right to a financial assessment to determine how much you can afford to pay. (There is a maximum weekly charge for care at home, but this does not apply to residential care). Under the Act, financial assessments will be subject to the same rules across Wales.

You have a right to have a direct payment if you would like to arrange and pay for your own care and support services (or support services if you are a carer) instead of receiving them directly from the Local Authority.

Powers to protect people from abuse and neglect have been strengthened. Under the new Act, a person is considered an ‘adult at risk’ if they are experiencing (or are at risk of experiencing) abuse or neglect, are unable to protect themselves and have care and support needs (it doesn’t matter if the Local Authority is currently meeting these needs or not). If a Local Authority suspects that an adult is at risk, it must investigate it in order to decide what action should be taken.

When making decisions about your need for care and support (or support if you are a carer), a Local Authority must uphold the United Nations Principles for Older Persons.

United Nations Principles for Older Persons

The United Nations Principles for Older Persons are guidelines that set out how older people should be treated across key aspects of their lives. The Principles are grouped under five themes:

- independence
- participation
- care
- self-fulfilment
- dignity

For more information on the Principles, please visit <http://www.olderpeoplewales.com/en/about/un-principles.aspx>

The Older People's Commissioner for Wales called for the new law to uphold the United Nations Principles for Older Persons to ensure that the rights of all older people in Wales are respected - the Principles can be used to uphold your right to 'wellbeing'.

Under the Social Services and Wellbeing (Wales) Act 2014, a Local Authority must have 'due regard' to the United Nations Principles for Older Persons. You have a right for 'due regard' to be paid to the United Nations Principles for Older Persons when decisions about your care and support (or support if you are a carer) are being made.

'Due regard' means that a Local Authority must:

- Think about the UN Principles for Older Persons before and at the time that changes are going to be made that might or will affect people older.
- Think about the UN Principles for Older Persons throughout the decision making process. It is not enough to simply use the UN Principles for Older Persons to justify a decision after it has been taken.
- Use their duty to have 'due regard' in such a way that it influences the final decision.
- Embed the duty to have 'due regard' in the way that meaningful - it is not a question of 'ticking boxes'.

- Not delegate the duty to have 'due regard' - a Local Authority must always remain the body responsible for it.
- Keep an accurate record to show how they have considered their duty (good practice).

