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Royal College of Occupational Therapists  
Coleg Brenhinol y Therapwyddion Galwedigaethol



# **Social Services and Well-being (Wales) Act 2014 and its interface with Disabled Facilities Grant**

## **Practice Guidance**

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## **Social Services and Well-being (Wales) Act 2014 and its interface with Disabled Facilities Grant**

### **Practice Guidance**

*When a Disabled Facilities Grant is being considered, this is the Guidance that should be followed to ensure the requirements of the Social Services and Well-being (Wales) Act are being met.*

## **Introduction**

The Association of Directors of Social Services Cymru (ADSSC) Delivering Transformation Programme 2017-18 includes work to enhance practice in respect of Prevention and Early Intervention. One of the aims of this is to develop solutions to legislative and practice issues between the Social Services and Well-being (Wales) Act 2014 (SSWBA) and other legislation. This will involve examining how the SSWBA comes into contact with the requirements of other legislation and understand the consequences of potential issues in practice. It was agreed that one priority should be to examine the interplay between the 2014 Act and Housing legislation as it relates to adaptations and specifically Disabled Facilities Grant (DFGs).

This Guidance is therefore provided on an advisory basis and for a primary audience of Housing Professionals, Occupational Therapists as well as social workers and managers. It is not intended to be comprehensive but to set out the key issues to be considered and it should be read and considered alongside the details of the relevant Acts, Regulations, Codes of Practice, Guidance and Council requirements.

### **This guidance is in 7 sections:**

- Section 1 Social Services legislation concerns the underlying principles of the 2014 Social Services and Well-being Wales Act (SSWBA)
- Section 2 outlines the legislative basis for DFGs
- Section 3 discusses the interplay between the SSWBA and the DFG legislation. It identifies the relevant parts of the SSWBA and practice implications for housing and social services staff and implications and occupational therapists
- Section 4 provides examples of effective practice for collaborative working across housing and social services in applying the principles of the SSWBA
- Section 5 provides case studies to illustrate how adaptations can be used creatively to help achieve personal outcomes within the spirit of SSWBA
- Section 6 outlines what research tells us about the contribution of DFGs and adaptations to well-being outcomes
- Section 7 outlines a number of related issues which were identified during the production of this guidance, but are outside the scope and resources of this piece of work, but are deserving of further consideration.

Appendices contain more detailed information on relevant aspects of Social Services and Housing legislation.

### Key Messages

- Local authorities' responsibilities under the SSWBA are placed on the council as a whole, not just on social services and in partnership with the NHS.
- DFGs and other local authority-provided assistance with adaptations have a crucial role to play in helping to achieve the well-being outcomes and other principles underlying the SSWBA including:
  - Prevention and early intervention
  - The well-being of carers
  - Safeguarding and protection
  - Integration of services and partnership working
- Occupational therapists play a key role in helping to secure well-being outcomes, co-production of solutions with the client allows for imaginative solutions better suited to the individual's well-being outcomes and ensures that the client does not receive what they do not want or will not use.
- Imaginative use of DFGs and similar forms of assistance can often lead to savings in the longer term by reducing mobility risks, hospital admissions and other costly interventions.
- Team working across social services, health, housing and occupational therapists has a proven record in achieving the best outcomes with the optimum use of public resources.

## 1. Social Services Legislation

### The 2014 Act

The Act includes these interlinked key features:

- **Well-being** of the local population and the individual plays a central role throughout the Act. Local authorities have new duties in this respect **strong voice and real control for the individual**: working with people to find ways to achieve their desired personal outcomes linked to a national outcomes framework
- **new models of service**: promoting innovation, mobilising community resources and promoting social enterprises, co-operatives and other user-led organisations
- **preventative services**: a new tier of services to assist recovery and restoration, mobilising community resources and comprehensive information, advice and assistance services to prevent or delay the need for managed care
- **simplicity**: making systems easier and more accessible, reducing complexity, streamlining assessment and care planning
- **integration**: working across professional and organisational boundaries (particularly social services, health and housing) to make best use of resources and help achieve the best outcomes for individuals and families
- **professionalism**: ensuring that social services and social care are delivered by a confident, well-trained workforce
- **safety**: strengthening safeguarding arrangements particularly for adults.

Further selected details about the Social Services legislation is at Annex A, but you can refer to the Social Care Wales Information and Learning Hub (the Hub) which is a one-stop-shop for a range of resources about Wales's social care legislation (<https://socialcare.wales/hub/home>).

## 2. DFG Legislation and Guidance

Disabled Facilities Grants are governed by the Housing Act 2004, the Housing Renewal Grants (Amendment) (Wales) Regulations 2005, as well as the Housing Grants, Construction and Regeneration Act 1996. (HGCR) which gives power to the Local Housing Authority. Annex B details these provisions and subsequent amendments and the related Regulations. The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 on Housing Renewal repealed much of the prescriptive 1996 legislation on housing grants, construction and regeneration and provided local authorities, in Wales, more freedom to develop renewal strategies that better suited local conditions. However, the mandatory requirements for DFGs remain from the 1996 Act and guidance reflects the content of that legislation.

There is much research about the importance of good quality housing to achieving good health and well-being and improving quality of life. Close to 29,000 older people in Wales receive support for some sort of adaptations to their home. Around £35m is spent on disabled facilities grants in Wales: <http://gov.wales/statistics-and-research/assistance-housing-improvement/?lang=en>. Occupational Therapists have a significant role in assessing and delivering adaptations, such as stairlifts, ground floor extensions, adapted toilets, level access showers and assist in almost every case (around 96%).

Welsh Government advise <http://gov.wales/topics/housing-and-regeneration/grants-and-funding/disabled-facilities-grant/?lang=en> (27 April 2017) that Disabled Facilities Grants can help towards the cost of adapting a home to enable a disabled person to continue to live there. Grants are available from local councils. A grant is paid when the council considers that changes to a home are necessary and appropriate to meet the person's particular needs and that it is reasonable and practical to do the work. Owner occupiers, landlords and private tenants can get help to carry out adaptations to a property providing there is a person with a disability living there as their main residence. Whilst this guidance is about DFGs there are a wide range of routes for financial assistance through other grants and/or loans that may also be available from the local authority and others to assist with making properties Safe, Warm and Secure, the details of which are contained within each authority's financial assistance policy and may or may not be means tested.

A grant can be used to give better freedom of movement into and around the home and/or to provide essential facilities within it. An occupational therapist (or other approved qualified professional) will assess what works are 'necessary and appropriate'. Typical works can include the following examples but the essential focus must be on prevention, enabling independence in the home and undertaking life activities to meet personal outcomes:

- improving access to bathroom, living room or bedroom e.g. widening doors or installing a stair lift
- providing additional bathing facilities e.g. a level access shower
- making preparation of food and cooking easier e.g. providing low level units
- adapting heating or lighting controls to make them easier to use
- improving the heating system.

The amount of grant will depend on the cost of the approved works and the applicant's financial circumstances. A financial assessment will determine the amount of grant payable offered which can vary from zero to 100 per cent of the cost. The "means test" will not be applied where the

application is for a disabled child. The maximum grant payable is £36,000, inclusive of fees, in Wales but the council may use its discretion to pay additional costs if it chooses. Further information about DFG legislation is at Annex B.

### 3. Interface Between Social Services and DFGs

While social services have a lead and championing role in relation to the SSWBA, achieving the objectives of the Act is a corporate responsibility of the local authority. DFGs and similar forms of assistance help to deliver the objectives of the SSWBA in several ways. For example, they help to achieve well-being outcomes by enabling people to live as normal a life as possible in their own homes, they assist carers in the discharge of their caring responsibilities and DFGs can be used as a preventative service, avoiding the need for more costly interventions in the longer term.

The Royal College of Occupational Therapists produced practice guidance in England which explains the interaction between DFGs and the Care Act 2014 (the England equivalent of the SSWBA 2014) (1). Drawing on this guidance and the contributions of other stakeholders, we highlight the main practice issues at the interface between DFGs in this section of the guidance. The chapter numbers refer to the relevant parts of the SSWBA.

(1) *The Royal College of Occupational Therapists (RCOT) have produced guidance <https://www.rcot.co.uk/practice-resources/rcot-publications/downloads/care-act-2014-dfg> on managing the interface between the Care Act 2014 and Disabled Facilities Grant in England.*

#### Main relevant chapters of the Social Services and Well-being (Wales) 2014 Act

**Chapter 2 covers Well-being, Prevention, Population Assessment, Personal Outcomes, Information, Advice and Assistance (IAA)**

*“There is a need to focus on prevention and early intervention to make social services sustainable into the future. It is vital that care and support services do not wait to respond until people reach a crisis point” (SSWB Act Code of Practice Part 2.)*

The main implications for practitioners are:

- Practice and rationale for DFGs needs to be defined and guided by well-being principles. Awareness of SSWB Act 2014 needs to be improved in some housing services. Training that has previously focussed on social care needs to be extended to housing services. There may be a role for Social Care Wales in this respect.
- Every occupational therapist must enable individuals of all ages to achieve their well-being including:
  - Supporting their participation in meaningful occupations.
  - Maintaining or expanding values and interest, habits and roles, performance, capacity.
  - Creating an enabling environment.
  - Maintaining a strong focus on safeguarding both vulnerable adults and children.
- Information, advice and assistance (IAA) should be available to all and the focus must be on prevention and early intervention to ensure maximum control over day to day life for the individual.
- A consistent offer to customers, whether they are self- funders or funded, should be made, ensuring that the needs of the whole population are met.

- DFGs can be offered on a preventative basis. Investment of resources earlier can save money in the long run and improve the quality of life of people. Personal outcome data should be collated and analysed to evidence the effectiveness of early interventions, both short and long term.
- Statutory IAA services and community-based IAA resources should include information provided by housing organisations.
- Clear information and advice given at an early stage will ensure customer choice and avoid unnecessary and costly adaptations.
- There is a duty on the wider LA to help achieve well-being outcomes under this legislation; it is a duty to provide or arrange. If there is no other solution available then it is the LA that must provide the support. In doing this, it is important that clients are not “passed” around between departments and that there is a “one-stop” co-ordinated approach. The statutory basis for DFGs in Wales provides sufficient flexibility to enable a properly co-ordinated approach. Under the ‘Enable’ umbrella, the aim is that adaptations are delivered by all agencies in a coordinated manner using a consistent monitoring framework.
- It is important to consider satisfaction levels and personal outcomes not just process indicators such as the delivery time for DFGs. Adaptations often achieve more than one outcome on the National Outcomes Framework.
- DFG provision should be evaluated as a whole, to ensure that the adaptation has met the intended outcomes for the person, in line with the National Outcomes Framework (NOF), delivered value for money and social benefit as well as being delivered in a timely way for the person in their home. Satisfaction of the individual, both with process and outcome should be evaluated. The Enable monitoring framework also needs to reflect the NOF.
- IAA services should be used to have a conversation around means testing at the outset of the process. It should be explained at the outset that DFGs are means tested but there are other possibilities e.g. that the LA can manage adaptation work paid for privately or by an agency. Individuals should still get a professional assessment and advice even if they are not going ahead with an adaptation provided by the local authority. There is otherwise a big risk that they will spend lots of their savings on something inappropriate to their needs or could end up with a fall and in hospital.
- IAA Services should be able to ensure people can access good information and advice about how adaptations and repairs can help, how to access assessments and funding and how to find reputable local tradespeople and suppliers to get the work done.

### **Chapters 3 and 4 covers Assessment, Carers, Eligibility, Care Planning and Review**

*“This is a model of assessment and care planning that requires the assessment process to start with the person themselves and understand their strengths and capabilities and what matters to them, and how their family, friends and local community play a part in their life to help them reach their personal outcomes” (SSWB Act Code of Practice Part 3)*

The main issues for practitioners are:

- To ensure that specialist assessment and care planning by Occupational Therapists meets these parts of the Code of Practice requirements and is joined up with any assessment of housing need including adaptations.
- For Councils to be clear about how adaptations and DFGs fit within the care and support plan. This will assist in meeting personal outcomes and demonstrate an integrated approach.
- To consider how individuals and their carers may benefit from the use of DFG or other funding when considering areas such as well-being, prevention of increasing needs, achieving goals, access, safeguarding and moving and handling.
- DFG processes should include the well-being of carers.
- Carers (unpaid) have an enhanced and now equal right to assessment and support.
- People should not be excluded for consideration of a DFG just because they don't qualify for care and support. Consideration must be given to those who may be self-funders and who also should be entitled to IAA.
- A service lead or a commissioner, may need to consider how the skills of occupational therapists and assistants (including Trusted Assessors who may not be social care staff) can best be used; resources made available more flexibly and services designed to meet individual's needs.
- A system that will allow a rapid application, assessment and response is necessary for people with life-limiting conditions or requiring end of life care. It is not usually appropriate to consider the upheaval of moving, but a suitable adaptation may enable an individual and their carer/s to remain safe in their own home, maintaining a quality of life in the time available.
- It is important to consider equipment investments against longer-term cost savings that might be achieved. For example, commodes will need to be emptied several times a day – consider the costs of this against the alternatives such as a chair lift. Whilst this is a positive example, it should be recognised that the funding streams involved are often different.
- Whilst the 2014 Act and Code of Practice cover assessment and care planning when some individual moves to another authority area in Wales or (Part 11) from another country in the UK – Ordinary Residence rules – Councils should be clear about what happens to equipment or movable adaptations when someone moves to a different area within Wales and to/from outside of Wales. Although, this may need careful consideration as the means tests for DFGs and Social Services are very different. The default position is that when equipment is no longer needed or the user is moving out of county, it should be returned to the community equipment stores. Adaptations are primarily fixtures and there is no portability. An important principle is that Councils make the move as straightforward as possible for the person and their carer so that they keep equipment that they are familiar with and organisations do not spend a lot of time and money arguing about repatriation of equipment.

## **Chapter 7 covers Safeguarding and Protection**

The principles underpinning the legislation ensure “professionals in all services working with individuals and their families in the local area are given the assistance they need so they can undertake the complex and difficult work of protecting adults with confidence and competence” (Statutory Guidance)

- This applies where there are concerns over an individual’s welfare which could be resolved by an adaptation to the home. The local authority has a duty to ensure a person can live safely, free from abuse and neglect. Suitable housing which supports appropriate access and care for an individual can be a part of this.
- The Royal College of Occupational Therapists advise that where a moving and handling need has arisen and an assessment requested, this falls under different legislation and the remit of the Health and Safety Executive (HSE). As such, the assessment is defined as a risk assessment. Risks are identified and a plan is developed to mitigate these risks, often involving the provision of equipment such as hoists or other similar items. In these circumstances the equipment must be provided as soon as possible and to not do so could result in an HSE investigation. Requests for assessments to resolve a moving and handling assessment should be seen as soon as possible.

## **Chapter 9 covers Integration and Partnership**

The 2014 Act requires local authorities “to make arrangements to promote co-operation with their relevant partners and others, in relation to adults with needs for care and support, carers and children”. It places a duty on relevant partners to co-operate with, and provide information to, the local authorities for the purposes of their social services functions.

The main implications for practitioners are:

- An occupational therapist’s work or role may be integrated into a larger cross-agency service. Occupational therapists including those in the NHS and third sector may need to adapt working, learn new skills and share them.
- Working closely with colleagues across the sectors can enable a more comprehensive and efficient service.
- Taking an integrated approach to designing or delivering services that can include housing, as well as health and social care, so as to include adaptations needed to promote early intervention, prevention and independence and well-being.
- Authorities should ensure that housing concerns are seen as integral to addressing Delayed Transfers of Care (DTC) when considering use of DFG budgets; and housing need is considered at an early stage of discharge planning.
- To consider who is best placed to undertake an assessment and that it is only one assessment, more proportionate, more efficient – balanced with the need to give the right advice and putting in a solution that fits. See publication on The Royal College of Occupational Therapists website (link below) – trusted-assessor’s competence framework but LAs need to be clear about whether they are willing to accept an assessment from a trusted assessor. Trained Trusted Assessors are able to recommend small adaptations

without the need for a further assessment unless requested due to the complexity of the situation.

<https://www.rcot.co.uk/practice-resources/rcot-publications/downloads/competence-framework-trusted-assessors>

- It is essential to recognise the skills of an occupational therapist and their understanding of how people function better in their familiar surroundings (e.g. not over-prescribing interventions) and the strength of their professional judgement and assessment – whether a Council or NHS employee or self-employed. Similarly, there needs to be recognition of the role of housing technical specialists working alongside occupational therapists/trusted assessors in advising and guiding towards the most practical solution in the delivery of adaptations.
- IT systems within Social Care and Housing/Grants should be linked so the effect of DFGs on social care interventions such as residential and home care can be measured.
- To avoid obvious differences and inconsistencies within an LHB boundary and stop any 'postcode lottery' of different areas providing different services (e.g. one LA provide specialist baths but nearby LA doesn't. Lack of consistency over eligibility and interface with different tenures/housing associations).

## 4. Examples of Effective Practice and Case Studies

These examples of effective practice have been chosen to illustrate how the interface between the SSWB Act 2014 and DFGs and adaptations more generally can operate effectively to enable individuals to achieve personal outcomes and to promote their well-being.

### Neath Port Talbot

The Housing Renewal & Adaptations Service provides a Mandatory Disabled Facilities Grants (DFG) within Neath Port Talbot.

Main Features of Approach – See <https://www.npt.gov.uk/1208>

- Taking advantage of greater flexibility under SSWBA in terms of achieving well-being outcomes
- Look at presenting problem – what is it that the client wants to achieve – we don't see how we can't provide it
- Occupational therapists no longer stop at the garden gate – have to be more imaginative and innovative in looking at solutions – taking that approach allows us to do it
- Far more autonomous far more client-centred
- This approach has not led to increase in adaptations – fears that it would open the floodgates not realised in practice
- Tended in the past to rely on own occupational therapist judgment rather than co-production with the client – led to recommendations for things the client did not want
- Has not increased the overall demand for services though there is more to do around the developmental needs of children
- Signposting to IAA has been helpful
- Other factor in containing demand is means testing. 35% drop out rate after assessment.

#### a) Child with severe behaviour problems

Child X is 9 and has severe learning disabilities, autism and challenging behaviours. He lives with his parents and 2 siblings in a 3-bedroomed council property. His behaviours are severe including self-harming (head banging and picking at his skin), violence towards his siblings (biting, hitting, kicking) and violence towards his parents (hitting, biting and kicking), and throwing furniture, toys etc. He has smearing issues and is not using the toilet at home but will use it at school. He is supported by the behavioural support team, school and the social services Occupational Therapist (OT).

His parents approached social services to request an additional bedroom as he could not share a room with his brother due to his behaviour and his brother's sleep was significantly impacted by constantly being disturbed. He could not share with his sister and there was no other bedroom in the house. His grandparents live nearby and offer support to the family on a daily basis.

It was important to understand this boy's behaviour and what would trigger his violence in order to make the correct recommendation for any adaptation. The Occupational Therapist worked with the behavioural support team to try and identify triggers for his behaviour – over stimulation in response to sound/ light causing distress which manifested itself in his behaviours; Or seeking stimulation and if he cannot get that stimulation resulting in his behaviours. The Occupational Therapist also worked with the family to explore with them what they felt would assist them in their role as parents to manage him.

Following months of work by the parents, child, behavioural support team and Occupational Therapist, it was agreed that this child required a bedroom away from the normal hubbub of family life as noise was a significant trigger to his behaviours. The room needed to include an en-suite shower and toilet room in order to promote his use of the toilet at home. He likes the sensation of water on his skin and would spend hours in the shower if he could. It was therefore vital to have a shower that could be controlled externally and only switched on when he was supervised. As he has a tendency to pull things and throw things, he could not have an ordinary shower as he would pull it from the wall, therefore a specialist shower was specified which can be fully removed from the wall when not in use leaving what appears to be flat tiles with a tiny pipe connector. As he strips off and has no self-awareness the Occupational Therapist specified specialist windows with integral blinds operated by a removable magnetic control so it can be shut by parents and then the control removed. Lighting was also a trigger so specialist lighting was required to be quite dim as brighter lighting caused him to become agitated and over stimulated.

Inevitably the process from referral to completion of the DFG was significant (18 months), but absolutely correct that the time was spent getting the adaptation right for meeting the outcomes of the child and his family. The final adaptation has been a great success. The child is now using the toilet at home and as the shower is not there, unless he is due to have a shower, he is not distracted by it so can concentrate on using the toilet, he is sleeping better thus the whole family is more rested. He is starting to take himself off into his room when he starts to feel distressed which is part of the strategy developed in conjunction with the behavioural support team. This has reduced the number of incidents of violence, in particular, towards his siblings.

b) Hard standing for disabled person who drives

A referral was received for a lady in her early adult life who drives an adapted car. She had attended a college course and had been offered a job following her qualifications. She needed to drive to get to her work and had an adapted vehicle through Motability. However, there was significant pressure on parking in her road resulting in her not being able to park anywhere near her house making it very difficult for her to get to her car and thus get to and from work. Her outcome under the Social Services and well-being Act was to be able to park her car close enough to her home so that she could get in and out safely and get to and from work. The options considered were a yellow box outside her home but this would be difficult to enforce as any blue badge holder can park in it and there were other residents in the street with Blue Badges. There was space in the front garden to provide a hard standing which would be for her sole use and would meet her outcomes. An application was made by the Occupational Therapist for a DFG however as hard standings are discretionary and currently only mandatory elements of the DFG are generally agreed her application was refused. This then created a problem as her well-being outcomes identified an eligible need

for the provision of a hardstanding but the funding stream to fund it was not available. It is ridiculous that potentially this person was going to have to give up paid employment as the stress of getting to work was intolerable and affecting her health and well-being. A number of funding streams were considered including direct payments, charitable funding and self-funding. None of these were accessible in a timely way or they fell outside the remit. In the end there was some slippage money from another budget and a senior manager agreed to use it in this instance to provide the hard standing. The outcome was met for the lady who was then able to continue in her employment.

c) Examples from Living Not Existing (Wales) – courtesy of the Royal College of Occupational Therapists

To access the full examples (<http://cotimprovinglives.com/improving-lives-saving-money-putting-prevention-heart-care-older-people/>).

The Occupational Therapists are based in the Single Point of Access Team, Denbighshire County Council.

Citizens did not have to go through a financial assessment for this grant, but the individuals selected needed to be owner occupiers and over 60 years of age.

Each adaptation under the pilot has been evaluated using a well-being questionnaire.

The total cost of the case study adaptation below was **£3,972.00**, avoiding the need for a care package of 45 minutes a day for personal care, saving **£5,460.00** per year. The person was also at risk of a fall, which, if it resulted in a hospital admission of 10 days, could incur costs of around **£6,150.00**.

## Case Studies

A 78-year old lady has acute osteoarthritis which limits her everyday activities and makes her reliant on her husband to help in everything. She experienced pain and wore a spinal brace for support and protection. Quality of life was absent and her husband had to help her with washing. The Occupational Therapist, completed an assessment and identified the specific difficulties. It was agreed that a wet room/walk-in style shower would be the best solution. The Occupational Therapist drew up an adaptation plan and the technical officer from Care and Repair worked with the builder and checked that the work was done according to plan. Her feedback was “I don’t feel frightened anymore and the relief is wonderful. To feel safe makes such a difference to you.”

## Flintshire County Council Housing Department

The housing specialist occupational therapist works with people who have applied for re-housing who have a physical, mental or learning disability. This wide-ranging role ensures occupational therapy expertise is available in cases of homelessness, new build design and void property adaptation; managing the Specialist Housing Register, identifying potential tenants for properties and assessing the feasibility of further adapting a property to meet their needs. Suitable housing is essential to enable people to participate in domestic, family and societal relationships, giving them the opportunity to engage in work and leisure activities; complete personal care tasks

independently and manage their own conditions as appropriate to complete their occupations. This makes a significant difference to people's ability to meet their well-being outcomes and do what matters to them.

- An average of six adapted properties each month are assessed by the Housing Occupational Therapist. By matching the already adapted properties to citizens the costs of new adaptations of approximately **£15,000.00** a month are avoided.
- An average of four citizens each month are re-housed from properties in which they were experiencing falls on the stairs to homes with all amenities on one level. Reducing the need for emergency services and hospitalisation, a cost saving of **£545.00** per citizen (based on the 2016 Housing Health Cost Calculator).
- An average of three citizens each year are re-housed from residential care to enable them to return home. This results in a cost saving of **£793.47** per week/per citizen: an annual saving for the local authority of **£123,781.32**.

### Ceredigion Case Study

This case involves a gentleman who lives with his wife who is his sole carer. He has a number of health conditions with the primary condition characterised by constant spasms day and night. The gentleman's wife also has health problems herself and experiences acute episodes of depression.

Since 2013 he has been in receipt of a direct payment from the local authority to meet his social needs. He has used the funding to employ a PA, however, whilst he found this support of great benefit it meant he was still reliant on another person to meet his social needs and any activities had to be pre-planned. In 2016 he contacted the local authority to request support with funding the weekly cost of a canine partner dog. Following a rigorous and lengthy application and training process he was allocated a canine partner dog in August 2016. The local authority occupational therapist provided considerable support during this process and in arranging the necessary adaptations (from charitable sources as not eligible for a formal DFG) to the garden which were needed in order for the dog to be placed.

The caseworker put in a request for a direct payment to partly fund the weekly costs of the canine partner dog which was agreed. The biggest impact and benefit from having the canine partner dog has been on the gentleman's emotional well-being and self-esteem. Having support from the canine partner dog means that he is now able to go out alone for walks in the local area or shopping in the local village and shopping in the local supermarket. Having support from his canine partner has transformed his life and his feelings of confidence. For the client's wife it means that he is less reliant on her and that she can spend time away seeing friends without worrying about her husband.

These case studies, whilst demonstrating effective practice and collaboration, highlight the difficulty of the differing criteria and interface of the Social Services and Well-being Act and the DFG legislation in practice. Social Services may have a duty under the Social Services and Well-being Act to meet the person's eligible outcome but the funding available for major pieces of building works i.e. the DFG is not mandated to provide such facilities.

## 5. What the Research Tells Us

There is a wide range of recent research from across the UK about the importance of Disabled Facilities Grant (DFGs) and how their delivery can be improved to benefit the lives of people through an integrated approach. These issues are being addressed by some Councils in Wales already but these selected findings are presented here to provide a basis for future planning and to inform the development of more consistent DFG responses across Wales. It should be noted that these research examples mostly take a broader perspective and do not address the fundamental issue that DFGs cannot fund support for well-being of the individual as set out in the 2014 Act.

The Centre for Ageing (November 2017) published a report 'Room to improve: The role of home adaptations in improving later life'. The report summarises the findings of a systematic review of the best recent scientific evidence on how home adaptations can contribute to improving later lives.

<https://www.ageing-better.org.uk/news/small-changes-homes-can-improve-quality-life>

The report (2017) of the Expert Group on Housing an Ageing Population in Wales established by the former Minister for Communities and Tackling Poverty includes the following findings:

- Welsh Government and other funders should “Continue to invest in and strengthen aids and adaptations services and the organisations which provide these, expanding their role where possible, to enable more people to “stay put” or move to a safer, more energy efficient, affordable and connected environment with community support”
- “The contribution which relatively small-scale investments in housing adaptations and improvements can make needs to be at the heart of efforts to improve the well-being of older people.”
- “Technology, community equipment, aids and adaptations can transform the way people live – enabling people to live independent and fulfilling lives for longer. We need to find ways of identifying these opportunities and be open to innovation.”

<http://gov.wales/topics/housing-and-regeneration/housing-supply/expert-group-on-housing-an-ageing-population/?lang=en>

A Review has been undertaken by the Wales Audit Office recently, commissioned by the Welsh Government. The Report 'Housing Adaptations' was published in February 2018 and its findings will need to be taken into account by Councils. <https://www.audit.wales/publication/housing-adaptations>

The main findings were:

- The current system for delivering adaptations reinforces inequalities for some disabled and older people, and addressing need is complicated by the different sources of funding;
- Provision of adaptations to people with similar needs is inequitable because of inconsistencies in how delivery organisations provide services;
- Public bodies are generally clear on the benefits of adaptations, but partnership working is ineffective to address need;

- Public bodies have a limited understanding of the longer-term wellbeing benefits of housing adaptations and there remains significant scope to reform the system to measure and improve equality and wellbeing.

A wide range of recommendations are made in the Report but those that relate to DFGs and to the content of this Guidance are:

- the Welsh Government should review whether local authorities should continue to use the means test for Disabled Facilities Grants (DFGs);
- local authorities should provide or use home improvement agency services to support disabled and older people to progress their DFG applications efficiently;
- delivery organisations should work with planning authorities to fast track and stream-line adaptations that require approvals;
- delivery organisations should use Trusted Assessors to undertake less complex adaptation assessments

A House of Commons Briefing on DFGs (2016) highlighted the following research:

- Muscular Dystrophy UK has warned that local authorities are failing to act in providing accessible housing for people with muscle-wasting conditions. This lack of wheelchair-accessible housing has, according to research published in 2015, led to some households accruing substantial debts and spending their savings in order to adapt their homes. <http://www.musculardystrophyuk.org/news/news/breaking-point-the-crisis-in-accessible-housing-and-adaptations/>
- The Leonard Cheshire Disability Charity, in *The Long Wait for a Home* (2015), recommended that councils:
  - ensure no disabled person waits longer than 18 months for essential adaptations to their home;
  - increase their spending on DFGs to ensure that all eligible disabled people receive grants within the legal time limit. This will also reduce the pressure on social care budgets;
  - ensure that all new homes are built to Lifetime Homes standards and 10% of new homes are built to full wheelchair accessible standards<https://www.leonardcheshire.org/sites/default/files/Leonard-Cheshire-Disability-The-Long-Wait-for-a-Home.pdf>
- In a report issued in March 2016 the Local Government Ombudsman in England said, “People with disabilities are being left for too long in unsuitable homes because of problems with councils’ Disabled Facilities Grants processes.” *Making a house a home: Local authorities and disabled adaptations* outlines some common problems that applicants experience with the DFG process and good practice guidance for local authorities.
- On 14 December 2016 the Equality and Human Rights Commission (EHRC) launched a formal inquiry on housing for disabled people. The inquiry will look at whether the availability of accessible and adaptable housing, and the support services around it, is fulfilling disabled people’s rights to live independently. The inquiry will cover England,

Scotland and Wales. A call for evidence was issued in January 2017 and the inquiry will report in 2018.

## 6. Further Issues to Consider

The remit of the project to produce this Guidance was limited by both resources and time and prioritised the interface between the relevant legislation. During discussions with occupational therapists and housing professionals, a number of important and relevant issues were identified that it was not possible to include within the content of this Guidance. The need for these matters to be examined is nevertheless significant and they are listed here to provide a wider future agenda for improvement in this arena:

- Developing this guidance has identified that further work is needed at the national level and with social services, housing representatives and occupational therapists to produce guidance about how the funding regimes for DFGs and SSWB Act well-being provision through early intervention and prevention can operate in tandem. As things stand, interventions being suggested by the SSWB Act would not be eligible for grant assistance using the DFG criteria. The statutory Code of Practice (Part 2) for the 2014 Act provides a helpful starting point:

Paragraph 155 – There is a need to strengthen the preventative approach that is already available across programmes and services, building and extending the activity base to make sure that services are available when people need them.

Paragraph 156 – Local authorities may apply a flat rate charge to help provide a preventative service. A local authority **must** consider both the level of the flat rate charge it proposes to make, and its potential financial effect on the person required to pay. Local authorities should avoid a situation where the flat rate charge they set discourages take up of the preventative service.

Paragraph 240 – The increased focus on early intervention and prevention requires recognition of those resources which are already in place in the community.

- There has recently been opportunity through the Intermediate Care Fund and Enable to use alternative funds for more 'well-being' provision and it is these type of adaptations (or more alterations in the home) that have been included as case studies in this guidance. However, there is a need for a consistent approach across Wales as to how DFGs and funding to meet Part 2 requirements of the 2014 Act can operate together to benefit individuals. Consideration should be given to whether local financial assistance policies should be changed to reflect this changed set of requirements on local authorities (and who would administer the funds/works, and where the funding would come from). Any guidance also needs to distinguish between capital adaptations/ "well-being" provision as opposed to revenue service funding.
- Guidance on the detailed operation of DFGs e.g. summary of everyone's role in the DFG process i.e. – occupational therapist, technical officer, social worker. How the three tiers work and who can operate at each tier? (i.e. of Enable – support for independent living).
- Guidance on the application of top up funding when for example the costs of works exceeds the grant limit or an individual cannot afford the assessed contribution. This is currently at the discretion of individual local authorities, which is influenced by budget availability.
- Stair lift provision is variable in Wales and there may be more efficient procurement opportunities that deliver efficiently and could also be more cost effective e.g. leasing/recycling.

- Guidance to achieve greater consistency and reduce the variation across Wales in DFG operational decisions about what at present is mandatory and discretionary – for example of hardstanding and cross over for a disabled person to park a car provided in some areas but not recognised as mandatory in some areas Also, there is inconsistency in relation to award of discretionary top up funding.
- Guidance on Adaptations more generally – Royal College of Occupational Therapists are due to issue a publication in 2018 – Minor Adaptations Without Delay (MAWD).
- There are increasing difficulties of securing funding for adaptations due to short tenancy agreements and this is having a significant impact on older and disabled people living in private rented accommodation who must remain living in a challenging home environment. This could be the cause of frequently reported difficulties in Wales of obtaining landlord permission to adapt property but there may be other reasons which will need to be examined. Such considerations need to align with local authorities Accessible Housing Registers.
- Minor Adaptations – these are fast tracked and a majority of the work is delivered by Care and Repair through the Rapid Response Adaptation Programme (RRAP) funded by Welsh Government. In relation to this funding this is available to home owners over 60. There are however, other funding streams that are relevant too e.g. ICF, LHB, DTOC reduction, PAG. The Royal College of Occupational Therapists are currently reviewing their guidance on Minor Adaptations and this issue may need to be revisited in light of their findings and also consider the complexity of funding streams for low cost adaptations. Use of discretionary grants provided by Councils needs to be considered in the context of partnership working.
- Creating Collaborative Systems – including single/co-located teams for delivery ensuring better communication and reduced number of visits. This can be done in several ways, the key being a single management view of the process to ensure a seamless service for customers. E.g. Use the NHS number when recording information. This allows for a single reference for people at all stages of the process. Record end-to-end times for the customer journey dating from when they contact the Council to when the work is signed off. Experience of attempting to create single teams does however suggest that there are limitations on the extent to which a fully integrated approach can be achieved because of the inherent differences between the legislation and a realistic approach will be needed.
- It would be beneficial for Welsh Government to consider issuing a Policy Position Statement to local authorities, LHBs and other agencies responsible for delivering home adaptations that explains the interface between these two pieces of legislation.

## 7. Conclusions

This Guidance provides some basic advice about the interplay between the Social Services and Well-being (Wales) Act 2014 and Disabled Facilities Grant. It does not cover all the issues that might have been included but provides a starting point in a discussion that needs to be widened and sustained across Housing, Social Care and the NHS. Such a tripartite partnership is clearly supported by Government policy and legislative intent. It is important to understand that the key duties under Part 2 of the 2014 Act are placed on the Council as a whole – not just social services – and also in partnership with the NHS. There is an undeniable case for Housing generally and DFGs specifically, to be seen as one of the solutions to effective integrated Health and Social Care. The Centre for Ageing (2017) reported that Research shows that low-cost home modifications can lead to a 26% reduction in falls that need medical treatment and savings of £500 million each year to the NHS and social care services in the UK. They found that adapting homes could also offset the need for residential care for many, the average Disabled Facilities Grant (used to adapt homes) is £7,000 (one-off payment) compared to the average residential care cost per person of £29,000 per year (Foundations et al, 2015). To maximise the potential for DFGs and adaptations to contribute to people's well-being and act as one of the key means of early intervention and prevention will require further work and attention to create innovation and flexibility and remove unnecessary barriers for occupational therapists and housing professionals. The priority issue to address is how the different funding regimes for DFGs and adaptations and well-being under the 2014 Act can be correlated and changed to ensure they work together to support meeting the personal outcomes the individual wants to achieve.

We are grateful to the Royal College of Occupational Therapists, Housing and Environmental Health Professionals in Wales who have helped with the production of this Guidance.

**Association of Directors of Social Services Cymru**  
March 2018

## Annex A

### Social Services Legislation – Main Relevant Features for DFGs

#### Well-being

Section 2 of Part 1 of the Act provides a clear definition of well-being that applies to:

- a) people who need care and support; and
- b) carers who need support.

Reference to well-being in the Act means the well-being of a person who needs care and support and carers who need support in relation to any of the following aspects:

- a) Physical and mental health and emotional well-being
- b) Protection from abuse and neglect
- c) Education, training and recreation
- d) Domestic, family and personal relationships
- e) Contribution made to society
- f) Securing rights and entitlements
- g) Social and economic well-being
- h) Suitability of living accommodation.

In relation to a child, “well-being” also includes:

- a) physical, intellectual, emotional social and behavioural development
- b) “welfare” as that word is interpreted for the purposes of the Children Act 1989.

In relation to an adult, “well-being” also includes:

- a) Control over day to day life
- b) Participation in work.

Section 5 of the Act requires persons exercising functions under the Act to seek to promote the wellbeing of people who need care and support and carers who need support.

Section 6 requires persons exercising functions under the Act to have regard to an individual’s views, wishes, feelings, characteristics, culture and beliefs. Also, to promote and respect the dignity of the individual, and support them to participate in decisions that affect him or her.

People’s wellbeing and the outcomes they wish to achieve plays a central role throughout the Act. Local authorities must:

- use information gathered on people’s well-being and the barriers to promoting well-being to inform the population assessment (**section 14**);
- seek to promote people’s well-being when providing or arranging preventative services (**section 15**);
- seek to involve people in the design and delivery of services provided by social enterprises, co-operatives, user led services and the third sector (**section 16**);

- put in place a system that provides people with the information, advice and assistance that they need to take control over their day to day lives and achieve what matters to them (**section 17**);
- work with people to identify what matters to them when assessing an individual's need for care and support and developing their care and support plan (or support plan for carers) (**Parts 3 and 4**);
- where appropriate, arrange an independent advocate to support and represent an individual's views, wishes and feelings. (**Part 10**).

### Information, Advice and Assistance

The 2014 Act and related Code of Practice introduces a duty on local authorities to secure an information, advice and assistance (IAA) service that provides all individuals within their locality with accessible information; advice and assistance to enable an individual to make plans to meet their care and support needs; or a carer to meet their support needs now and in the future. The Welsh Government state that IAA is central to the Act and is an opportunity to change the perception of social care and support services in Wales. It will promote early intervention and prevention to ensure that people of all ages can be better supported to achieve their personal outcomes and explore options for meeting their care and support needs. It should be considered to be a preventative service in its own right, through the provision of high quality and timely information, advice and assistance.

### Assessment and Care Planning

The Code of Practice says:

11. The purpose of an assessment for care and support is to work with an individual, carer and family, and other relevant individuals to understand their needs, capacity, resources and the outcomes they need to achieve, and then to identify how they can best be supported to achieve them. At the core of this is a conversation about promoting independence and development by maximising people's control over their day to day lives and helping address difficulties or problems which are stopping them achieving this. It is essential that people are enabled to identify their own personal outcomes, and how they can achieve those outcomes.

12. This is a model of assessment and care planning that requires the assessment process to start with the person themselves and understand their strengths and capabilities and what matters to them, and how their family, friends and local community play a part in their life to help them reach their personal outcomes. It is consistent with the principles that underpin the Mental Capacity Act 2005. It is an approach to assessment and care planning that recognises that needs can be met not only through the provision of services but through active support and assistance to enable people to meet their own needs. For example, by assisting people to access local services themselves or supporting people to develop the skills and confidence they need.

Paragraph 38 of the Code says:

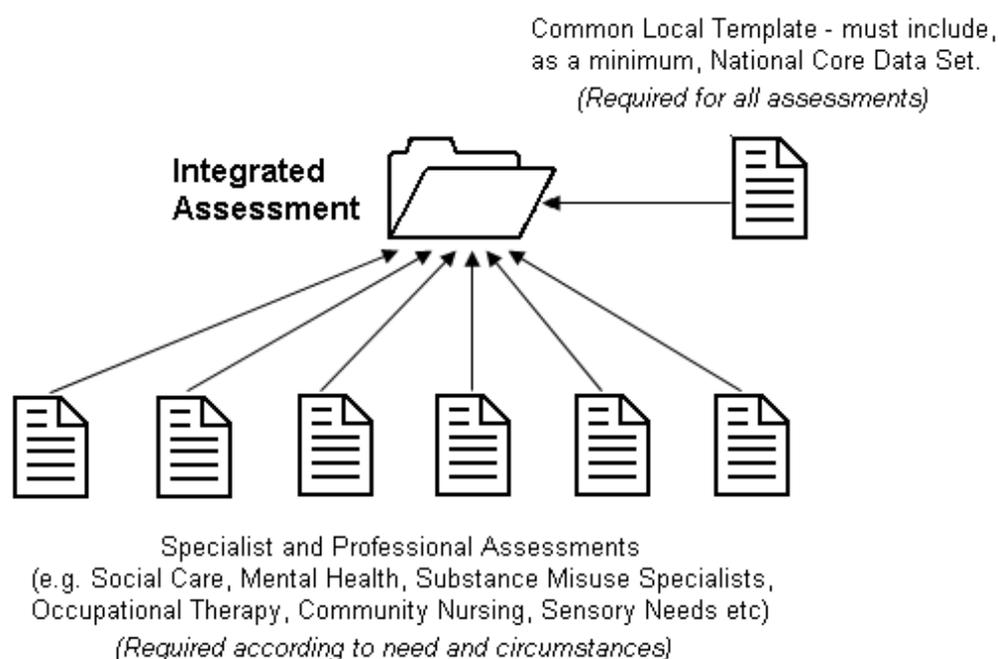
“In order to avoid the duplication of assessments under different legislation being carried out separately, a local authority may carry out a needs assessment under the Act at the same time as it carries out an assessment under other Acts or at the same time as another body carries out an assessment under other Acts. In such cases, the local authority may carry out the assessment on behalf of or jointly with the other body. In cases where the other body has arranged for the other assessment to be carried out jointly with another person, the local authority may carry out the other assessment jointly with the other body and that other person.”

The Code also says (paras 27-30):

“It will often be the case that where a more comprehensive assessment is required, an assessment of care and support needs may need to comprise a compendium of one or more professional assessments which will supplement the minimum data required in the national assessment and eligibility tool, which is set out in more detail later in this Code.”

“Each of these assessments may be from a particular professional discipline and designed to suit the specific assessment task of that professional discipline. This diagram illustrates this:”

### Elements of an Integrated Assessment



In respect of Care Planning, Review and Coordination, the Code identifies the requirements on Councils and partners to ensure the care planning process is consistent, professionally completed, compliant with United Nations Conventions/Principles, effectively co-ordinated and reviewed and is integrated with other legislation in respect of care plans including the 2010 Measure. The Code specifically covers the details of all of this.

The 2014 Act provides that a local authority **must** prepare and maintain a care and support plan or a support plan for a person whose needs it is required to meet and that the plans **must** be kept under review. Regulations specify the general structure of Plans and the Code of Practice sets out requirements in respect of principles and details of Plans and the Care Planning process. Councils must ensure that there is a named individual to co-ordinate the preparation, completion, review, delivery and revision of the plan and specifies requirements for the individual. The format of the care and support plan **must** be agreed by the local authorities and Local Health Board and NHS Trusts and, as a minimum, **must** be consistent across the regional footprint of the Local Health Board. Also, Local authorities **must** work together with Local Health Boards and NHS Trusts to ensure that local and specialist templates for care and support plans meet the national minimum core data set and content required. Paragraph 98 of the Code says:

“Where there are overlapping duties to prepare plans that are nationally or legally prescribed (for example a Care and Treatment Plan prescribed under the Mental Health (Wales) Measure 2010 or a ‘section 31A plan’ prepared for the purposes of Part 4 of the Children Act 1989), and there is a plan that meets the requirements of a care and support plan; the preparation, delivery and review of that plan can be regarded as the way for the local authority to meet its duties to prepare, deliver and review a care and support plan.”

Also, Paragraphs 100/1 say:

“Where there are well-being or specialist plans which do not meet the requirements of a care and support plan the local authority **must** ensure that practitioners have regard to the requirement of the Regulations on care planning and this code of practice but **must** combine the care arrangements into a single integrated care and support plan. This will include plans relating to the safeguarding of the individual.”

“the section on information sharing (below) sets out the responsibilities on agencies to share appropriate and relevant information between practitioners and service providers to support the preparation, delivery, and review of a single integrated care and support plan that meets the assessed needs of the individual or family.”

Section 56 provides for what is to happen when a person who has needs for care and support that a local authority is required to meet moves from the area of one local authority to another.

## Adults at risk

The Act introduces a strengthened, robust and effective partnership approach to safeguarding including dedicated Safeguarding Board arrangements for both children and adults, a National Independent Safeguarding Board, and Adult Protection and Support Orders (APSOs). One of the most important principles of safeguarding is that it is everyone’s responsibility. Protection from abuse and neglect is a defined characteristic of well-being. Each professional and organisation must do everything they can, to ensure that children and adults at risk are protected from abuse.

There are new duties on all staff in a local authority to report an adult or child at risk. This duty also applies to specified relevant partners of a local authority. The local authority must then make enquiries and determine what action, if any, if it has reasonable cause to suspect that the adult or child (whether or not ordinarily resident there) is at risk.

The Act includes other provisions that relate to the duty to protect:

- provide services that contribute towards preventing people suffering from abuse or neglect harm, and information and advice on how to raise concerns;
- assess people's needs, even if they refuse assessment, if abuse, neglect or harm (for children) is suspected;
- automatically meet needs for people whose needs aren't otherwise eligible if that is necessary to protect them from abuse, neglect or (for children) harm;
- actively engage and co-operate with partners to protect people from abuse, neglect or (for children) harm.

Adult protection and support orders enable a local authority to apply to a JP for a Court Order to gain access to an individual to properly assess whether a person is an adult at risk and, if so, to make a decision about any action that should be taken. APSOs are only to be used in exceptional circumstances where other attempts to speak to the adult considered to be at risk have failed. Each local authority will have at least one nominated APSO lead.

## Annex B

### Disabled Facilities Grant

#### Housing – Legislation Relating to DFGs

For an Overview see - Shelter Cymru (2015) A Review of Independent Living Adaptations ISBN: 978-1-4734-2816-4 <https://sheltercymru.org.uk/wp-content/uploads/2015/02/150123-review-independent-living-adaptions-en.pdf>

#### Housing Grants, Construction and Regeneration Act 1996

An Act to make provision for grants and other assistance for housing purposes and about action in relation to unfit housing; to amend the law relating to construction contracts and architects; to provide grants and other assistance for regeneration and development and in connection with clearance areas; to amend the provisions relating to home energy efficiency schemes; to make provision in connection with the dissolution of urban development corporations, housing action trusts and the Commission for the New Towns; and for connected purposes.

#### The Housing Renovation etc. Grants (Reduction of Grant) Regulations 1990

##### Explanatory Note

(This note is not part of the Regulations)

These Regulations provide for reduction of the amount of renovation grant and disabled facilities grant which may be paid by local housing authorities in respect of applications by owner-occupiers and tenants under Part VIII of the Local Government and Housing Act 1989.

Part I contains general provisions affecting the citation, commencement and interpretation of the Regulations (regulations 1 to 5) and makes provision in regard to the circumstances in which a person is or is not to be treated as responsible for another person and in which a person is or is not to be treated as being a member of the same household as a person (“relevant person”) whose financial resources are to be taken into account in determining whether the amount of the grant is to be reduced and, if so, by how much (regulations 6 and 7). It also sets out what comprises the applicable amount and the amount to be taken to be the financial resources in respect of an application, by reference to which any reduction in the amount of grant is determined (regulations 8 and 9).

Part II specifies the amount by which a grant is to be reduced in various circumstances (regulations 10 and 11).

Part III and Schedule 1 provide for the determination of the applicable amount of a relevant person, and with respect to polygamous marriages (regulations 12 and 13).

Part IV provides for the determination of the income and capital of a relevant person, the earnings of employed and self-employed earners and the treatment of income other than earnings (including notional income); sums to be disregarded are set out in Schedules 2 and 3. Determination of capital is also dealt with; capital to be disregarded is set out in Schedule 4 (regulations 14 to 37).

Part V provides for the treatment of students (regulations 38 to 43).

## **Housing Renovation etc. Grants (Reduction of Grant) Regulations 1994 (“the 1994 Regulations”).**

### **Explanatory Note**

(This note is not part of the Regulations)

These Regulations provide for reduction of the amount of renovation grant and disabled facilities grant which may be paid by local housing authorities in respect of applications for such grants by owner-occupiers and tenants under Part VIII of the Local Government and Housing Act 1989. The reduction is to be carried out in accordance with regulation 10 where the financial resources of the applicant (as defined by regulation 9 and determined under Part IV of, and Schedules 2, 3 and 4 to, the Regulations) exceed the applicable amount (within the meaning of regulation 8 and Part III) in respect of the application. The Regulations consolidate, with modifications, the Housing Renovation etc. Grants (Reduction of Grant) Regulations 1990 and the amending regulations listed in Schedule 5.

In addition to minor and drafting amendments, these Regulations make the following changes:

New definitions of “maternity leave” and “personal pension scheme” are added to regulation 2(1) (interpretation), and the definition of “the Independent Living Fund” is expanded.

A new paragraph (6) is added to regulation 5 (remunerative work) to provide that a person absent from work, owing to illness or maternity leave, is not to be treated as engaged in remunerative work.

Regulation 7 (circumstances in which a person is to be treated as being or not being a member of the household) is amended to make provision for temporary absence.

A new paragraph (2) is added to regulation 20 (determination of weekly income) to amend the provisions for determining the average weekly earnings of self-employed earners.

New sub-paragraphs (i) and (j) are added to regulation 21(1) (earnings of employed earners) to specify further the amounts which are to be included as earnings.

New paragraphs (11) and (12) are added, and consequential amendments made, to regulation 24 (determination of net profit of self-employed earners) to specify further the amounts which are to be deducted from earnings.

In paragraph (2) of regulation 25 (deduction of tax and contributions for self-employed earners), the provisions specifying the amount to be deducted in respect of social security contributions are amended.

Sub-paragraph (b) of regulation 28(7) (notional income) is amended to specify further the amount to be deducted in respect of certain social security contributions.

A new paragraph (5) is added to regulation 29 (modifications in respect of children and young persons), to provide for certain capital of a child or young person to be treated as income; and consequential amendments are made to regulations 12 (applicable amounts), 13 (polygamous marriages) and 26 (determination of income other than earnings), and to Schedule 1.

In Schedule 1 (applicable amounts), the amounts specified in Parts I and IV of that Schedule are updated, and the conditions relating to severe disability premium in paragraph 13 and to disabled child premium in paragraph 14 are amended.

In Schedule 2 (sums to be disregarded in the determination of earnings), the provisions in paragraphs 1(a) and 2 relating to the disregard of certain earnings where the employment has been terminated or the applicant has ceased to be engaged in work are amended.

In Schedule 3 (sums to be disregarded in the determination of income other than earnings), paragraph 14 is amended to provide that the disregard of a specified amount of certain war pensions and payments is not to apply where the pension or payment falls to be disregarded under other specified provisions; new paragraphs 20 and 40 are inserted, specifying certain disregards in respect of payments for board and lodging accommodation; and a new paragraph 51 is added, specifying a disregard of any increase in the rate of certain social security benefits.

Regulation 46 provides that these Regulations shall not apply in respect of applications made before 4th April 1994 (the date on which these Regulations come into force).

## Housing Renewal Grants Regulations 1996

### Explanatory Note

(This note is not part of the Regulations)

These Regulations apply to main grants for the renewal of private sector housing under Chapter I of Part I of the Housing Grants, Construction and Regeneration Act 1996 (“the Act”).

Part I of the Regulations begins with interpretation (regulation 2). Regulation 3 provides for the exclusion of “persons from abroad”, as defined by housing benefit rules, from eligibility for grant. Regulation 4 permits local housing authorities to obtain, in the case of landlord’s applications under section 31 of the Act, information from pension fund holders about pension or retirement annuity income foregone by the applicant (thereby mirroring regulation 31(3) to (8) for owner-occupier’s and tenant’s applications).

Part II sets out the means test for owner-occupier’s and tenant’s applications for renovation grant and disabled facilities grant within the meaning of section 30 of the Act (save for landlord’s applications for disabled facilities grant). The test applies also to tenant participants in a tenants’ application for common parts grant, by virtue of section 32(5) of the Act. The Regulations consolidate, with modifications reflecting recent changes to housing benefit rules and minor and drafting amendments, the Housing Renovation etc. Grants (Reduction of Grant) Regulations 1994 (“the 1994 Regulations”).

The Part II means test differs from that contained in the 1994 Regulations in particular in that regulation 5 defines “relevant person” more narrowly in relation to disabled facilities grant applications, and that Chapter X of Part II (students) has been redrafted to take account of recent changes to the funding of higher education.

Regulation 48 provides that these Regulations shall not apply in respect of applications made before 17th December 1996 (the date on which these Regulations come into force).

## The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002

### Explanatory Note

(This note is not part of the Order)

This Order confers on local housing authorities in England and Wales a new power to improve living conditions in their area (article 3). The new power enables an authority to provide assistance to any person for —

- a) the acquisition of living accommodation, where the authority wishes to purchase a person's home or as an alternative to adapting, improving or repairing it;
- b) the adaptation or improvement of living accommodation (including by alteration, conversion or enlargement, and by the installation of things or injection of substances);
- c) the repair of living accommodation;
- d) the demolition of buildings comprising or including living accommodation;
- e) the construction of replacement living accommodation to replace living accommodation that has been demolished.

Authorities are required to consider a person's ability to meet a contribution or to repay the assistance, both before imposing a condition to that effect and before taking steps to enforce a condition of that kind. They are also required to provide a written statement of the conditions to which assistance is subject, and to ensure that a person to whom assistance is given has received advice or information about any obligations to which he would be subject once assistance has been provided. They may take security, including a charge on property.

The new power is not exercisable until the authority has adopted and published a policy relating to their exercise of the power, and the power must be exercised in accordance with the policy (article 4).

Where the new power is to be exercised in relation to a building, the prior consent of the owner is required (article 5). Other protective provisions require authorities to obtain the consent of the person to whom the assistance was provided before varying the specification of any assisted work, and before varying or revoking any condition to which the assistance is subject.

Authorities are empowered to require the provision of information and evidence for the purposes of, or in connection with, the new power (article 6).

Articles 7 and 8 provide for the making of contributions towards authorities' expenditure under the new power, and for the recovery of contributions.

Article 9 and Schedule 1 make amendments consequential on article 3.

Article 10 and Part 1 of Schedule 2 amend section 435 of the Housing Act 1985. Part 2 of that Schedule makes amendments consequential on the amendments in Part 1.

Article 11 and Schedule 3 amend Parts 1 and 4 of the Housing Grants, Construction and Regeneration Act 1996. Chapter 1 of Part 1 is retained only for the purposes of what was previously mandatory disabled facilities grant. The other purposes for which grant is payable under that Chapter, and the provisions of Chapters 2 and 3 of Part 1 relating to group repair schemes and home repair assistance, are subsumed in the new power.

Article 12 and Schedule 4 make consequential amendments to section 116 of the Rent Act 1977, sections 100, 244 and 255 of the Housing Act 1985 and section 169 of the Local Government and Housing Act 1989.

Article 13 amends section 93(5) and (6) of the Local Government and Housing Act 1989.

Article 14 and Schedule 5 amend Part 7 of the Local Government and Housing Act 1989. The general effect of the amendments is to remove restrictions relating to renewal areas.

Article 15 and Schedule 6 provide for the repeal of provisions

### **The Housing Renewal Grants (Amendment) (Wales) Regulations 2002**

These Regulations amend the Housing Renewal Grants Regulations 1996 (“the 1996 Regulations”) which set out the means test for determining the amount of renovation grant and disabled facilities grant which may be paid by local housing authorities to owner-occupier and tenant applicants under Chapter 1 of Part I of the Housing Grants, Construction and Regeneration Act 1996. The amendments are mainly consequential on changes to the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) upon which the means test is based.

Regulation 4 amends regulation 9 of the 1996 Regulations to remove the unintended conflict between regulations 8 and 9 where a child or young person has been fostered.

Regulation 5 increases the amounts specified in regulation 10 of the 1996 Regulations so increasing the applicable amount (which partly determines the amount of grant payable).

Regulation 6 increases the multipliers in regulation 12 of the 1996 Regulations.

Regulation 7 increases the amount of capital, which a child or young person may have without the amounts determined in accordance with paragraph 2 of Schedule 1 to the 1996 Regulations ceasing to apply.

Regulation 8 increases the amount that may be deducted from weekly earnings in respect of payments for childcare.

Regulation 9 amends regulation 19 of the 1996 Regulations to provide that a woman on maternity leave should be treated as if she was engaged in remunerative work so enabling relevant childcare charges paid to be deducted from weekly earnings determined in accordance with regulation 18 of the 1996 Regulations. Any childcare charges incurred in respect of the child to whom the maternity leave relates are not treated as relevant childcare charges.

Regulation 10 amends regulation 31 (notional income) of the 1996 Regulations and regulation 11 amends regulation 38 (notional capital) of the 1996 Regulations to take account of the programmes known as “Intensive Activity Period for 50 plus” and “the Intensive Activity Period”.

Regulations 12, 13 and 14 make various amendments to regulations concerning students including amendments consequential on the establishment of the Learning and Skills Council and the National Council for Education and Training for Wales.

Regulation 15 updates the applicable amounts and premiums in Schedule 1 to the 1996 Regulations and adds a premium payable to certain persons who have ceased to be entitled to a bereavement allowance.

Regulation 16 adds items to the list of sums to be disregarded in the determination of income other than earnings, namely payments relating to discretionary housing payments, £15 of any widowed parent's or mother's allowance. Amendments are also made to existing provisions consequential on various changes to new deal schemes and the establishment of National Health Service trusts.

Regulation 17 adds items to the list of sums to be disregarded as capital, namely payments relating to discretionary housing payments, training grant payable under the New Deal 50 Plus Employment Credit Scheme and payments made to compensate persons for loss suffered during the Second World War. Amendments are also made to an existing provision consequential on various changes to new Deal Schemes.

## **The Housing Act 2004**

### **Explanatory Note**

#### Summary

This Act replaces the existing housing fitness standard with the Housing Health and Safety Rating System. It introduces two new licensing regimes for private rented properties. There is a new requirement for sellers or estate agents to produce a home information pack before marketing any residential property for sale along with provision for an ombudsman scheme for estate agents. The Act makes other provision about housing, including changing the right to buy scheme, strengthening the rights of park home owners, extending the power of the Housing Corporation to give social housing grant to non-registered social landlords and enabling local authorities to secure occupation of long-term empty private sector homes. It also establishes tenancy deposit schemes to safeguard deposits paid in connection with assured short hold tenancies. Finally, it requires local housing authorities to assess the accommodation needs of Gypsies and travelers in their area and produce a strategy on how these needs can be met.

## **The Housing Renewal Grants (Amendment) (Wales) Regulations 2005**

### **Explanatory Note**

(This note is not part of the Regulations)

These Regulations amend the Housing Renewal Grants Regulations 1996 ("the 1996 Regulations") which set out the means test for determining the amount of grant which may be paid by local housing authorities under Chapter I of Part I of the Housing Grants, Construction and Regeneration Act 1996.

Regulation 5 of the 1996 Regulations define a relevant person. These Regulations amend the definition of a relevant person to remove the means testing of those responsible for a disabled child or young person. These regulations apply to applications to Local Housing Authorities in Wales made on or after 30 September 2005.

## Annex C

### References

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