

Equality Impact Assessment (EIA) Template – Part 1

<p>Policy title and purpose (brief outline):</p>	<p>Regulation and Inspection of Social Care Wales Act 2016 – Workforce regulations</p> <ul style="list-style-type: none"> • The Social Care Wales (Extension of Meaning “Social Care Worker”) Regulations; • The Social Care Wales (Specification of Social Care Workers) (Registration) Regulations; • The Social Care Wales (Content of the Register) Regulations; • The Social Care Wales (List of Persons Removed from the Register) Regulations; • The Social Care Wales (Constitution of the Panels: Prescribed Persons) Regulations; and • The Social Care Wales (Proceedings before the Panels) Regulations
<p>Name of official:</p>	<p>Rob Brandon</p>
<p>Department:</p>	<p>Workforce Policy, Social Services and Integration, Health and Social Services Group</p>
<p>Date:</p>	<p>November 2016</p>
<p>Signature:</p>	<p>Rob Brandon</p>

1. Please provide a brief description of the policy/decision.

For example what is the overall objective of the policy/decision, what are the stated aims (including who the intended beneficiaries are), a broad description of how this will be achieved, what the measure of success will be, and the time frame for achieving this?

The Regulations covered in this impact assessment support a number of important aspects of the Regulation and Inspection of Social Care (Wales) Act 2016 and focus on:

- Section 79 - The Social Care Wales (Extension of Meaning “Social Care Worker”) Regulations;
- Section 80 - The Social Care Wales (Specification of Social Care Workers) (Registration) Regulations;
- Section 91 - The Social Care Wales (Content of the Register) Regulations;
- Section 110 - The Social Care Wales (List of Persons Removed from the Register) Regulations;
- Section 174 - The Social Care Wales (Constitution of the Panels: Prescribed Persons) Regulations; and
- Section 175 - The Social Care Wales (Proceedings before the Panels) Regulations

These Regulations outline elaborate essential matters of workforce regulation set out in the 2016 Act. They also enable the workforce regulator to develop the rules that set out how they work with the 2016 Act and the Regulations to complete the workforce regulatory framework.

The Social Care Wales (Extension of Meaning of “Social Care Worker”) Regulations

Section 79(1) sets out those persons who are “social care workers” for the purposes of the 2016 Act. Subsection (2) of section 79 enables the Welsh Ministers, by regulations, to treat other categories of persons as social care workers for the purposes of this Act, and subsection (3) lists those categories. These include persons such as responsible individuals designated by service providers, student social workers, inspectors of care services and persons who provide care and support in connection with care and support services which are not “regulated services”.

These Regulations set out the additional persons who are to be considered as social care workers for the purpose of SCW functions under sections 68(2), 112, 114 and 116 of the 2016 Act. This is important because it defines the scope of who SCW can support and help in its work and who is subject to the Code of Professional Practice for Social Care.

The Social Care Wales (Specification of Social Care Workers) (Registration) Regulations

Section 80 of the 2016 Act requires SCW to keep a register of relevant social workers, visiting social workers from relevant European States and social care workers of any other description specified by the Welsh Ministers in regulations.

The intended effect of these Regulations is to require SCW to maintain a register of those social care workers who manage a regulated service, provide care and support in connection with a children's home or secure accommodation, or who are undertaking a course approved by SCW in order to become registered as a social worker.

The Social Care Wales (Content of Register) Regulations

Sections 91(1)(a) and (b) of the 2016 Act already set out certain information which must always appear on the register, namely:

- (a) the date on which the person was entered onto the register
- (b) the person's qualifications to practise work of the kind to which his or her registration relates.

These Regulations are made under sections 91(1) (c) and (d) of the Act and provide that the register must also show the following information:

- (c) such other qualifications, knowledge or experience relevant to the person's registration as may be prescribed; and
- (d) such information relating to the person's fitness to practise as may be prescribed.

The intended effect of these Regulations is to ensure the register contains sufficient information to provide effective public protection. The register will include information where a person has been approved to act as an approved mental health professional (section 91(1)(c)) and information about certain fitness to practise interventions, examples of which include advice, warnings, suspension, removal and agreed undertakings (section 91(1)(d)).

The Social Care Wales (List of Persons Removed from the Register) Regulations

For reasons of public protection, the register will reflect sanctions imposed and certain decisions made by a fitness to practise panel in relation to a registered person (under regulations being made under section 91(1)(d)). However, the

register will not reflect that a person's entry has been removed. Section 110 of the 2016 Act therefore provides that SCW is required to keep a list of persons whose entries in the register have been removed under section 110(1) of the 2016 Act.

The intended effect of these Regulations is to ensure that the list of persons removed from the register is constructed and presented in such a way as to enable straightforward access and understanding by those seeking such information, for example, employers and members of the public who wish to check whether a person has been removed from the register.

The Social Care Wales (Constitution of the Panels: Prescribed Persons) Regulations

The intended effect of these Regulations is to ensure that the parties to panels and the general public at large are confident in the quality and impartiality of the panel processes that are at the heart of workforce regulation. There can then be confidence in the decisions made by panels and that the decisions and processes of panels support public protection and respect the rights of registrants.

The Social Care Wales (Proceedings before the Panels) Regulations

The intended effect of these Regulations is to enable the panels at the heart of the regulatory process to operate efficiently and effectively. The Regulations set out how the panels will operate in a range of crucial areas such as the duties of the parties involved, the standards of evidence, the summoning of witnesses. The Regulations also provide for SCW to make rules relating to how panels will operate.

The success and desired outcome of the regulations will be the smooth functioning of the new regulatory regime outlined by the 2016 Act when it comes into force on 1 April 2017. Whilst they do not have a direct impact upon the Welsh language, they will have an indirect impact as they form part of the operation of the new system of regulation.

2. We have a legal duty to engage with people with protected characteristics under the Equality Act 2010 (please refer to Annex A of the EIA guidance) identified as being relevant to the policy. What steps have you taken to engage with stakeholders, both internally and externally?

A 12 week public consultation was held on the proposals for regulations that ran from 28 June 2016 to 20 September 2016. The consultation was launched by Ministerial statement and open to the public and was specifically to a wide number of groups with an interest in the care and welfare of people within these characteristics (e.g. The Alzheimer's Society, AGE Cymru, Older People's Commissioner for Wales, National Youth Advocacy Service, Children's Commissioner, Children in Wales and All Wales Childrens and Young People Advocacy Providers Group). The consultation asked a range of questions that potentially impacted upon people within the protected characteristics and a number of these stakeholders have provided feedback through the consultation. In particular Questions 30 and 31, which were open ended and asked:

Q30. Do you think that the proposals in this consultation will have any positive impacts on groups with protected characteristics? If so, which and why/why not? and

Q31. Do you think that the proposals in this consultation will have any negative impacts on groups with protected characteristics? If so, which and why/why not?.

In conjunction to this consultation we have also held a series of technical workshops with stakeholders to discuss specific aspects of the draft regulations outlined within the consultation and stakeholders have provided further insight that have helped developed thinking around them.

A link to the respective consultation page on the Welsh Government website is enclosed for ease of reference, it can be found at:

<https://consultations.gov.wales/consultations/phase-1-implementation-regulation-and-inspection-social-care-wales-act-2016>

3. Your decisions must be based on robust evidence. What evidence base have you used? Please list the source of this evidence e.g. National Survey for Wales. Do you consider the evidence to be strong, satisfactory or weak and are there any gaps in evidence?

Along with the workforce regulator and social worker representative bodies (BASW Cymru, UNISON, etc.), we have also actively engaged with our key stakeholders (including those with particular interests with protected groups including AGE Cymru, Older People's Commissioner for Wales, Children's Commissioner, Children in

Wales, etc.) through a series of technical working groups to help develop these regulations. No issues have been raised that highlight any concerns relating to those within the protected characteristics or equality in general.

The regulations do not have any direct impact upon the groups within the protected characteristics. However, they do have impacts upon the services and the workforce that deliver these services.

Social Care Worker title

The regulations under section 79 relate to the extension of the meaning of the term “Social Care Worker” to other groups within the social care workforce. The title is already well established and recognised by those using social care services and their carers and families, and as we are not proposing to change this, we do not anticipate this will cause any concerns or anxieties. We do not believe that this extension of title will have any impacts or benefits for those within the protected characteristics but should there be any (i.e. for members of the protected characteristics who work in this sector) then they will be broadly the same for all citizens, including the protected characteristics.

Registration of the Workforce

The regulations under sections 80, 91 and 110 relate to the registration of social care workers and are intended to build upon the strong foundations that the regulator has already constructed in its unique lay-led council and provide it with additional tools to further this successful work. These regulations engage powers for Welsh Ministers to extend the range of the workforce registered and to effectively end voluntary registration. It is considered unlikely that the proposals will have any impacts or benefits for those within the protected characteristics but should there be any (i.e. for members of the protected characteristics who work in this sector) then they will be broadly the same for all citizens, including the protected characteristics. The extension of registration through future regulations of this kind could also have the potential to target specific groups of workers who assist those in the protected characteristics, such as those with sight or hearing disabilities.

Constitution of the Panels

The regulations under sections 174 and 175 relate to the constitution and the proceedings of the three disciplinary panels that regulate social care workers registered with the workforce regulator. These panels provide the necessary safeguard for all service users and ensure that we have a workforce that delivers high quality services in a safe and professional manner. We do not consider the regulations will have any impacts or benefits for those within the protected characteristics but should there be any (i.e. for members of the protected characteristics who work in this sector) then they will be broadly the same for all citizens, including the protected characteristics.

The regulations also provide clear guidance for panels with respect to the calling and hearing of vulnerable people as witnesses as part of the evidence gathering during proceedings before a panel. These regulations build upon the existing provisions and will help to continue to ensure that these vulnerable groups are protected and guided through the procedure to ensure that they are empowered to be part of and

heard in cases that may have a significant impact upon their care and well-being. This includes ensuring that each case considers the complexity of the issues, avoids unnecessary formality and seeks flexibility in the proceedings to ensure that, in so far as practicable, the parties are able to participate fully in the proceedings so the panels can deal with cases fairly and justly.

It is important to note any opportunities you have identified that could advance or promote equality.

Impact

Please complete the next section to show how this policy / decision / practice could have an impact (positive or negative) on the protected groups under the Equality Act 2010 (refer to the EIA guidance document for more information).

Lack of evidence is not a reason for *not* progressing to carrying out an EIA. Please highlight any gaps in evidence that you have identified and explain how/if you intend to fill these gaps.

4.1 Do you think this policy / decision / practice will have a positive or negative impact on people because of their age?

Age	Positive	Negative	None / Negligible	Reasons for your decision (including evidence) / How might it impact?
Younger people <i>(Children and young people, up to 18)</i>	X			The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including those with protected characteristics. However, it is recognised that these benefits will apply to any of those groups

				who currently need access to, or receive, social care services.
People 18-50	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including those with protected characteristics.</p> <p>However, it is recognised that these benefits will apply to any of those groups who currently need access to, or receive, social care services.</p>
Older people (50+)	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including those with protected characteristics.</p> <p>However, it is recognised that these benefits will apply to any of those groups who currently need access to, or receive, social care services.</p>



4.2 Because they are disabled?

Impairment	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Visual impairment	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including those with protected characteristics.</p> <p>However, it is recognised that these benefits will apply to any of those groups who currently need access to, or receive, social care services.</p> <p>A more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>
Hearing impairment	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including those with protected characteristics.</p> <p>However, it is recognised that these</p>

				<p>benefits will apply to any of those groups who currently need access to, or receive, social care services.</p> <p>A more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>
Physically disabled	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including those with protected characteristics.</p> <p>However, it is recognised that these benefits will apply to any of those groups who currently need access to, or receive, social care services.</p> <p>A more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>
Learning disability	X			<p>The regulations are considered to have impacts and benefits</p>

			<p>that will be broadly the same for all citizens, including those with protected characteristics.</p> <p>However, it is recognised that these benefits will apply to any of those groups who currently need access to, or receive, social care services.</p> <p>A more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>
Mental health problem	X		<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including those with protected characteristics.</p> <p>However, it is recognised that these benefits will apply to any of those groups who currently need access to, or receive, social care services.</p> <p>A more professionalised workforce will be better qualified to identify and be</p>



				mindful of the issues that affect people within this protected characteristic.
Other impairments issues	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including those with protected characteristics.</p> <p>However, it is recognised that these benefits will apply to any of those groups who currently need access to, or receive, social care services.</p> <p>A more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>

4.3 Because of their gender (man or woman)?

Gender	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Male			X	The regulations are considered to have impacts and benefits that will be broadly the

				<p>same for all citizens, including the protected characteristics.</p> <p>Access to social care is available to all who require it regardless of gender.</p>
Female			X	<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>Access to social care is available to all who require it regardless of gender.</p>

4.4 Because they are transgender?

Transgender	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to</p>

				identify and be mindful of the issues that affect people within this protected characteristic.
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4.5 Because of their marriage or civil partnership?

Marriage and Civil Partnership	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Marriage			X	<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>Access to social care is available to all who require it regardless of marital status.</p>
Civil Partnership			X	<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>Access to social care is available to all who require it regardless of marital</p>

				status.
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4.6 Because of their pregnancy or maternity?

Pregnancy and Maternity	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Pregnancy	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>
Maternity (the period after birth)	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues</p>



				that affect people within this protected characteristic.
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4.7 Because of their race?

Race	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Ethnic minority people e.g. Asian, Black,	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>
National Origin (e.g. Welsh, English)	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to</p>

				identify and be mindful of the issues that affect people within this protected characteristic.
Asylum Seeker and Refugees	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>
Gypsies and Travellers	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>
Migrants	X			The regulations are considered to have



				<p>impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>
Others	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>



4.8 Because of their religion and belief or non-belief?

Religion and belief or non – belief	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Different religious groups including Muslims, Jews, Christians, Sikhs, Buddhists, Hindus, Others (please specify)	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>
Belief e.g. Humanists	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected</p>

				characteristic.
Non-belief	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>

4.9 Because of their sexual orientation?

Sexual Orientation	Positive	Negative	None / Negligible	Reason for your decision (including evidence)/ How might it impact?
Gay men	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues</p>

				that affect people within this protected characteristic.
Lesbians	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>
Bi-sexual	X			<p>The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics.</p> <p>However, a more professionalised workforce will be better qualified to identify and be mindful of the issues that affect people within this protected characteristic.</p>



4.10 Do you think that this policy will have a positive or negative impact on people’s human rights? Please refer to point 1.4 of the EIA Annex A - Guidance for further information about Human Rights.

Human Rights	Positive	Negative	None / Negligible	Reason for your decision (including evidence) / How might it impact?
Human Rights including Human Rights Act and UN Conventions	X			The regulations are considered to have impacts and benefits that will be broadly the same for all citizens, including the protected characteristics

If you have identified any impacts (other than negligible ones), positive or negative, on any group with protected characteristics, please complete Part 2.

Only if there are no or negligible positive or negative impacts should you go straight to part 2 and sign off the EIA.



Equality Impact Assessment – Part 2

1. Building on the evidence you gathered and considered in Part 1, please consider the following:

1.1 How could, or does, the policy help advance / promote equality of opportunity?

For example, positive measures designed to address disadvantage and reach different communities or protected groups?

The majority of the regulations continue the status quo and are designed to help deliver the desired success and outcome of the new regulatory regime outlined by the Regulation and Inspection of Social Care (Wales) Act 2016 (the 2016 Act) when it comes into force on 1 April 2017. They do not change the overall aims of the existing legislation or create any new procedures that will affect the fundamental rights already set out for citizens (including those within the protected characteristics). The regulations will simply ensure that they are preserved under the new legislation and are incorporated into the new regulatory regime.

Whilst they do not have a direct impact upon those within the protected characteristics, they will have an indirect impact as they form part of the operation of the new system of regulation. However, this will not infringe on the rights already established in law. The regulations outlined above will ensure the effectiveness of the new regulatory regime, which will ensure we have a qualified and professional workforce delivering social care services that understand and meet the agreed needs and outcomes of the people it serves (i.e. citizens and those within the protected characteristics).

1.2 How could / does the policy / decision help to eliminate unlawful discrimination, harassment or victimisation?

As outlined in point 1.1 above.

1.3 How could/does the policy impact on advancing / promoting good relations and wider community cohesion?

As outlined in point 1.1 above.

2. Strengthening the policy

2.1 If the policy is likely to have a negative effect ('adverse impact') on any of the protected groups or good relations, what are the reasons for this?

What practical changes/actions could help reduce or remove any negative impacts identified in Part 1?

Not applicable

2.2 If no action is to be taken to remove or mitigate negative / adverse impact, please justify why.

(Please remember that if you have identified unlawful discrimination (immediate or potential) as a result of the policy, the policy must be changed or revised.)

Not applicable.

3. Monitoring, evaluating and reviewing

How will you monitor the impact and effectiveness of the policy?

List details of any follow-up work that will be undertaken in relation to the policy (e.g. consultations, specific monitoring etc).

The post implementation arrangements for regulations can be handled as part of a wider post implementation review of the overarching Regulation and Inspection of Social Care (Wales) Act 2016 ('the 2016 Act') as a whole.

The 2016 Act makes provisions for a number of key reporting mechanisms which will offer a set of clear evidence to inform the post implementation review, and establish how successful the Act has been in achieving its aims of:

- securing the well-being of citizens; and
- improving the quality of social care.

The reporting mechanisms that are being strengthened through regulations, such as

those that are the subject of this explanatory memorandum, include:

- Annual reports from service providers
- Annual reports from local authorities and the review of those reports as undertaken in the Annual Review of Performance and Evaluation of Performance by the service regulator.
- The annual report from the Welsh Ministers in their role as service regulator.
- The annual report of the workforce regulator.

In addition, a performance measurement framework has been developed that local authorities will be required to report against under the Social Services and Well-being (Wales) Act 2014. It is anticipated that the information gathered from this additional reporting mechanisms will also contribute to the overall post implementation review of the 2016 Act and its subordinate legislation.

Officials will continue to discuss and seek feedback from the workforce regulator and key stakeholders as the regulations are implemented.

The results of all impact assessments where the impact is significant will be published on the Welsh Government's website.

Once the regulations are laid before the National Assembly for Wales, officials will ensure that all of the associated Impacts Assessments (the Regulatory, the Equalities, the Welsh Language Impact Assessment and the UNCRC) will be published on both the Welsh Government and National Assembly for Wales websites.

4. Declaration

***Please delete as appropriate:**

The policy ~~*does/~~ does not have a significant impact upon equality issues

Official completing the EIA
Name:
Rob Brandon
Department:
Workforce Policy, Social Services and Integration, Health and Social Services Group
Date:
November 2016
Signature:
Rob Brandon
Head of Division (Sign-off)
Name:
David Pritchard
Job title and department:
Deputy Director of Improvement, Social Services and Integration, Health and Social Services Group
Date:
November 2016
Signature:
David Pritchard

Review Date:

November 2017