



FALKLAND ISLANDS

Assessment and Safeguarding of Adults Regulations 2020

(No. 12 OF 2020)

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(made: 7 August 2020)
(coming into force: on publication)
(published: 12 August 2020)

I make these Regulations under sections 9 and 18 of the Assessment and Safeguarding of Adults Ordinance 2020, on the advice of Executive Council.

1. Title

These Regulations are the Assessment and Safeguarding of Adults Regulations 2020.

2. Commencement

These Regulations come into force on publication in the *Gazette*.

3. Interpretation

In these Regulations —

“**the Ordinance**” means the Assessment and Safeguarding of Adults Ordinance 2020;

“**assessment**” means a needs assessment or a carer’s assessment carried out under Part 2 of the Ordinance; and

“**supported self-assessment**” has the meaning given by regulation 4(1).

[*Care and Support (Assessment) Regulations 2014, r. 1*]

4. Supported self-assessment

(1) A supported self-assessment is an assessment carried out jointly by the Government and the individual to whom it relates.

(2) When proposing to carry out an assessment the Government must ascertain whether the individual to whom the assessment is to relate wishes the assessment to be a supported self-assessment.

(3) A supported self-assessment must be carried out if the individual concerned is an adult and—

(a) wishes the assessment to be a supported self-assessment; and

(b) has the capacity or is competent to take part in a supported self-assessment.

(4) To facilitate the carrying out of the assessment the Government must provide an individual taking part in a supported self-assessment with any relevant information it may have —

(a) about that individual; and

(b) providing the consent condition in sub-regulation (5) is met, in the case of a carer's assessment, about the adult needing care.

(5) The consent condition referred to in sub-regulation (4)(b) is met if —

(a) the adult needing care has capacity or is competent to agree to the information in paragraph (4)(b) being provided and does so agree; or

(b) the adult needing care does not have capacity so to agree but the Government is satisfied that providing the information in paragraph (4)(b) would be in the best interests of the adult needing care.

(6) The information must be provided in a format which is accessible to the individual to whom it is given.

[*Care and Support (Assessment) Regulations 2014, r. 2*]

5. Assessment - general requirements

(1) The Government must carry out an assessment in a manner which —

(a) is appropriate and proportionate to the needs and circumstances of the individual to whom it relates; and

(b) ensures that the individual is able to participate in the process as effectively as possible.

(2) In seeking to ensure that an assessment is carried out in an appropriate and proportionate manner, the Government must have regard to —

(a) the wishes and preferences of the individual to whom it relates;

(b) the outcome the individual seeks from the assessment; and

(c) the severity and overall extent of the individual's needs.

(3) In a case where the level of the individual's needs fluctuates, the Government must take into account the individual's circumstances over such period as it considers necessary to establish accurately the individual's level of needs.

(4) The Government must give information about the assessment process to the individual whose needs are being assessed.

(5) The information must be provided prior to the assessment wherever practicable, and in a format which is accessible to the individual to whom it is given.

[*Care and Support (Assessment) Regulations 2014, r. 3*]

6. Impact on the individual's family etc

(1) When carrying out an assessment the Government must consider the impact of the needs of the individual to whom the assessment relates on —

(a) any person who is involved in caring for the individual; and

(b) any person the Government considers to be relevant.

(2) Where the Government considers that any person would benefit from the provision of information and advice relating to care and support for individuals or support for carers, it must advise that person how to obtain such information and advice.

(3) If it appears to the Government that a child is involved in providing care to any individual, the Government must —

(a) consider the impact of the needs of the individual concerned on the child's wellbeing, welfare, education and development; and

(b) identify whether any of the tasks which the child is performing for the individual are inappropriate for the child to perform having regard to all the circumstances.

[*Care and Support (Assessment) Regulations 2014, r. 4*]

7. Training, expertise and consultation

(1) The Government must ensure that any person (other than in the case of a supported self-assessment, the individual to whom it relates) carrying out an assessment —

(a) has the skills, knowledge and competence to carry out the assessment in question; and

(b) is appropriately trained.

(2) The Government must consult a person who has expertise in relation to the condition or other circumstances of the individual whose needs are being assessed in any case where it considers that the needs of the individual concerned require it to do so.

(3) Such consultation may take place before, or during, the carrying out of the assessment.

[*Care and Support (Assessment) Regulations 2014, r. 5*]

8. Requirement for specialist expertise – deafblind individuals

(1) An assessment which relates to an individual who is deafblind must be carried out by a person who has specific training and expertise relating to individuals who are deafblind or must be carried out in consultation with a person who has specific training and expertise relating to individuals who are deafblind.

(2) The Government must facilitate the carrying out of the assessment by providing any person carrying out such an assessment with any relevant information which it may have —

(a) about the individual whose needs are being assessed; and

(b) in the case of a carer's assessment, about the adult needing care.

(3) In this regulation, an individual is “**deafblind**” if the individual has combined sight and hearing impairment which causes difficulties with communication, access to information and mobility.

[Care and Support (Assessment) Regulations 2014, r. 6]