

## SCHEDULES

### SCHEDULE 3

Section 74

#### DISCHARGE OF HOSPITAL PATIENTS WITH CARE AND SUPPORT NEEDS

##### *Cases where hospital patient is likely to have care and support needs after discharge*

- 1 (1) Where the NHS body responsible for a hospital patient considers that it is not likely to be safe to discharge the patient unless arrangements for meeting the patient's needs for care and support are in place, the body must give notice to—
  - (a) the local authority in whose area the patient is ordinarily resident, or
  - (b) if it appears to the body that the patient is of no settled residence, the local authority in whose area the hospital is situated.
- (2) A notice under sub-paragraph (1) is referred to in this Schedule as an “assessment notice”; and the local authority to which an assessment notice is given is referred to in this Schedule as “the relevant authority”.
- (3) An assessment notice—
  - (a) must describe itself as such, and
  - (b) may not be given more than seven days before the day on which the patient is expected to be admitted to hospital.
- (4) Before giving an assessment notice, the NHS body responsible for the patient must consult—
  - (a) the patient, and
  - (b) where it is feasible to do so, any carer that the patient has.
- (5) An assessment notice remains in force until—
  - (a) the patient is discharged (whether by the NHS body responsible for the patient or by the patient himself or herself),
  - (b) the patient dies, or
  - (c) the NHS body responsible for the patient withdraws the notice by giving a notice (a “withdrawal notice”) to the relevant authority.
- (6) A reference in this paragraph to a hospital patient includes a reference to a person who it is reasonable to expect is about to become one.

##### *Assessment notice given by responsible NHS body to local authority*

- 2 (1) The NHS body responsible for a hospital patient, having given the relevant authority an assessment notice, must—
  - (a) consult the authority before deciding what it will do for the patient in order for discharge to be safe, and
  - (b) give the authority notice of the day on which it proposes to discharge the patient.

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*Status: This is the original version (as it was originally enacted).*

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- (2) A notice under sub-paragraph (1)(b) is referred to in this Schedule as a “discharge notice”.
  - (3) A discharge notice must specify—
    - (a) whether the NHS body responsible for the patient will be providing or arranging for the provision of services under the National Health Service Act 2006 to the patient after discharge, and
    - (b) if it will, what those services are.
  - (4) A discharge notice remains in force until—
    - (a) the end of the relevant day, or
    - (b) the NHS body responsible for the patient withdraws the notice by giving a withdrawal notice to the relevant authority.
  - (5) The “relevant day” is the later of—
    - (a) the day specified in the discharge notice, and
    - (b) the last day of such period as regulations may specify.
  - (6) A period specified under sub-paragraph (5)(b) must—
    - (a) begin with the day after that on which the assessment notice is given, and
    - (b) last for a period of at least two days.
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- (1) The relevant authority, having received an assessment notice and having in light of it carried out a needs assessment and (where applicable) a carer’s assessment, must inform the NHS body responsible for the patient—
    - (a) whether the patient has needs for care and support,
    - (b) (where applicable) whether a carer has needs for support,
    - (c) whether any of the needs referred to in paragraphs (a) and (b) meet the eligibility criteria, and
    - (d) how the authority plans to meet such of those needs as meet the eligibility criteria.
  - (2) Where, having carried out a needs assessment or carer’s assessment in a case within section 27(4), the relevant authority considers that the patient’s needs for care and support or (as the case may be) the carer’s needs for support have changed, it must inform the NHS body responsible for the patient of the change.

*Cases where discharge of the patient is delayed*

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- (1) If the relevant authority, having received an assessment notice and a discharge notice, has not carried out a needs or (where applicable) carer’s assessment and the patient has not been discharged by the end of the relevant day, the NHS body responsible for the patient may require the relevant authority to pay the specified amount for each day of the specified period.
  - (2) If the relevant authority has not put in place arrangements for meeting some or all of those of the needs under sections 18 to 20 that it proposes to meet in the case of the patient or (where applicable) a carer, and the patient has for that reason alone not been discharged by the end of the relevant day, the NHS body responsible for the patient may require the relevant authority to pay the specified amount for each day of the specified period.

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*Status: This is the original version (as it was originally enacted).*

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- (3) If, in a case within sub-paragraph (1) or (2), the assessment notice ceases to be in force, any liability arising under that sub-paragraph before it ceased to be in force is unaffected.
- (4) A payment under sub-paragraph (1) or (2) must be made to—
  - (a) the NHS body responsible for the patient, or
  - (b) in such a case as regulations may specify, the person specified.
- (5) The “relevant day” has the meaning given by paragraph 2(5).
- (6) A reference to a requirement to pay the specified amount is a reference to a requirement to pay the amount specified in regulations; and the reference to the specified period is a reference to the period specified in or determined in accordance with regulations.
- (7) In specifying the amount of a payment, the Secretary of State must have regard in particular to either or both of—
  - (a) costs to NHS bodies of providing accommodation and personal care to patients ready to be discharged, and
  - (b) costs to local authorities of meeting needs under sections 18 to 20 in the case of persons who have been discharged.

#### *Delegation to management of independent hospital*

- 5 (1) An NHS body may make arrangements with any person connected with the management of an independent hospital for that person (or an employee of that person) to do, on behalf of the NHS body and in accordance with the arrangements, anything which is required or authorised to be done by the NHS body by or under this Schedule in relation to hospital patients accommodated in that hospital.
- (2) Anything done or omitted to be done by or in relation to the authorised person (or an employee of that person) under such arrangements is to be treated as done or omitted to be done by or in relation to the NHS body.
- (3) Nothing in this paragraph prevents anything being done by or in relation to the NHS body.

#### *Adjustments between local authorities*

- 6 (1) Regulations may modify, or otherwise make provision about, the application of a provision of this Schedule in a case where it appears to the NHS body responsible for a hospital patient that the patient is ordinarily resident in the area of another local authority.
- (2) The regulations may, in particular, authorise or require a local authority—
  - (a) to accept an assessment notice given to it even though it may wish to dispute that it was the correct authority to which to give the notice;
  - (b) to become the relevant authority in the patient’s case;
  - (c) to recover expenditure incurred—
    - (i) in the exercise of functions under this Schedule;
    - (ii) in meeting needs under sections 18 to 20 in a case under this Schedule.

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*Status: This is the original version (as it was originally enacted).*

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*Meaning of “hospital patient”, “NHS hospital”, “NHS body”, etc.*

- 7 (1) A hospital patient is a person ordinarily resident in England who—
- (a) is being accommodated at an NHS hospital, or at an independent hospital as a result of arrangements made by an NHS body, and
  - (b) is receiving (or has received or can reasonably be expected to receive) acute care.
- (2) “NHS hospital” means a health service hospital (as defined by the National Health Service Act 2006) in England.
- (3) “Independent hospital” means a hospital (as defined by that Act) in the United Kingdom which is not—
- (a) an NHS hospital,
  - (b) a health service hospital as defined by section 206 of the National Health Service (Wales) Act 2006,
  - (c) a health service hospital as defined by section 108 of the National Health Service (Scotland) Act 1978, or
  - (d) a hospital vested in the Department of Health, Social Services and Public Safety in Northern Ireland or managed by a Health and Social Care trust.
- (4) “NHS body” means—
- (a) an NHS trust established under section 25 of the National Health Service Act 2006,
  - (b) an NHS foundation trust,
  - (c) the National Health Service Commissioning Board, or
  - (d) a clinical commissioning group.
- (5) A reference to the NHS body responsible for a hospital patient is—
- (a) if the hospital is an NHS hospital, a reference to the NHS body managing it, or
  - (b) if the hospital is an independent hospital, a reference to the NHS body that arranged for the patient to be accommodated in it.
- (6) “Acute care” means intensive medical treatment provided by or under the supervision of a consultant, that lasts for a limited period after which the person receiving the treatment no longer benefits from it.
- (7) Care is not “acute care” if the patient has given an undertaking (or one has been given on the patient’s behalf) to pay for it; nor is any of the following “acute care”—
- (a) care of an expectant or nursing mother;
  - (b) mental health care;
  - (c) palliative care;
  - (d) a structured programme of care provided for a limited period to help a person maintain or regain the ability to live at home;
  - (e) care provided for recuperation or rehabilitation.
- (8) “Mental health care” means psychiatric services, or other services provided for the purpose of preventing, diagnosing or treating illness, the arrangements for which are the primary responsibility of a consultant psychiatrist.

*Further provision about assessment notices, discharge notices, etc.*

8 Regulations may—

- (a) specify the form and content of an assessment notice, a discharge notice or a withdrawal notice;
- (b) specify the manner in which an assessment notice, a discharge notice or a withdrawal notice may be given;
- (c) specify when a discharge notice may be given;
- (d) specify circumstances in which a withdrawal notice must be given;
- (e) make provision for determining the day on which an assessment notice, a discharge notice or a withdrawal notice is to be regarded as given.