



Care Act 2014

2014 CHAPTER 23

PART 1

CARE AND SUPPORT

Miscellaneous

73 Human Rights Act 1998: provision of regulated care or support etc a public function

- (1) This section applies where—
- (a) in England, a registered care provider provides care and support to an adult or support to a carer, in the course of providing—
 - (i) personal care in a place where the adult receiving the personal care is living when the personal care is provided, or
 - (ii) residential accommodation together with nursing or personal care;
 - (b) in Wales, a person registered under Part 2 of the Care Standards Act 2000 provides care and support to an adult, or support to a carer, in the course of providing—
 - (i) personal care in a place where the adult receiving the personal care is living when the personal care is provided, or
 - (ii) residential accommodation together with nursing or personal care;
 - (c) in Scotland, a person provides advice, guidance or assistance to an adult or support to a carer, in the course of providing a care service which is registered under section 59 of the Public Services Reform (Scotland) Act 2010 and which consists of the provision of—
 - (i) personal care in a place where the adult receiving the personal care is living when the personal care is provided, or
 - (ii) residential accommodation together with nursing or personal care;
 - (d) in Northern Ireland, a person registered under Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland)

Status: This is the original version (as it was originally enacted).

Order 2003 provides advice, guidance or assistance to an adult or services to a carer, in the course of providing—

- (i) personal care in a place where the adult receiving the personal care is living when the personal care is provided, or
- (ii) residential accommodation together with nursing or personal care.

In this section “the care or support” means the care and support, support, advice, guidance, assistance or services provided as mentioned above, and “the provider” means the person who provides the care or support.

- (2) The provider is to be taken for the purposes of section 6(3)(b) of the Human Rights Act 1998 (acts of public authorities) to be exercising a function of a public nature in providing the care or support, if the requirements of subsection (3) are met.
- (3) The requirements are that—
 - (a) the care or support is arranged by an authority listed in column 1 of the Table below, or paid for (directly or indirectly, and in whole or in part) by such an authority, and
 - (b) the authority arranges or pays for the care or support under a provision listed in the corresponding entry in column 2 of the Table.

TABLE

<i>Authority</i>	<i>Provisions imposing duty or conferring power to meet needs</i>
Local authority in England	Sections 2, 18, 19, 20, 38 and 48 of this Act.
Local authority in Wales	Part 4 and section 189 of the Social Services and Well-being (Wales) Act 2014. Section 50 of this Act.
Local authority in Scotland	Sections 12, 13A, 13B and 14 of the Social Work (Scotland) Act 1968. Section 3 of the Social Care (Self-directed Support) (Scotland) Act 2013.
Health and Social Care trust	Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972. Section 51 of this Act.
Authority (within the meaning of section 10 of the Carers and Direct Payments Act (Northern Ireland) 2002)	Section 2 of the Carers and Direct Payments Act (Northern Ireland) 2002.

- (4) In this section—
 - “local authority in England” means a local authority for the purposes of this Part;
 - “local authority in Wales” means a local authority for the purposes of the Social Services and Well-being (Wales) Act 2014;

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

“local authority in Scotland” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“nursing care”, for England, Wales and Northern Ireland, has the same meaning as in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010, as amended from time to time;

“personal care”—

- (a) for England, Wales and Northern Ireland, has the same meaning as in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010, as amended from time to time;
- (b) for Scotland, has the same meaning as in Part 5 of the Public Services Reform (Scotland) Act 2010, as amended from time to time.