

CARE ACT 2014

EXPLANATORY NOTES

OVERVIEW OF THE STRUCTURE

9. The Act contains five Parts and eight Schedules.

Part 1 – Care and Support

10. **Part 1** sets out the legal framework for the provision of adult social care in England.
11. **Sections 1 to 7** set out the general responsibilities of local authorities. They describe local authorities' broader care and support role towards the local community, including services provided more generally, for instance those with the aim of reducing needs.
12. **Sections 8 to 41** provide for a person's journey through the care and support system. These provisions map out the process of assessments, charging, establishing entitlements, care planning, and the provision of care and support. They include provision to create a cap on the costs of care and for local authorities to enter into deferred payment agreements.
13. **Sections 42 to 47** outline the responsibilities of local authorities and other partners in relation to the safeguarding of adults, including a new requirement to establish Safeguarding Adults Boards in every area.
14. **Sections 48 to 57** set out local authorities' responsibilities for ensuring continuity of care where a provider sustains business failure and ceases to provide a service, and provide for the oversight of registered care and support providers by the Care Quality Commission (CQC).
15. **Sections 58 to 66** will support the transition for young people between children's and adult care by giving local authorities powers to assess children, young carers and parent carers.
16. **Sections 67 to 80** set out provisions in relation to independent advocacy, recovering charges owed to the local authority, reviews of funding provisions, appeals, and other miscellaneous matters, including making explicit when the provision of care and support is a function of a public nature being exercised for the purposes of the Human Rights Act 1998 and restating the law relating to delayed discharges.

Part 2 – Care Standards

17. **Part 2** of the Act deals with a number of the aspects of the Government's response to the findings of the Report of the Mid-Staffordshire NHS Foundation Trust Public Inquiry, led by Robert Francis QC.
18. **Section 81** provides that regulations must include a duty of candour on providers of health care and adult social care services registered with the CQC.
19. **Sections 82 to 85** provide for an extended failure regime for NHS (National Health Service) healthcare providers which encompasses quality as well as finance by: enabling the CQC to issue warning notices to NHS trusts and NHS foundation trusts where the services provided by them require significant improvement; extending

Monitor's powers to be able to impose additional licence conditions on foundation trusts; and enabling Monitor to make an order authorising the appointment of a trust special administrator for foundation trusts on quality grounds. The sections also ensure that these requirements and powers apply correctly once all NHS trusts have been abolished.

20. [Section 86](#) prevents registered providers from applying for a change to their conditions of registration where the CQC has commenced proceedings to make the same change and section 87 creates a right of appeal for individuals against whom the CQC requires action to be taken.
21. [Section 88](#) amends provisions relating to the membership of the CQC.
22. [Section 89](#) places a duty on the non-executive members of CQC to appoint three Chief Inspectors as executive members of the CQC Board and makes provision for the CQC to determine the functions each Chief Inspector will exercise on its behalf. In performing CQC's functions, the Chief Inspectors must safeguard and promote CQC's independence from the Secretary of State.
23. [Section 90](#) repeals or amends several of the Secretary of State's powers in the Health and Social Care Act 2008 (the 2008 Act) that could constrain CQC's operational autonomy.
24. [Section 91](#) requires the CQC to conduct periodic reviews, assess performance and publish assessment reports in respect of regulated activities and registered service providers. This is to allow for meaningful comparison of services.
25. [Sections 92 to 94](#) provide for a new offence for care providers who supply, publish or otherwise make available information that is false or misleading, with associated criminal sanctions. The offence will also apply to directors, managers, secretaries or similar officers of care providers in certain circumstances.
26. Finally, section 95 will allow the Government, through regulations, to specify the people or organisations that can set training standards for specific groups of workers, such as healthcare assistants and social care support workers, engaged in an activity regulated by the Care Quality Commission.

Part 3 – Health

27. [Chapter 1](#) establishes Health Education England (HEE) as a non-departmental public body.
28. [Chapter 2](#) establishes the Health Research Authority (HRA) as a non-departmental public body.
29. [Chapter 3](#) deals with transfer orders and interpretation provisions in relation to HEE and HRA.
30. [Chapter 4](#) clarifies functions of the Trust Special Administrator.

Part 4 – Health and social care

31. [Section 121](#) establishes a fund for the integration of care and support with health services (known as the Better Care Fund).
32. [Section 122](#) amends the Health and Social Care Information Centre's (HSCIC) general dissemination powers to clarify the purposes for which the HSCIC may or may not release information and require it to have regard to particular advice in exercising its publishing or other dissemination functions. It also requires the HSCIC, in carrying out any of its functions, to have regard to the need to respect and promote the privacy of those receiving health services and adult social care.

Part 5 – General

33. **Part 5** deals with various technical matters such as power to make consequential amendments, orders and regulations, commencement, extent and the short title of the Act.