

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Miscellaneous

Section 76 - Prisoners and persons in approved premises etc.

456. This section sets out the responsibilities for provision of care and support for adult prisoners and people residing in approved premises (which includes bail accommodation). Where it appears to a local authority that adults in prison or approved premises may have needs for care and support, the local authority will be under a duty to assess their needs under section 9 and where they have needs which meet the eligibility criteria, may be under a duty to meet those needs. This will provide consistency of approach between institutions and ensure prisoners and residents in approved premises receive services equivalent to people with similar needs in the community.
457. *Subsections (1) and (2)* of section 75 make clear that the local authority in whose area a prison, or approved premises, is located will be responsible for providing assessments and meeting care and support needs for the residents of those custodial settings. A detainee's previous ordinary residence will not be a consideration while they are in these settings, and responsibility will fall to the local authority in whose area the prison or approved premises are located without reference to the general ordinary residence criteria.
458. *Subsection (3)* applies the same principle where an adult is required to reside in any other premises as a condition of bail, so that responsibility will fall to the local authority in whose area the premises are located.
459. *Subsection (4)* makes clear that prisoners and those in approved premises will not be able to express a preference for particular accommodation except where the individual is being released into the community. The duty for local authorities to protect property will not apply to the property of adult prisoners and residents in approved premises with care and support needs whilst in custody.
460. *Subsection (5)* makes clear that sections 31 to 33 on the provision of direct payments do not apply to prisoners or residents in approved premises, except those who have not been convicted of an offence, for example some people in bail accommodation. Prisoners and residents in approved premises who have been convicted of an offence will not be eligible to receive direct payments for the costs of their care and support.
461. *Subsection (6)* covers continuity of care for prisoners and those in approved premises whose needs for care and support are being met by a local authority. The continuity provisions in sections 37 and 38 will apply to prisoners and residents in approved premises being moved between different custodial settings and on release to the community.

462. *Subsection (7)* also makes clear that the duties for local authorities to carry out adult safeguarding enquiries and to protect property do not apply to people in prison or approved premises.
463. *Subsection (10)* makes clear that governors and officers of a prison will not be required by regulations to become members of Safeguarding Adult Boards. However, it does not prevent a Safeguarding Adult Board from inviting governors and officers of a prison to become members by virtue of Schedule 2 paragraph 1(2)). By virtue of *subsection (11)*, this also extends to young offender's institutions, secure training centres and secure children's homes.
464. The eligibility framework will apply to prisoners and residents in approved premises.
465. Youth offenders with care and support needs should receive the same transition procedures to adult care and support as young people in the community. A request for an assessment can be made on the youth offender's behalf by the professional responsible for their care in the Young Offenders' Institution, Secure Children's Home or Secure Training Centre.
466. Charging arrangements for care and support services received by prisoners will be the same as for people in the community.
467. *Subsection (14)* makes clear that someone who is temporarily away from their prison or approved premises, such as for visits to hospital, is deemed to be still detained in that prison or residing in those approved premises whilst away. This means, for example, that if someone is receiving care or support from the local authority in which their prison is based and they are temporarily in hospital in the area of a different local authority, the responsibility for providing the support does not change local authorities.