

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Imposing charges and assessing financial resources

Section 20 – Duty and power to meet a carer’s needs for support

147. This section sets out the core duty of the local authority to meet a carer’s eligible needs for support. This duty replaces the power to provide services to carers in section 2 of the Carers and Disabled Children Act 2000, in respect of those carers who are adults and are providing care for another adult.
148. *Subsections (1) to (5)* set out the different circumstances that may trigger the local authority’s duty to meet a carer’s needs for support which meet the eligibility criteria. The common requirements are that the adult needing care is ordinarily resident in the local authority’s area (or has no settled residence, but is living in the local authority’s area at that time); and, that the carer has been assessed by the local authority and has been determined to have eligible needs for support.
149. The application of the remaining “trigger” conditions depend on whether or not the local authority charges for the support or care and support to be provided. The local authority has the power under section 14 to make a charge (unless prohibited by regulations made under that section from making such a charge). However, a local authority may decide (as is usually the case under the current law, in respect of carer’s needs) not to exercise that power to make a charge.
150. If a local authority has decided not to charge for support (and, where the care and support is to be provided in the form of care and support to the adult needing care, the adult agrees to its provision), then there are no further conditions, and the duty to meet the carer’s eligible needs for support will arise on the basis of the common requirements set out above only.
151. If the local authority does choose to charge for the support to be provided, then one of four additional conditions set out in the section must be met in order for the carer to be entitled to support.
152. These conditions are in turn linked to the question of whether meeting the carer’s needs involves the provision of support direct to the carer or whether it involves the provision of care and support direct to the adult needing care. A carer’s needs for support may be met by direct provision of support to the carer. Alternatively, as *subsection (7)* acknowledges, a carer’s need for support may be met by providing care and support direct to the adult for whom they are caring, for example by providing replacement care to allow the carer to have a break from caring. It does not matter that there may be no duty to meet that adult’s needs in their own right. Section 14 makes clear that where the needs are met by providing care and support direct to the adult needing care, the charge may not be imposed on the carer.

153. Where (i) the two common requirements as set out above are met; (ii) there is a charge for meeting the needs; and (iii) one of the relevant conditions, as set out below, is fulfilled, then the duty to meet the carer's eligible needs for support will arise.
154. The first and second conditions both apply where meeting the carer's needs involves the provision of support to the carer. The first condition is that the carer does not have sufficient financial resources to be able to pay any charge which is assessed as due. The second condition is that the carer has sufficient financial resources to pay any charge but nevertheless requests that the local authority meet their needs.
155. The third and fourth conditions both apply where meeting the carer's needs involves the provision of care and support to the adult needing care. The third condition is that the adult needing care does not have sufficient financial resources to be able to pay any charge which is assessed as due, and that the adult concerned agrees to receive such support. The fourth condition is that adult needing care has sufficient financial resources to pay any charge but nevertheless requests the local authority to meet the needs by providing care and support to them.
156. This section also provides a broad power to enable local authorities to meet the needs of carers who are not otherwise eligible, including the provision of care and support to the person needing care, as long as that person agrees. It also acknowledges the situation where a local authority might consider the best way of meeting a carer's needs for support is by providing care and support to the adult needing care but it is not possible to do so (for example, if that adult does not agree to such provision). This section requires the local authority, as far as it is feasible, to identify some other way of supporting the carer.