

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Continuity of care and support when adult moves

Section 37 – Notification, assessment, etc.

244. This section sets out the duties that local authorities are under when an individual, and potentially their carer, notifies them that they intend to move from one local authority area to another. It seeks to ensure that a person who moves local authority area does so with no interruption to their care.
245. *Subsection (1)* stipulates that the duties on the “first authority” and the “second authority” are triggered when they are notified by an adult who is receiving care and support that he or she wishes to move local authority area, and the “second authority” is satisfied that their intention to move is genuine.
246. *Subsection (2)* states that these duties also apply to local authorities where the “first authority” is keeping a care account on behalf of an individual who is funding their own care. This will allow for the person’s care account to be transferred to the “second authority”.
247. *Subsection (3)* applies where a person has their care and support arranged by the “first authority” and is residing in a care home in the “second authority’s” area. If that person decides to leave the care home but remain resident in the “second authority’s” area the continuity of care duties apply.
248. *Subsection (5)* sets out the information the “first authority” must provide to the “second authority”. This includes the person’s care and support plan, and where the individual’s carer is moving, their support plan.
249. *Subsection (6)* states that when the “second authority” is satisfied of an individual’s intention to move they are under a duty to carry out an assessment of the needs of that individual, and potentially their carer. This assessment should be carried out before the individual moves. This is the same duty as set out in section 9. *Subsection (7)* requires the “second authority” to take into account the “first authority’s” care and support plan when carrying out their assessment.
250. *Subsection (9)* requires the “first authority” to maintain contact with the “second authority” to ascertain how it is progressing towards putting services in place for the adult, and if necessary their carer, for the day of the move. *Subsection (10)* requires the “first authority” to involve the adult or carer in the contact and keep him or her informed of progress.
251. *Subsection (11)* requires the “second authority” to give the adult a written explanation where it has assessed the adult as having different needs compared with the original care and support plan. *Subsection (13)* places a similar requirement on the “second authority” where the carer’s needs are assessed as different.

252. *Subsection (12)* requires the “second authority” to give an explanation where the cost of providing the care is different.

Section 38 - Case where assessments not complete on day of move

253. This section applies when the “second authority” has not carried out the assessment required under section 37(6) before the person moves into its area, or has done so, but has not taken the other steps required to meet the adult’s needs. *Subsection (1)* sets out that the “second authority” must meet the needs which the first authority had been meeting, from the day of the adult’s arrival in this area. This will ensure there is continuity of care when an individual, and potentially their carer, move. It is also required to continue to update the person’s care account by the amount set by the “first authority”. Where the “first authority” has not been meeting the adult’s needs under section 18, but has provided an independent personal budget, the “second authority” must only continue the adult’s care account. *Subsection (2)* stipulates that the “second authority” must continue to meet the person’s, and potentially their carer’s, needs until it has carried out its own assessment.
254. *Subsection (7)* provides a power for the “second authority” to recover the costs of care from the “first authority” if it is deemed that the individual moving remains ordinarily resident in the area of the “first authority”.