



# Care Act 2014

## 2014 CHAPTER 23

### PART 1

#### CARE AND SUPPORT

##### *Continuity of care and support when adult moves*

#### **37 Notification, assessment, etc.**

- (1) This section applies where—
  - (a) an adult's needs for care and support are being met by a local authority (“the first authority”) under section 18 or 19,
  - (b) the adult notifies another local authority (“the second authority”) (or that authority is notified on the adult's behalf) that the adult intends to move to the area of the second authority, and
  - (c) the second authority is satisfied that the adult's intention is genuine.
- (2) This section also applies where—
  - (a) an adult is not having needs for care and support met under either of those sections but a local authority (“the first authority”) is nonetheless keeping a care account in the adult's case,
  - (b) the adult notifies another local authority (“the second authority”) (or that authority is notified on the adult's behalf) that the adult intends to move to the area of the second authority, and
  - (c) the second authority is satisfied that the adult's intention is genuine.
- (3) This section also applies where—
  - (a) an adult's needs for care and support are being met by a local authority (“the first authority”) under section 18 or 19 by the first authority arranging for the provision of accommodation in the area of another local authority (“the second authority”),
  - (b) the adult notifies the second authority (or that authority is notified on the adult's behalf) that the adult intends to move out of that accommodation but to

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- remain, and be provided with care and support at home or in the community, in its area, and
- (c) the second authority is satisfied that the adult's intention is genuine.
- (4) The second authority must—
- (a) provide the adult and, if the adult has or is proposing to have a carer, the carer with such information as it considers appropriate (in so far as it would not do so under section 4), and
  - (b) notify the first authority that it is satisfied as mentioned in subsection (1)(c), (2)(c) or (3)(c).
- (5) The first authority, having received the notification under subsection (4)(b), must provide the second authority with—
- (a) a copy of any care and support plan prepared for the adult,
  - (b) a copy of any independent personal budget prepared for the adult,
  - (c) in a case within subsection (2), a copy of the most recent needs assessment in the adult's case,
  - (d) if the first authority has been keeping a care account in the adult's case, a copy of that account,
  - (e) if the adult has a carer and that carer is to continue as the adult's carer after the move, a copy of any support plan prepared for the carer, and
  - (f) such other information relating to the adult and, if the adult has a carer (whether or not one with needs for support), such other information relating to the carer as the second authority may request.
- (6) The second authority must—
- (a) assess whether the adult has needs for care and support and, if the adult does, what those needs are, and
  - (b) where the adult has or is proposing to have a carer and it is appropriate to do so, assess whether the carer has or is likely to have needs for support and, if the carer does or is likely to, what those needs are or are likely to be.
- (7) In carrying out an assessment under subsection (6)(a) or (b), the second authority must have regard to the care and support plan provided under subsection (5)(a) or (as the case may be) the support plan provided under subsection (5)(e).
- (8) This Part—
- (a) applies to an assessment under subsection (6)(a) as it applies to a needs assessment, and
  - (b) applies to an assessment under subsection (6)(b) as it applies to a carer's assessment.
- (9) Pending the adult's move, the first authority must keep in contact with the second authority in order to ascertain the progress that the second authority is making in preparing to meet—
- (a) any needs for care and support under section 18 or 19 in the adult's case, and
  - (b) where the adult is proposing to have a carer immediately after the move, any needs for support under section 20 in the carer's case.
- (10) The first authority must keep the adult (and, where applicable, the carer) informed about its contact under subsection (9) with the second authority and must involve the adult (and, where applicable, the carer) in the contact.

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- (11) Where the needs identified by an assessment under subsection (6)(a) carried out by the second authority are different from those specified in the care and support plan provided under subsection (5)(a), the second authority must provide a written explanation of the difference to—
- (a) the adult,
  - (b) any carer that the adult has, if the adult asks the authority to do so, and
  - (c) any other person to whom the adult asks the authority to provide the explanation.
- (12) Where the cost to the second authority of meeting the adult's eligible needs is different from the cost to the first authority of doing so, the second authority must provide a written explanation of the difference to—
- (a) the adult,
  - (b) any carer that the adult has, if the adult asks the authority to do so, and
  - (c) any other person to whom the adult asks the authority to provide the explanation.
- (13) Where the needs identified by an assessment under subsection (6)(b) carried out by the second authority are different from those in the support plan provided under subsection (5)(e), the second authority must provide a written explanation of the difference to—
- (a) the carer,
  - (b) the adult needing care, if the carer asks the authority to do so, and
  - (c) any other person to whom the carer asks the authority to provide an explanation.
- (14) Regulations may specify steps which a local authority must take for the purpose of being satisfied as mentioned in subsection (1)(c), (2)(c) or (3)(c).
- (15) In this section—
- (a) an adult's needs are “eligible needs” if they meet the eligibility criteria and are not being met by a carer,
  - (b) a reference to moving to an area is a reference to moving to that area with a view to becoming ordinarily resident there, and
  - (c) a reference to remaining in an area is a reference to remaining ordinarily resident there.

**Modifications etc. (not altering text)**

- C1** Pt. 1 modified (1.4.2015) by [The Care and Support \(Isles of Scilly\) Order 2015 \(S.I. 2015/642\)](#), arts. 1, **2(2)(a)**; [S.I. 2015/993](#), art. **2(a)**
- C2** Pt. 1 applied in part (with modifications) (1.4.2015 coming into force in accordance with reg. 1(1)) by [The Care and Support \(Children's Carers\) Regulations 2015 \(S.I. 2015/305\)](#), regs. 1(1), **2(1)(a)(2)**, 4-12; [S.I. 2015/993](#), art. **2(q)**

**Commencement Information**

- II** S. 37(1) (3) (4) (5)(a) (5)(e) (5)(f) (6)-(15) in force at 1.4.2015 by [S.I. 2015/993](#), art. **2(j)** (with art. **5(b)**) (and with transitional provisions in [S.I. 2015/995](#))

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### 38 Case where assessments not complete on day of move

- (1) If, on the day of the intended move as mentioned in section 37(1)(b), (2)(b) or (3)(b), the second authority has yet to carry out the assessment or assessments under section 37(6), or has done so but has yet to take the other steps required under this Part in the adult's case, it must—
  - (a) meet the adult's needs for care and support, and the needs for support of any carer who is continuing as the adult's carer, which the first authority has been meeting, and
  - (b) where the first authority has been keeping a care account in the adult's case, itself keep that account on the same basis as the first authority has been keeping it.
- (2) The second authority is subject to the duty under subsection (1) until it has—
  - (a) carried out the assessment or assessments under section 37(6), and
  - (b) taken the other steps required under this Part in the adult's case.
- (3) In deciding how to meet the adult's needs for care and support under subsection (1), the second authority must involve—
  - (a) the adult,
  - (b) any carer who is continuing as the adult's carer, and
  - (c) any person whom the adult asks the authority to involve or, where the adult lacks capacity to ask the authority to do that, any person who appears to the authority to be interested in the adult's welfare.
- (4) In deciding how to meet the needs for support of any carer who is continuing as the adult's carer, the second authority must involve—
  - (a) the carer,
  - (b) the adult needing care, if the carer asks the authority to do so, and
  - (c) any other person whom the carer asks the authority to involve.
- (5) In performing the duty under subsection (3)(a) or (4)(a), the second authority must take all reasonable steps to reach agreement with the adult or carer about how it should meet the needs in question.
- (6) The first authority is not required to meet the adult's needs for care and support or, if the adult has a carer, such needs for support as the carer has, for so long as the second authority is subject to the duty under subsection (1).
- (7) Where, having complied with the duty under subsection (1), the second authority is not required to meet the adult's needs for care and support under section 18 because the adult is still ordinarily resident in the area of the first authority, the second authority may recover from the first authority the costs it incurs in complying with the duty under subsection (1).
- (8) Regulations may specify matters to which the second authority must have regard in deciding how to perform the duty under subsection (1).

#### Commencement Information

- I2** S. 38(1)(a)(2)-(7) in force at 1.4.2015 by [S.I. 2015/993](#), [art. 2\(k\)](#) (with [art. 5\(c\)](#)) (and with transitional provisions in [S.I. 2015/995](#))
- I3** S. 38(8) in force at 1.10.2014 for specified purposes by [S.I. 2014/2473](#), [art. 2\(1\)\(l\)](#)

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**I4** S. 38(8) in force at 1.4.2015 in so far as not already in force by [S.I. 2015/993, art. 2\(k\)](#)

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