



# Social Services and Well-being (Wales) Act 2014

2014 anaw 4

## PART 4

### MEETING NEEDS

#### *Supplementary*

#### **56 Portability of care and support**

- (1) Where a local authority (“the sending authority”) is notified by or on behalf of a person in respect of whom it has a duty under section 35 or 37 to meet needs for care and support that the person is going to move to the area of another local authority (“the receiving authority”), and it is satisfied that the move is likely to happen, it must—
  - (a) notify the receiving authority that it is so satisfied, and
  - (b) provide the receiving authority with—
    - (i) a copy of the care and support plan prepared for the person, and
    - (ii) such other information relating to the person and, if the person has a carer, such other information relating to the carer as the receiving authority may request.
- (2) Where the receiving authority is notified by or on behalf of a person in respect of whom the sending authority has a duty under section 35 or 37 to meet needs for care and support that the person is going to move to the receiving authority's area, and the receiving authority is satisfied that the move is likely to happen, it must—
  - (a) notify the sending authority that it is so satisfied,
  - (b) provide the person and, if the person has a carer, the carer with such information as it considers appropriate,
  - (c) if the person is a child, provide the persons with parental responsibility for the child with such information as it considers appropriate, and

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- (d) assess the person under section 19 (if the person is an adult) or 21 (if the person is a child), having regard in particular to any change in the person's needs for care and support arising from the move.
- (3) If, on the day the person moves to its area, the receiving authority has yet to carry out the assessment required by subsection (2)(d), or has done so but has yet to carry out the other steps required by this Part or Part 5, it must meet the person's needs for care and support in accordance with the care and support plan prepared by the sending authority, in so far as that is reasonably practicable.
- (4) In carrying out the assessment required by subsection (2)(d), the receiving authority must have regard to the care and support plan provided under subsection (1)(b).
- (5) The receiving authority is subject to the duty under subsection (3) until it has—
  - (a) carried out the assessment required by subsection (2)(d), and
  - (b) taken the other steps required under this Part or Part 5.
- (6) Regulations may—
  - (a) specify steps which a local authority must take to satisfy itself in respect of the matters mentioned in subsections (1) and (2);
  - (b) specify matters to which a receiving authority must have regard in deciding how to comply with the duty under subsection (3);
  - (c) specify cases in which the duties under subsection (1), (2) or (3) do not apply.
- (7) A reference in this section to moving to an area is a reference to moving to that area with a view to becoming ordinarily resident there.

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**Commencement Information**

**II** S. 56 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with [art. 4](#), [Schs. 1, 2](#))

## 57 Cases where a person expresses preference for particular accommodation

- (1) Regulations may provide that where—
  - (a) a local authority is going to meet needs under sections 35 to 38 or sections 40 to 45 by providing or arranging for the provision of accommodation of a specified type for a person,
  - (b) the person concerned, or a person of a specified description, expresses a preference for particular accommodation of that type, and
  - (c) specified conditions are met,
 the local authority must provide or arrange for the provision of the preferred accommodation.
- (2) The regulations may require the person concerned or a person of a specified description to pay some or all of the additional cost (if any) of the preferred accommodation in specified cases or circumstances.
- (3) In subsection (2) “additional cost” means the difference between—
  - (a) the cost of providing or arranging the provision of the preferred accommodation, and

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- (b) the cost that the local authority would usually expect to incur in providing or arranging the provision of suitable accommodation of that type to meet the needs of the person concerned.

**Commencement Information**

**I2** S. 57 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

## **58 Protecting property of persons being cared for away from home**

- (1) This section applies where—
  - (a) a person is having needs for care and support met under section 35, 36, 37 or 38 in a way that involves the provision of accommodation [<sup>F1</sup>, is admitted to hospital] (or both), and
  - (b) it appears to a local authority that there is a danger of loss or damage to movable property of the person's in the authority's area because—
    - (i) the person is unable (whether permanently or temporarily) to protect or deal with the property, and
    - (ii) no suitable arrangements have been or are being made.
- (2) The local authority must take reasonable steps to prevent or mitigate the loss or damage.
- (3) For the purpose of discharging that duty, the local authority—
  - (a) may at all reasonable times and on reasonable notice enter any premises which the person was living in immediately before being provided with accommodation or admitted to hospital, and
  - (b) may take any other steps which it considers reasonably necessary for preventing or mitigating loss or damage.
- (4) The local authority must ensure that the following requirements are satisfied before taking any steps under subsection (3)(a) or (b)—
  - CASE 1 - where the local authority is satisfied that the person is—
    - (a) an adult or a child aged 16 or 17 who has capacity to consent to the taking of the steps, or
    - (b) a child aged under 16 who has sufficient understanding to make an informed decision about whether to consent to the taking of the steps,the local authority must obtain the person's consent to the taking of the steps;
  - CASE 2 - where the local authority is satisfied that the person is an adult who lacks capacity to consent to the taking of the steps—
    - (a) the local authority must obtain consent to the taking of the steps from a person authorised under the Mental Capacity Act 2005 (whether in general or specific terms) to give consent on the adult's behalf, if any person is so authorised, or
    - (b) if there is no person so authorised, the local authority must be satisfied that the taking of the steps would be in the adult's best interests;
  - CASE 3 - where the local authority is satisfied that the person is a child aged 16 or 17 who lacks capacity to consent to the taking of the steps—
    - (a) the local authority must obtain consent to the taking of the steps from a person authorised under the Mental Capacity Act 2005 (whether in

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general or specific terms) to give consent on the child's behalf, if any person is so authorised, or

- (b) if there is no person so authorised, the local authority must obtain consent to the taking of the steps from a person with parental responsibility for the child;

CASE 4 - where the local authority is satisfied that the person is a child aged under 16 who does not have sufficient understanding to make an informed decision about whether to consent to the taking of the steps, the local authority must obtain consent to the taking of the steps from a person with parental responsibility for the child.

- (5) The local authority must take reasonable steps to obtain any consent which may be needed under subsection (4).
- (6) Where the local authority is unable to ensure that the requirements in subsection (4) are satisfied, the local authority's duty under subsection (2) ceases to apply.
- (7) Where a local authority is proposing to exercise the power under subsection (3)(a) or (b), the officer it authorises to do so must, upon request, produce valid documentation setting out the authorisation to do so.
- (8) A person who, without reasonable excuse, obstructs the exercise of the power under subsection (3)(a) or (b)—
- (a) commits an offence, and
  - (b) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (9) A local authority may recover whatever reasonable expenses it incurs under this section in relation to an adult's movable property from that adult.
- (10) An amount recoverable under subsection (9) is recoverable summarily as a civil debt (but this does not affect any other method of recovery).

#### Textual Amendments

- F1** Words in s. 58(1)(a) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), **298**

#### Commencement Information

- I3** S. 58 in force at 6.4.2016 by [S.I. 2016/412](#), **art. 2** (with art. 4, Schs. 1, 2)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 1(9)(ba) inserted by [2016 anaw 2 Sch. 3 para. 30\(a\)\(i\)](#)
- s. 1(9)(ca) inserted by [2016 anaw 2 Sch. 3 para. 30\(a\)\(ii\)](#)
- s. 1(9)(da) substituted for word by [2016 anaw 2 Sch. 3 para. 30\(a\)\(iii\)](#)
- s. 83(2A)-(2D) inserted by [2018 anaw 2 s. 16\(2\)](#)
- s. 83(10) inserted by [2018 anaw 2 s. 16\(9\)](#)
- s. 163(4A) inserted by [2014 c. 23 s. 75\(10\)](#) (Effect inserting (4) not applied at s. 163 as it appears to relate to s. 194 in view of the title of the section as cited i.e. "ordinary residence". In s. 194 another (4), identically worded, is inserted on the same date by S.I. 2016/413, regs. 2(1), 316(a))
- s. 196(6)(ca) inserted by [2018 anaw 2 Sch. 1 para. 24\(4\)](#)