



Social Services and Well-being (Wales) Act 2014

2014 anaw 4

PART 4

MEETING NEEDS

Supplementary

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 [^{F1}, 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)—

Changes to legislation: Social Services and Well-being (Wales) Act 2014, Section 58 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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 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).

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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

- I1** 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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[View outstanding changes](#)

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. 162(4)(ga) inserted by [2022 asc 1 Sch. 4 para. 30\(2\)\(b\)](#)
- 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))