

CARERS (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 2 – Adult Carer Support Plans and Young Carer Statements

Chapter 1 – Adult carer support plans

Duty to prepare adult carer support plan

Section 6 - Duty to prepare adult carer support plan

17. Subsection (1) defines what an “adult carer support plan” is, namely a plan prepared by a responsible local authority that sets out an adult carer’s identified personal outcomes, any identified needs and any support to be provided by the responsible local authority to meet those needs. The assessment process for identifying those outcomes and needs will be set out in regulations under section 8. Section 9 gives more information about the content of the adult carer support plan.
18. Subsection (2) places a duty on the responsible local authority so that where they identify a person as an adult carer, the responsible local authority must offer the person an adult carer support plan.
19. Subsection (3) states that a responsible local authority is required to prepare an adult carer support plan for a person if the person accepts an offer made under subsection (2) or the person requests a plan in accordance with subsection (4).
20. Subsection (4) applies if a person who appears to the responsible local authority to be an adult carer requests an adult carer support plan: that is, if an adult self-identifies as a carer and the responsible local authority agrees that the adult comes within the definition of carer under section 1 of the Act.
21. Subsection (5) requires responsible local authorities, when exercising their functions concerning the preparation of the adult carer support plan, to do so in a manner which encourages equal opportunities and in particular observance of the equal opportunity requirements. ‘Equal opportunity requirements’ means the requirements of the law for the time being relating to the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or opinions (which is the meaning given in Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).
22. Subsection (6) defines the “responsible local authority”, in relation to an adult carer, as the local authority for the area in which the cared-for person lives. This will still be the case where the adult carer lives in a different local authority area to the one in which the cared-for person lives.

Section 7 – Adult carers of terminally ill cared-for persons

23. This section imposes a duty on the Scottish Ministers so that they must, by regulations, prescribe timescales for the preparation of adult carer support plans in relation to adult carers of terminally ill cared-for persons. This section also sets out a definition of terminally ill cared for persons. The power is subject to the affirmative procedure (see section 42(2)).

Section 8 – Adult carers: identification of outcomes and needs for support

24. Under this section, the Scottish Ministers may make regulations about the identification of adult carers' personal outcomes and need for support. Such regulations could include provision about—
- how personal outcomes and needs for support are to be identified;
 - the process for doing so (including arrangements for the involvement of adult carers and cared-for persons);
 - who may carry out identification;
 - the sharing of information about adult carers and cared-for persons for the purpose of identifying personal outcomes and needs for support;
 - the factors to be taken into account in identifying adult carers' personal outcomes and needs for support; and
 - the circumstances in which adult carers' personal outcomes and needs for support should be reviewed.
25. Regulations under this section will be subject to the affirmative procedure (see section 42(2)).
26. Subsection (2) also requires the local authority to consider the impact on the adult carer of having one or more protected characteristics (within the meaning of section 149(7) of the Equality Act 2010) when assessing an adult carer's personal outcomes and needs for support. The protected characteristics in section 149(7) of the Equality Act 2010 are age, disability, gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. Content and review of adult carer support plan

Section 9 - Content of adult carer support plan

27. Subsection (1) sets out what information the adult carer support plan must contain, namely information about—
- the adult carer's personal circumstances at the time of preparation of the plan;
 - the extent to which the adult carer is able and willing to provide care for the cared-for person; whether the adult carer has arrangements in place for the provision of care to the cared-for person in an emergency;
 - information on whether the adult carer has any arrangements in place for the future care of the cared-for person;
 - the adult carer's personal outcomes identified in the adult carer support plan process;
 - the adult carer's needs for support, included any needs identified in the adult carer support plan process, to meet those outcomes. If no needs are identified, this should be stated;
 - the support available to adult carers and the cared-for persons in the area of the responsible local authority;

*These notes relate to the Carers (Scotland) Act 2016 (asp 9)
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- information about the support available to adult carers in the area where the adult carer resides if the adult carer does not reside in the responsible local authority's area;
 - the support that the responsible local authority provides or intends to provide to the adult carer to meet such of the adult carer's identified needs as meet the local eligibility criteria (set under Part 3 of the Act);
 - the support the responsible local authority provides or intends to provide to the adult carer to meet the adult carer's other identified needs (that is, the identified needs that do not meet the local eligibility criteria but which the responsible local authority nevertheless plans to meet by virtue of section 24(4)(b));
 - whether support provided should take the form of a break from caring for the cared-for person; and
 - the circumstances in which the plan is to be reviewed.
28. Subsection (2) provides that the second and subsequent adult carer support plan prepared for a carer must contain information on the extent to which any support provided under a previous plan has assisted in achieving the carer's identified personal outcomes.
29. Subsection (3) gives the Scottish Ministers power to make regulations about any other information an adult carer support plan must (or must not) contain, and the form adult carer support plans should take. Such regulations will be subject to the negative procedure (see section 42).

Section 10 - Review of adult carer support plans

30. This section enables the Scottish Ministers to make regulations about the review of adult carer support plans, including circumstances for review; frequency of review; procedure for review; and arrangements for obtaining the views of adult carers and cared for persons. Such regulations could for example include provision for review when the cared-for person is going to be discharged from hospital. Regulations under this subsection will be subject to the negative procedure (see section 42).

Provision of information about plan

Section 11 - Adult carer support plan: provision of information to carer etc.

31. Subsections (1) and (2) require the responsible local authority to provide the information contained in the adult carer support plan to the adult carer to whom the plan relates and to any other person(s) at the carer's request.
32. Subsection (3) provides that subsection (1) does not apply where the responsible local authority considers that provision of the information would not be appropriate. For instance, the local authority may consider that it is appropriate to remove sensitive information relating to the carer or the cared-for person, before providing the adult carer support plan to someone other than the carer.
33. Subsection (4) provides that the information provided under subsection (1) is to be provided as soon as practicable after the plan is prepared or, in the case of a revised plan, as soon as practicable after the revised plan is prepared.