

## **EXPLANATORY NOTES**

### **CARE ACT 2014**

#### **INTRODUCTION**

#### **BACKGROUND AND SUMMARY**

#### **OVERVIEW OF THE STRUCTURE**

##### **PART 1 – CARE AND SUPPORT**

##### **PART 2 – CARE STANDARDS**

##### **PART 3 – HEALTH**

##### **PART 4 – HEALTH AND SOCIAL CARE**

##### **PART 5 – GENERAL**

#### **TERRITORIAL EXTENT AND APPLICATION**

##### **Territorial extent and application: Wales**

##### **Territorial extent and application: Northern Ireland**

##### **Territorial extent and application: Scotland**

#### **COMMENTARY ON SECTIONS**

##### **PART 1 – CARE AND SUPPORT**

###### **General responsibilities of local authorities**

Section 1 – Promoting individual well-being

Section 2 - Preventing needs for care and support

Section 3 – Promoting integration of care and support within health services etc.

Section 4 – Providing information and advice

Section 5 – Promoting diversity and quality in provision of services

Section 6 – Co-operating generally

Section 7 – Co-operating in specific cases

**Meeting needs for care etc.**

Section 8 – How to meet needs

**Assessing needs**

Section 9 – Assessment of an adult’s needs for care and support

Section 10 – Assessment of a carer’s needs for support

Section 11 – Refusal of assessment

Section 12 – Assessments under sections 9 and 10: further provision

Section 13 – The eligibility criteria

**Imposing charges and assessing financial resources**

Section 14 – Power of local authority to charge

Section 15 – Cap on care costs

Section 16 - Cap on care costs: annual adjustment

Section 17 – Assessment of financial resources

Section 18 – Duty to meet needs for care and support

Section 19 – Power to meet needs for care and support

Section 20 – Duty and power to meet a carer’s needs for support

Section 21 – Exception for persons subject to immigration control

Section 22 – Exception for provision of healthcare services

Section 23 - Exception for provision of housing etc.

**Next steps after assessments**

Section 24 – The steps for the local authority to take

Section 25 – Care and support plan, support plan

Section 26 – Personal budget

Section 27 – Review of care and support plan or of support plan

Section 28 – Independent personal budget

Section 29 – Care account

Section 30 – Cases where adult expresses preference for particular accommodation

**Direct payments**

Section 31 – Adults with capacity to request direct payments

Section 32 – Adults without capacity to request direct payments

Section 33 – Direct payments: further provision

### **Deferred payment agreements**

Section 34 – Deferred payment agreements and loans

Section 35 – Deferred payment agreements: further provision

Section 36 – Alternative financial arrangements

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

Section 37 – Notification, assessment, etc.

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

### **Establishing where a person lives, etc.**

Section 39 – Where a person’s ordinary residence is

Schedule 1 – Cross-border placements

Section 40 – Disputes about ordinary residence or continuity of care

Section 41 – Financial adjustments between local authorities

### **Safeguarding adults at risk of abuse or neglect**

Section 42 – Enquiry by local authority

Section 43 – Safeguarding Adults Boards

Schedule 2 – Safeguarding Adults Boards

#### **Membership, etc.**

#### **Funding and other resources**

#### **Strategic plan**

#### **Annual report**

Section 44 – Safeguarding adults reviews

Section 45 – Supply of information

Section 46 - Abolition of local authority’s power to remove persons in need of care

Section 47 – Protecting property of adults being cared for away from home

### **Provider failure**

Section 48 – Temporary duty on local authority

Section 49 – Section 48: cross-border cases

Section 50 – Temporary duty on local authority in Wales

Section 51 – Temporary duty on Health and Social Care trust in Northern Ireland

Section 52 – Sections 48 and 51: supplementary

### **Market oversight**

Section 53 – Specifying criteria for application of market oversight regime

Section 54 – Determining whether criteria apply to care provider

Section 55 – Assessment of financial sustainability of care provider

Section 56 – Informing local authorities where failure of care provider likely

Section 57 - Sections 54 to 56: supplementary

### **Transition for children to adult care and support, etc.**

Section 58 – Assessment of a child’s needs for care and support

Section 59 – Child’s needs assessment: requirements, etc.

Section 60 – Assessments of a child’s carer’s needs for support

Section 61 – Child’s carer’s needs assessment; requirements etc.

Section 62 - Power to meet a child’s carer’s needs for support

Section 63 – Assessment of a young carer’s needs for support

Section 64 – Young carer’s assessment: requirements etc.

Section 65 – Assessments under sections 58 to 64: further provision

Section 66 – Continuity of services under other legislation

### **Independent advocacy support**

Section 67 – Involvement in assessments, plans etc.

Section 68 – Safeguarding enquiries and reviews

### **Enforcement of debts**

Section 69 – Recovery of charges, interest etc.

Section 70 – Transfer of assets to avoid charges

### **Review of funding provisions**

Section 71 – Five-yearly review by Secretary of State

### **Appeals**

Section 72 – Part 1 appeals

## **Miscellaneous**

Section 73 – Human Rights Act 1998: provision of regulated care or support etc to be public function

Section 74 – Discharge of hospital patients with care and support needs

Schedule 3 – Discharge of hospital patients with care and support needs

### **Cases where hospital patient is likely to have care and support needs after discharge**

**Assessment notice given by responsible NHS body to local authority**

**Cases where the discharge of the patient is delayed**

**Delegation to management of independent hospital**

**Adjustments between local authorities**

**Meaning of “hospital patient”, “NHS hospital”, “NHS body”, etc.**

Section 75 – After-care under the Mental Health Act 1983

Schedule 4 – After-care under the Mental Health Act 1983: direct payments

Section 76 - Prisoners and persons in approved premises etc.

Section 77 – Registers of sight impaired adults, disabled adults, etc.

Section 78 – Guidance, etc.

Section 79 – Delegation of local authority functions

## **General**

Section 80 - Part 1: interpretation

## **PART 2 – CARE STANDARDS**

### **Quality of Services**

Section 81 – Duty of candour

Section 82 – Warning notice

Section 83 – Imposition of licence conditions on NHS foundation trusts

Section 84 – Trust special administration: appointment of administrator

Section 85 – Trust special administration: objective, consultation and reports

### **Care Quality Commission**

Section 86 – Restriction on applications for variation or removal of conditions

Section 87 – Rights of appeal

Section 88 – Unitary board

**Increasing the independence of the Care Quality Commission**

Section 89 – Chief Inspectors

Section 90 – Independence of the Care Quality Commission

**Performance ratings**

Section 91– Reviews and performance assessments

**False or misleading information**

Section 92 – Offence

Section 93 – Penalties

Section 94 – Offences by bodies

**Regulated activities**

Section 95 – Training for persons working in regulated activity

**PART 3 - HEALTH**

**Chapter 1 - Health Education England**

**Establishment**

Section 96 – Health Education England

Schedule 5 – Health Education England

**PART 1 – CONSTITUTION**

**Membership**

**Non-executive members: terms of office**

**Non-executive members: suspension from office**

**Non-executive members: pay**

**Employees: terms of office**

**Employees: pay**

**Committees and sub-committees**

**Procedure**

**Seal and evidence**

**Status of HEE**

**PART 2 – FUNCTIONS**

**Exercise of functions**

**Help or advice for public authorities**

**Co-operation**

**NHS contracts**

**Arrangements with devolved authorities**

**Failure to exercise functions**

**PART 3 – FINANCE AND REPORTS**

**Funding**

**Financial duties: expenditure**

**Financial duties: use of generated income**

**Financial duties: controls on total resource use**

**Financial duties: additional controls on resource use**

**Losses and liabilities etc**

**Accounts**

**Annual accounts**

**Interim accounts**

**Annual report**

**PART 4 – CONSEQUENTIAL AMENDMENTS**

**National Functions**

Section 97 – Planning education and training for healthcare workers etc.

Section 98 – Ensuring sufficient skilled health care workers for the health service

Section 99 – Quality improvement in education and training, etc.

Section 100 – Objectives, priorities and outcomes

Section 101 – Sections 98 and 100: matters to which HEE must have regard

Section 102 – Advice

**Local functions**

Section 103 – Local Education and Training Boards

Section 104 – LETBs: appointment etc.

*These notes refer to the Care Act 2014 (c.23)*

## Schedule 6 – Local Education and Training Boards

### **The area for which a LETB is appointed**

### **Assessment of whether the members of LETBs meet the appointment criteria**

### **Publication and review of the appointment criteria**

### **Exercise of functions**

Section 105 – LETBs: co-operation by providers of health services

Section 106 – Education and training plans

Section 107 – Commissioning education and training

### **Tariffs**

Section 108 – Tariffs

## **Chapter 2 – Health Research Authority**

### **Establishment**

Section 109 – The Health Research Authority

Schedule 7 – The Health Research Authority

### **PART 1 – CONSTITUTION**

### **PART 2 - FUNCTIONS**

### **PART 3 – FINANCE AND REPORTS**

### **PART 4 – CONSEQUENTIAL AMENDMENTS**

### **General functions**

Section 110 – The HRA’s functions

### **Regulatory practice**

Section 111 – Co-ordinating and promoting regulatory practice etc.

### **Research ethics committees**

Section 112 – The HRA’s policy on research ethics committees

Section 113 – Approval of research

Schedule 8 – Research ethics committees (RECs): amendments

Section 114 – Recognition by the HRA

Section 115 – Establishment by the HRA



*These notes refer to the Care Act 2014 (c.23)*

Section 116 – Membership of the United Kingdom Ethics Committee Authority

### **Patient Information**

Section 117 – Approval for processing confidential patient information

## **Chapter 3 – Chapters 1 and 2: Supplementary**

### **Miscellaneous**

Section 118 – Transfer orders

### **General**

Section 119 – Part 3: interpretation and supplementary provision

## **Chapter 4 – Trust Special Administration**

Section 120 – Powers of administrator etc.

## **PART 4 – HEALTH AND SOCIAL CARE**

### **Integration**

Section 121 – Integration of care and support with health services etc: integration fund

### **Information**

Section 122 – The Health and Social Care Information Centre: restrictions on dissemination of information

## **PART 5 – GENERAL**

Section 123 – Power to make consequential provision

Section 124 – Power to make transitional etc. provision

Section 125 – Regulations and orders

Section 126 – General interpretation

Section 127 – Commencement

Section 128 – Extent and application

Section 129 – Short title

## **COMMENCEMENT**

## **HANSARD REFERENCES**

## **GLOSSARY OF ABBREVIATIONS**