

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Transition for children to adult care and support, etc.

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

358. This section provides a duty for local authorities to assess a child’s needs for care and support (as provided for by this Part), where it appears to a local authority that the child is likely to have needs for care and support after turning 18 and it considers there is significant benefit to the child in doing so. Children have existing rights to assessment and support under the Children Act 1989, and this provision does not affect those rights.
359. If the child lacks capacity or is not competent to consent to an assessment, the local authority has to be satisfied that carrying it out is in the child’s best interests. In any other case, the local authority may not carry out an assessment where the child does not consent to it, but if a child who refuses an assessment is experiencing (or at risk of) abuse or neglect, the local authority must carry out an assessment.
360. A child does not have to be receiving services under children’s legislation in order to receive or request this assessment. Similarly, there is no restriction on the age of child assessed, or their proximity to their 18th birthday. The local authority must consider, whether the child is likely to have needs for care and support after turning 18 and whether there would be “significant benefit” to the child in undertaking the assessment, so that the authority is able to take all relevant circumstances into account in deciding whether to assess.
361. The purpose of this assessment would be to consider what needs for care and support the child may have after their 18th birthday, to support planning for transition to adult care and support. The local authority will therefore assess the child’s needs by reference to the adult care and support arrangements, and this power is not intended to be used to assess needs for children’s services.
362. Where an assessment is carried out, the information provided to the child or their parent/ carer should include an indication of whether they are likely to have eligible needs for care and support after their 18th birthday, and advice and information about what can be done to meet eligible needs and what can be done to prevent or delay the development of needs.
363. If the local authority does not comply with a request to carry out an assessment it must explain why in writing and provide information and advice about what can be done to prevent or delay the development of needs.