



# Care Act 2014

## 2014 CHAPTER 23

### PART 1

#### CARE AND SUPPORT

##### *Duties and powers to meet needs*

#### **18 Duty to meet needs for care and support**

- (1) A local authority, having made a determination under section 13(1), must meet the adult's needs for care and support which meet the eligibility criteria if—
  - (a) the adult is ordinarily resident in the authority's area or is present in its area but of no settled residence,
  - (b) the adult's accrued costs do not exceed the cap on care costs, and
  - (c) there is no charge under section 14 for meeting the needs or, in so far as there is, condition 1, 2 or 3 is met.
- (2) Condition 1 is met if the local authority is satisfied on the basis of the financial assessment it carried out that the adult's financial resources are at or below the financial limit.
- (3) Condition 2 is met if—
  - (a) the local authority is satisfied on the basis of the financial assessment it carried out that the adult's financial resources are above the financial limit, but
  - (b) the adult nonetheless asks the authority to meet the adult's needs.
- (4) Condition 3 is met if—
  - (a) the adult lacks capacity to arrange for the provision of care and support, but
  - (b) there is no person authorised to do so under the Mental Capacity Act 2005 or otherwise in a position to do so on the adult's behalf.
- (5) A local authority, having made a determination under section 13(1), must meet the adult's needs for care and support which meet the eligibility criteria if—

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- (a) the adult is ordinarily resident in the authority's area or is present in its area but of no settled residence, and
  - (b) the adult's accrued costs exceed the cap on care costs.
- (6) The reference in subsection (1) to there being no charge under section 14 for meeting an adult's needs for care and support is a reference to there being no such charge because—
- (a) the authority is prohibited by regulations under section 14 from making such a charge, or
  - (b) the authority is entitled to make such a charge but decides not to do so.
- (7) The duties under subsections (1) and (5) do not apply to such of the adult's needs as are being met by a carer.

## **19 Power to meet needs for care and support**

- (1) A local authority, having carried out a needs assessment and (if required to do so) a financial assessment, may meet an adult's needs for care and support if—
- (a) the adult is ordinarily resident in the authority's area or is present in its area but of no settled residence, and
  - (b) the authority is satisfied that it is not required to meet the adult's needs under section 18.
- (2) A local authority, having made a determination under section 13(1), may meet an adult's needs for care and support which meet the eligibility criteria if—
- (a) the adult is ordinarily resident in the area of another local authority,
  - (b) there is no charge under section 14 for meeting the needs or, in so far as there is such a charge, condition 1, 2 or 3 in section 18 is met, and
  - (c) the authority has notified the other local authority of its intention to meet the needs.
- (3) A local authority may meet an adult's needs for care and support which appear to it to be urgent (regardless of whether the adult is ordinarily resident in its area) without having yet—
- (a) carried out a needs assessment or a financial assessment, or
  - (b) made a determination under section 13(1).
- (4) A local authority may meet an adult's needs under subsection (3) where, for example, the adult is terminally ill (within the meaning given in section 82(4) of the Welfare Reform Act 2012).
- (5) The reference in subsection (2) to there being no charge under section 14 for meeting an adult's needs is to be construed in accordance with section 18(6).

## **20 Duty and power to meet a carer's needs for support**

- (1) A local authority, having made a determination under section 13(1), must meet a carer's needs for support which meet the eligibility criteria if—
- (a) the adult needing care is ordinarily resident in the local authority's area or is present in its area but of no settled residence,

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- (b) in so far as meeting the carer's needs involves the provision of support to the carer, there is no charge under section 14 for meeting the needs or, in so far as there is, condition 1 or 2 is met, and
  - (c) in so far as meeting the carer's needs involves the provision of care and support to the adult needing care—
    - (i) there is no charge under section 14 for meeting the needs and the adult needing care agrees to the needs being met in that way, or
    - (ii) in so far as there is such a charge, condition 3 or 4 is met.
- (2) Condition 1 is met if the local authority is satisfied on the basis of the financial assessment it carried out that the carer's financial resources are at or below the financial limit.
- (3) Condition 2 is met if—
  - (a) the local authority is satisfied on the basis of the financial assessment it carried out that the carer's financial resources are above the financial limit, but
  - (b) the carer nonetheless asks the authority to meet the needs in question.
- (4) Condition 3 is met if—
  - (a) the local authority is satisfied on the basis of the financial assessment it carried out that the financial resources of the adult needing care are at or below the financial limit, and
  - (b) the adult needing care agrees to the authority meeting the needs in question by providing care and support to him or her.
- (5) Condition 4 is met if—
  - (a) the local authority is satisfied on the basis of the financial assessment it carried out that the financial resources of the adult needing care are above the financial limit, but
  - (b) the adult needing care nonetheless asks the authority to meet the needs in question by providing care and support to him or her.
- (6) A local authority may meet a carer's needs for support if it is satisfied that it is not required to meet the carer's needs under this section; but, in so far as meeting the carer's needs involves the provision of care and support to the adult needing care, it may do so only if the adult needing care agrees to the needs being met in that way.
- (7) A local authority may meet some or all of a carer's needs for support in a way which involves the provision of care and support to the adult needing care, even if the authority would not be required to meet the adult's needs for care and support under section 18.
- (8) Where a local authority is required by this section to meet some or all of a carer's needs for support but it does not prove feasible for it to do so by providing care and support to the adult needing care, it must, so far as it is feasible to do so, identify some other way in which to do so.
- (9) The reference in subsection (1)(b) to there being no charge under section 14 for meeting a carer's needs for support is a reference to there being no such charge because—
  - (a) the authority is prohibited by regulations under section 14 from making such a charge, or
  - (b) the authority is entitled to make such a charge but decides not to do so.

- (10) The reference in subsection (1)(c) to there being no charge under section 14 for meeting an adult’s needs for care and support is to be construed in accordance with section 18(6).

## **21 Exception for persons subject to immigration control**

- (1) A local authority may not meet the needs for care and support of an adult to whom section 115 of the Immigration and Asylum Act 1999 (“the 1999 Act”) (exclusion from benefits) applies and whose needs for care and support have arisen solely—
- (a) because the adult is destitute, or
  - (b) because of the physical effects, or anticipated physical effects, of being destitute.
- (2) For the purposes of subsection (1), section 95(2) to (7) of the 1999 Act applies but with the references in section 95(4) and (5) to the Secretary of State being read as references to the local authority in question.
- (3) But, until the commencement of section 44(6) of the Nationality, Immigration and Asylum Act 2002, subsection (2) is to have effect as if it read as follows—
- “(2) For the purposes of subsection (1), section 95(3) and (5) to (8) of, and paragraph 2 of Schedule 8 to, the 1999 Act apply but with references in section 95(5) and (7) and that paragraph to the Secretary of State being read as references to the local authority in question.”
- (4) The reference in subsection (1) to meeting an adult’s needs for care and support includes a reference to providing care and support to the adult in order to meet a carer’s needs for support.
- (5) For the purposes of its application in relation to the duty in section 2(1) (preventing needs for care and support), this section is to be read as if—
- (a) for subsection (1) there were substituted—
 

“(1) A local authority may not perform the duty under section 2(1) in relation to an adult to whom section 115 of the Immigration and Asylum Act 1999 (“the 1999 Act”) (exclusion from benefits) applies and whose needs for care and support have arisen, or for whom such needs may in the future arise, solely—

    - (a) because the adult is destitute, or
    - (b) because of the physical effects, or anticipated physical effects, of being destitute.”, and
  - (b) subsection (4) were omitted.

## **22 Exception for provision of health services**

- (1) A local authority may not meet needs under sections 18 to 20 by providing or arranging for the provision of a service or facility that is required to be provided under the National Health Service Act 2006 unless—
- (a) doing so would be merely incidental or ancillary to doing something else to meet needs under those sections, and
  - (b) the service or facility in question would be of a nature that the local authority could be expected to provide.

- (2) Regulations may specify—
  - (a) types of services or facilities which, despite subsection (1), may be provided or the provision of which may be arranged by a local authority, or circumstances in which such services or facilities may be so provided or the provision of which may be so arranged;
  - (b) types of services or facilities which may not be provided or the provision of which may not be arranged by a local authority, or circumstances in which such services or facilities may not be so provided or the provision of which may not be so arranged;
  - (c) services or facilities, or a method for determining services or facilities, the provision of which is, or is not, to be treated as meeting the conditions in subsection (1)(a) and (b).
- (3) A local authority may not meet needs under sections 18 to 20 by providing or arranging for the provision of nursing care by a registered nurse.
- (4) But a local authority may, despite the prohibitions in subsections (1) and (3), arrange for the provision of accommodation together with the provision of nursing care by a registered nurse if—
  - (a) the authority has obtained consent for it to arrange for the provision of the nursing care from whichever clinical commissioning group regulations require, or
  - (b) the case is urgent and the arrangements for accommodation are only temporary.
- (5) In a case to which subsection (4)(b) applies, as soon as is feasible after the temporary arrangements are made, the local authority must seek to obtain the consent mentioned in subsection (4)(a).
- (6) Regulations may require a local authority—
  - (a) to be involved in the specified manner in processes for assessing a person's needs for health care and for deciding how those needs should be met;
  - (b) to make arrangements for determining disputes between the authority and a clinical commissioning group or the National Health Service Commissioning Board about whether or not a service or facility is required to be provided under the National Health Service Act 2006.
- (7) Nothing in this section affects what a local authority may do under the National Health Service Act 2006, including entering into arrangements under regulations under section 75 of that Act (arrangements with NHS bodies).
- (8) A reference to the provision of nursing care by a registered nurse is a reference to the provision by a registered nurse of a service involving—
  - (a) the provision of care, or
  - (b) the planning, supervision or delegation of the provision of care,other than a service which, having regard to its nature and the circumstances in which it is provided, does not need to be provided by a registered nurse.
- (9) Where, in a case within subsection (4), the National Health Service Commissioning Board has responsibility for arranging for the provision of the nursing care, the reference in paragraph (a) of that subsection to a clinical commissioning group is to be read as a reference to the Board.

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- (10) For the purposes of its application in relation to the duty in section 2(1) (preventing needs for care and support), this section is to be read as if references to meeting needs under sections 18 to 20 were references to performing the duty under section 2(1).

**23 Exception for provision of housing etc.**

- (1) A local authority may not meet needs under sections 18 to 20 by doing anything which it or another local authority is required to do under—
- (a) the Housing Act 1996, or
  - (b) any other enactment specified in regulations.
- (2) “Another local authority” includes a district council for an area in England for which there is also a county council.
- (3) For the purposes of its application in relation to the duty in section 2(1) (preventing needs for care and support), this section is to be read as if, in subsection (1), for “meet needs under sections 18 to 20” there were substituted “perform the duty under section 2(1)”.