

SOCIAL SERVICES AND WELL- BEING (WALES) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 58 – Protecting property of persons being cared for away from home

214. **Section 58** provides for the protection of a person's movable property if they are being cared for away from home. In these circumstances, a local authority has a duty to protect the person's movable property and for this purpose, it is able to enter the person's premises and take other steps in order to prevent or mitigate loss or damage. These powers cannot be exercised unless the necessary consent to the taking of the steps has been obtained.
215. Before exercising their duties under this section, the local authority must, in the case of an adult, a child aged 16 or 17 who has capacity or a child under 16 who has sufficient understanding, obtain their consent.
216. Where the person is an adult who lacks capacity, the local authority must obtain the consent of a person authorised under the Mental Health Act 2005 to give consent on the adult's behalf. Where there is no authorised person, the local authority must satisfy itself that taking action would be in the adult's best interests.
217. Where the person is a child aged 16 or 17 who lacks capacity, the local authority must obtain the consent of a person authorised under the Mental Health Act 2005 to give consent on the child's behalf. Where there is no authorised person, the local authority must obtain the consent of a person with parental responsibility for the child.
218. Where the person is a child aged 16 who does not have sufficient understanding, the local authority must obtain the consent of a person with parental responsibility for the child.
219. The local authority must take reasonable steps to obtain the necessary consent, but if it has not been able to do so, the duty to take reasonable steps to prevent or mitigate loss no longer applies.
220. An officer authorised to exercise powers under this section, must if requested to do so, produce his or her authorisation. It is an offence to obstruct the exercise of the power.
221. A local authority can recover reasonable expenses incurred but only from an adult in relation to the steps taken to protect the adult's property.