

CARERS (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 4 – Carer Involvement

Section 27 - Duty to involve carers in carer services

81. Subsections (1) and (2) require each local authority and health board to take steps to involve the persons mentioned in subsection (3) in carer services.
82. Subsection (3) defines those persons as carers in the area of the local authority or health board, and such persons and bodies representatives of carers as the local authority or health board considers appropriate.
83. Subsection (4) defines what is meant by “carer services” provided by the local authority or health board. It covers all services provided by the local authority or health board to carers (in their role as such) and cared-for persons (in relation to care which they receive).
84. Subsection (5) makes two exceptions. Subsection (4) does not cover services set out in a children’s services plan under the Children and Young People (Scotland) Act 2014, provided that consultation with the same persons has been carried out in connection with that plan. Nor does it cover services which are provided in pursuance of functions included in an integration scheme under the Public Bodies (Joint Working) (Scotland) Act 2014. That Act places other obligations on integration authorities about carrying out such functions which include obligations to involve carers and organisations representing carers.
85. Subsection (6) sets out what amounts to “involvement” in relation to carer services.

Section 28 – Carer involvement in hospital discharge of cared-for persons

86. Subsection (1) requires that health boards must involve any carer in the planning of discharge from hospital of a cared-for person.
87. Subsection (2) sets out how each health board must fulfil the duty in subsection (1). It requires the health board to take appropriate steps to inform the carer of the intention to discharge the cared-for person and to invite the carer to give views about the discharge. The health board must also take account, so far as is reasonable and practicable to do so, of the views of the carer during the discharge process.
88. Subsection (3) sets out that this section applies only where a health board can identify without delay that a person is a carer of the cared-for person and where it appears to the health board that the cared-for person is likely to require care following discharge from hospital.
89. Subsection (4) defines what is meant by a “health board” for the purposes of this section. This is an area health board or, in the case of the state hospital, the State Hospitals Boards for Scotland.

90. Subsection (5) describes the types of hospitals that are referred to as part of subsection (4). This is a health service hospital or any other hospital where a person receives accommodation or services under arrangements made by a health board.

Section 29 - Involvement of, assistance to and collaboration with carers

91. This section requires a local authority to have regard to the general principles in section 1 of the Social Care (Self-directed Support) (Scotland) Act 2013 when exercising functions under Part 2 (adult carer support plans and young carer statements) and Part 3 (provision of support to carers) of this Act.
92. These general principles are that the carer must have as much involvement as he or she wishes in relation to the preparation of the adult carer support plan or young carer statement and the provision of support under section 24 of the Act, and that the local authority must collaborate with the carer in respect of those matters. The carer must also be provided with any assistance reasonably required in order to be able to express views or make an informed choice about options for self-directed support.

Section 30 - Care assessments: duty to take account of care and views of carers

93. This section makes consequential amendments to section 12A of the 1968 Act and section 23 of the 1995 Act, which concern assessments of people in need of community care services and of children affected by disability respectively. The amendments require the authority preparing such assessments to take into account the care which is provided, or to be provided by any carer. Where the carer has an adult carer support plan or young carer statement, that care is to be identified by reference to the information contained in the plan or statement.
94. This section also inserts a new subsection (1B) into section 12A of the 1968 Act and a new subsection (6) into section 23 of the 1995 Act. Those new subsections require the local authority to take into account the views of the carer, so far as it is reasonable and practicable to do so, when determining the needs of the person being assessed and deciding what services to provide and how to provide them. These new subsections replace narrower obligations about taking a carer's views into account in the current assessment provisions.