
DRAFT STATUTORY INSTRUMENTS

2008 No.

**The Mental Capacity (Deprivation of Liberty:
Standard Authorisations, Assessments and
Ordinary Residence) Regulations 2008**

PART 6

Supervisory bodies: care homes

Disputes about the Place of Ordinary Residence

Application and Interpretation of Part 6

17.—(1) This Part applies where—

- (a) a local authority (“local authority A”)(¹) receives a request from—
 - (i) a care home for a standard authorisation under paragraph 24, 25 or 30 of Schedule A1 to the Act, or
 - (ii) an eligible person to decide whether or not there is an unauthorised deprivation of liberty in a care home under paragraph 68 of Schedule A1 to the Act;
- (b) local authority A wishes to dispute that it is the supervisory body; and
- (c) a question as to the ordinary residence of the relevant person is to be determined by the Secretary of State under paragraph 183 of Schedule A1 to the Act.

(2) In this Part—

- (a) “local authority A” has the meaning given in paragraph (1); and
- (b) “local authority C” has the meaning given in regulation 18(2).

Arrangements where there is a question as to the ordinary residence

18.—(1) Local authority A must act as supervisory body in relation to a request mentioned in regulation 17(1)(a) until the determination of the question as to the ordinary residence of the relevant person.

(2) But where another local authority (“local authority C”) agrees to act as the supervisory body in place of local authority A, that local authority shall become the supervisory body until the determination of the question as to the ordinary residence of the relevant person.

(3) When the question about the ordinary residence of the relevant person has been determined, the local authority which has been identified as the supervisory body shall become the supervisory body.

(¹) “local authority” is defined in paragraph 182(4) (in relation to England) of Schedule A1 to the Act.

Effect of change in supervisory body following determination of any question about ordinary residence

19.—(1) Where the question of ordinary residence of the relevant person is determined in accordance with paragraph 183(3) of Schedule A1 to the Act, and another local authority (“local authority B”) becomes the supervisory body in place of local authority A or local authority C, as the case may be, paragraphs (3) to (6) shall apply.

(2) Where the question of ordinary residence of the relevant person is determined in accordance with paragraph 183(3) of Schedule A1 to the Act and local authority C remains the supervisory body, paragraphs (7) to (9) shall apply.

(3) Local authority B shall be treated as the supervisory body that received the request mentioned in regulation 17(1)(a) and must comply with the time limits specified in —

- (a) regulation 13 for carrying out the assessments required for a standard authorisation; or
- (b) regulation 14 for carrying out an assessment required under paragraph 69 of Schedule A1 to the Act,

as the case may be, where the assessments have still to be completed.

(4) Anything done by or in relation to local authority A or local authority C in connection with the authorisation or request, as the case may be, has effect, so far as is necessary for continuing its effect after the change, as if done by or in relation to local authority B.

(5) Anything which relates to the authorisation or request and which is in the process of being done by or in relation to local authority A or local authority C at the time of the change may be continued by or in relation to local authority B.

(6) But—

- (a) local authority A or local authority C does not, by virtue of this regulation, cease to be liable for anything done by it in connection with the authorisation or request before the change; and
- (b) local authority B does not, by virtue of this regulation, become liable for any such thing.

(7) Local authority C shall be treated as the supervisory body that received the request mentioned in regulation 17(1)(a) and must comply with the time limits specified in —

- (a) regulation 13 for carrying out the assessments required for a standard authorisation; or
- (b) regulation 14 for carrying out an assessment required under paragraph 69 of Schedule A1 to the Act,

as the case may be, where the assessments have still to be completed.

(8) Anything done by or in relation to local authority A in connection with the authorisation or request, as the case may be, has effect, so far as is necessary for continuing its effect after the change, as if done by or in relation to local authority C.

(9) Anything which relates to the authorisation or request and which is in the process of being done by or in relation to local authority A at the time of the change may be continued by or in relation to local authority C.

(10) But—

- (a) local authority A does not, by virtue of this regulation, cease to be liable for anything done by it in connection with the authorisation or request before the change; and
- (b) local authority C does not, by virtue of this regulation, become liable for any such thing.