

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

General responsibilities of local authorities

Section 1 – Promoting individual well-being

55. This section provides for a set of legal principles, which govern how local authorities are to carry out their care and support functions for adults under this Act.
56. *Subsection (1)* establishes the overarching principle that local authorities must promote the well-being of the adult when carrying out functions under this Part of the Act in relation to that adult. This duty applies both in relation to adults who use services, and to carers. It also applies to children, in relation to the functions set out in sections 58 to 66.
57. The “well-being principle” applies to local authorities (and their officers) when they exercise a function under this Part in the case of an adult. It is not intended to be directly enforceable as an individual right, but to carry indirect legal weight, where a local authority’s failure to follow the principle may be challenged through judicial review.
58. “Well-being” is not defined precisely. However, *subsection (2)* provides guidance on the interpretation of the general duty in subsection (1). It lists outcomes or areas of activity, which develop the concept of well-being. The outcomes are not a series of requirements, but serve as a description to aid understanding.
59. The final element of the statutory principles is provided in *subsection (3)*. This is a list of factors, which local authorities must consider when exercising any function, such as making a decision, about an adult, under Part 1 of the Act.
60. The factors in subsection (3) direct local authorities on a number of issues that they must consider in complying with the general well-being principle. The list of factors is not in order of importance, and the weight afforded to each will differ according to the circumstances of the individual case. Moreover, it is not exhaustive. There may be other factors not listed which are relevant to the well-being of an individual, and which should be considered by decision-makers.