



# Care Act 2014

## 2014 CHAPTER 23

### PART 1 U.K.

#### CARE AND SUPPORT

##### *Continuity of care and support when adult moves*

### 38 Case where assessments not complete on day of move E+W

- (1) If, on the day of the intended move as mentioned in section 37(1)(b), (2)(b) or (3)(b), the second authority has yet to carry out the assessment or assessments under section 37(6), or has done so but has yet to take the other steps required under this Part in the adult's case, it must—
  - (a) meet the adult's needs for care and support, and the needs for support of any carer who is continuing as the adult's carer, which the first authority has been meeting, and
  - (b) where the first authority has been keeping a care account in the adult's case, itself keep that account on the same basis as the first authority has been keeping it.
- (2) The second authority is subject to the duty under subsection (1) until it has—
  - (a) carried out the assessment or assessments under section 37(6), and
  - (b) taken the other steps required under this Part in the adult's case.
- (3) In deciding how to meet the adult's needs for care and support under subsection (1), the second authority must involve—
  - (a) the adult,
  - (b) any carer who is continuing as the adult's carer, and
  - (c) any person whom the adult asks the authority to involve or, where the adult lacks capacity to ask the authority to do that, any person who appears to the authority to be interested in the adult's welfare.

*Status: Point in time view as at 17/07/2021.*

*Changes to legislation: Care Act 2014, Section 38 is up to date with all changes known to be in force on or before 25 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) In deciding how to meet the needs for support of any carer who is continuing as the adult's carer, the second authority must involve—
- (a) the carer,
  - (b) the adult needing care, if the carer asks the authority to do so, and
  - (c) any other person whom the carer asks the authority to involve.
- (5) In performing the duty under subsection (3)(a) or (4)(a), the second authority must take all reasonable steps to reach agreement with the adult or carer about how it should meet the needs in question.
- (6) The first authority is not required to meet the adult's needs for care and support or, if the adult has a carer, such needs for support as the carer has, for so long as the second authority is subject to the duty under subsection (1).
- (7) Where, having complied with the duty under subsection (1), the second authority is not required to meet the adult's needs for care and support under section 18 because the adult is still ordinarily resident in the area of the first authority, the second authority may recover from the first authority the costs it incurs in complying with the duty under subsection (1).
- (8) Regulations may specify matters to which the second authority must have regard in deciding how to perform the duty under subsection (1).

#### **Modifications etc. (not altering text)**

- C1** Pt. 1 modified (1.4.2015) by [The Care and Support \(Isles of Scilly\) Order 2015 \(S.I. 2015/642\)](#), arts. 1, [2\(2\)\(a\)](#); [S.I. 2015/993](#), [art. 2\(a\)](#)
- C2** Pt. 1 applied in part (with modifications) (1.4.2015 coming into force in accordance with reg. 1(1)) by [The Care and Support \(Children's Carers\) Regulations 2015 \(S.I. 2015/305\)](#), regs. 1(1), [2\(1\)\(a\)\(2\)](#), 4-12; [S.I. 2015/993](#), [art. 2\(g\)](#)
- C3** S. 38(1) modified (31.3.2020) by [Coronavirus Act 2020 \(c. 7\)](#), s. 87(2), Sch. 12 para. 13(1)(6) (with Sch. 12 para. 16); [S.I. 2020/388](#), reg. 2

#### **Commencement Information**

- I1** S. 38(1)(a)(2)-(7) in force at 1.4.2015 by [S.I. 2015/993](#), [art. 2\(k\)](#) (with [art. 5\(c\)](#)) (and with transitional provisions in [S.I. 2015/995](#))
- I2** S. 38(8) in force at 1.10.2014 for specified purposes by [S.I. 2014/2473](#), [art. 2\(1\)\(l\)](#)
- I3** S. 38(8) in force at 1.4.2015 in so far as not already in force by [S.I. 2015/993](#), [art. 2\(k\)](#)

**Status:**

Point in time view as at 17/07/2021.

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