



Care Act 2014

2014 CHAPTER 23

PART 1

CARE AND SUPPORT

Independent advocacy support

68 Safeguarding enquiries and reviews

- (1) This section applies where there is to be—
 - (a) an enquiry under section 42(2),
 - (b) a review under section 44(1) of a case in which condition 2 in section 44(3) is met or a review under section 44(4).
- (2) The relevant local authority must, if the condition in subsection (3) is met, arrange for a person who is independent of the authority (an “independent advocate”) to be available to represent and support the adult to whose case the enquiry or review relates for the purpose of facilitating his or her involvement in the enquiry or review; but see subsections (4) and (6).
- (3) The condition is that the local authority considers that, were an independent advocate not to be available, the individual would experience substantial difficulty in doing one or more of the following—
 - (a) understanding relevant information;
 - (b) retaining that information;
 - (c) using or weighing that information as part of the process of being involved;
 - (d) communicating the individual’s views, wishes or feelings (whether by talking, using sign language or any other means).
- (4) The duty under subsection (2) does not apply if the local authority is satisfied that there is a person—
 - (a) who would be an appropriate person to represent and support the adult for the purpose of facilitating the adult’s involvement, and

Status: This is the original version (as it was originally enacted).

- (b) who is not engaged in providing care or treatment for the adult in a professional capacity or for remuneration.
- (5) For the purposes of subsection (4), a person is not to be regarded as an appropriate person unless—
- (a) where the adult has capacity to consent to being represented and supported by that person, the adult does so consent, or
 - (b) where the adult lacks capacity so to consent, the local authority is satisfied that being represented and supported by that person would be in the adult’s best interests.
- (6) If the enquiry or review needs to begin as a matter of urgency, it may do so even if the authority has not yet been able to comply with the duty under subsection (2) (and the authority continues to be subject to the duty).
- (7) “Relevant local authority” means—
- (a) in a case within subsection (1)(a), the authority making the enquiry or causing it to be made;
 - (b) in a case within subsection (1)(b), the authority which established the SAB arranging the review.