



Social Services and Well-being (Wales) Act 2014

2014 anaw 4

PART 4

MEETING NEEDS

Meeting support needs of a carer

40 Duty to meet support needs of an adult carer

- (1) A local authority must meet the needs for support of a carer who is an adult if it is satisfied that conditions 1, 2 and 3, and any conditions specified in regulations, are met.
- (2) Condition 1 is that the person cared for by the carer is—
 - (a) an adult who is—
 - (i) ordinarily resident in the local authority's area, or
 - (ii) of no settled residence and within the authority's area, or
 - (b) a disabled child who is within the authority's area.
- (3) Condition 2 is that the carer's needs meet the eligibility criteria.
- (4) Condition 3 is that—
 - (a) in so far as meeting the carer's needs involves the provision of support to the carer—
 - (i) there is not a charge under section 59 for meeting those needs, or
 - (ii) in so far as there is a charge, section 41(1) or (2) applies;
 - (b) in so far as meeting the carer's needs involves the provision of care and support to an adult cared for by the carer—
 - (i) there is not a charge under section 59 for meeting those needs and section 41(7), (8) or (9) applies, or
 - (ii) in so far as there is a charge, section 41(3) or (4) applies;

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- (c) in so far as meeting the carer's needs involves the provision of care and support to a disabled child aged 16 or 17 who is cared for by the carer—
 - (i) there is not a charge under section 59 for meeting those needs and section 41(7), (8) or (10) applies, or
 - (ii) in so far as there is a charge, section 41(5) or (6) applies;
- (d) in so far as meeting the carer's needs involves the provision of care and support to a disabled child aged under 16 who is cared for by the carer—
 - (i) there is not a charge under section 59 for meeting those needs and section 41(12) or (13) applies, or
 - (ii) in so far as there is a charge, section 41(5) or (6) applies.

Commencement Information

II S. 40 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

41 Duty to meet support needs of an adult carer: supplementary

- (1) This subsection applies if the local authority is satisfied on the basis of a financial assessment that the carer's financial resources are at or below the financial limit.
- (2) This subsection applies if—
 - (a) the local authority is satisfied on the basis of a financial assessment that the carer's financial resources are above the financial limit, and
 - (b) the carer nonetheless asks the authority to meet the needs in question.
- (3) This subsection applies if—
 - (a) the local authority is satisfied on the basis of a financial assessment that the financial resources of the adult cared for by the carer are at or below the financial limit, and
 - (b) subsection (7), (8) or (9) applies.
- (4) This subsection applies if—
 - (a) the local authority is satisfied on the basis of a financial assessment that the financial resources of the adult cared for by the carer are above the financial limit, and
 - (b) subsection (7), (8) or (9) applies.
- (5) This subsection applies if—
 - (a) in respect of an adult upon whom the local authority thinks it would impose a charge for the provision of care and support to the disabled child cared for by the carer, the local authority is satisfied on the basis of a financial assessment that it would not be reasonably practicable for the adult to pay any amount for the care and support, and
 - (b) either—
 - (i) subsection (7), (8) or (10) applies, in the case of a disabled child aged 16 or 17, or
 - (ii) subsection (12) or (13) applies, in the case of a disabled child aged under 16.
- (6) This subsection applies if—

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- (a) in respect of an adult upon whom the local authority thinks it would impose a charge for the provision of care and support to the disabled child cared for by the carer, the local authority is satisfied on the basis of a financial assessment that it would be reasonably practicable for the adult—
 - (i) to pay the standard charge for the care and support, or
 - (ii) to pay any other amount for the care and support,
 - (b) the adult does not object to the provision of the care and support, and
 - (c) either—
 - (i) subsection (7), (8) or (10) applies, in the case of a disabled child aged 16 or 17, or
 - (ii) subsection (12) or (13) applies, in the case of a disabled child aged under 16.
- (7) This subsection applies if—
- (a) the local authority is satisfied that the person cared for by the carer has capacity to decide whether to have the needs in question met by the provision of care and support to that person, and
 - (b) the person agrees to have those needs met in that way.
- (8) This subsection applies if an authorised person agrees, on behalf of the person cared for by the carer, to have the needs in question met by the provision of care and support to that person.
- (9) This subsection applies if—
- (a) the local authority is satisfied that the adult cared for by the carer lacks capacity to decide whether to have the needs in question met by the provision of care and support to that adult,
 - (b) there is no authorised person to make the decision on the adult's behalf, and
 - (c) the local authority is satisfied that it is in the adult's best interests to have those needs met in that way.
- (10) This subsection applies if—
- (a) the local authority is satisfied that the disabled child cared for by the carer lacks capacity to decide whether to have the needs in question met by the provision of care and support to that child,
 - (b) there is no authorised person to make the decision on the child's behalf, and
 - (c) no objection has been made by a person with parental responsibility for the child to having those needs met in that way.
- (11) The local authority may disregard an objection for the purposes of subsection (10)(c) if it is satisfied that it would not be in the disabled child's best interests.
- (12) This subsection applies if—
- (a) the local authority is satisfied that the disabled child cared for by the carer has sufficient understanding to make an informed decision about having the needs in question met by the provision of care and support to that child, and
 - (b) the child agrees to have those needs met in that way.
- (13) This subsection applies if—
- (a) the local authority is satisfied that the disabled child cared for by the carer does not have sufficient understanding to make an informed decision about

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- having the needs in question met by the provision of care and support to that child, and
- (b) no objection has been made by a person with parental responsibility for the child to having those needs met in that way.
- (14) The local authority may disregard an objection for the purposes of subsection (13)(b) if it is satisfied that it would not be consistent with the disabled child's well-being.
- (15) In this section—
- “authorised person” (“*person awdurdodedig*”) means a person authorised under the Mental Capacity Act 2005 (whether in general or specific terms) to decide on behalf of the person cared for by the carer whether to have the needs in question met by the provision of care and support to that person;
- “standard charge” (“*ffi safonol*”) has the meaning given by section 63(3).
- (16) For the meaning of “financial assessment” and “financial limit” see Part 5.

Commencement Information

I2 S. 41 in force at 6.4.2016 by S.I. 2016/412, art. 2 (with art. 4, Schs. 1, 2)

42 Duty to meet support needs of a child carer

- (1) A local authority must meet the needs for support of a carer who is a child if it is satisfied that conditions 1, 2 and (where applicable) 3, and any conditions specified in regulations, are met.
- (2) Condition 1 is that the person cared for by the carer is—
- (a) an adult who is—
- (i) ordinarily resident in the local authority's area, or
- (ii) of no settled residence and within the authority's area, or
- (b) a disabled child who is within the authority's area.
- (3) Condition 2 is that the carer's needs meet the eligibility criteria.
- (4) Condition 3 is that—
- (a) in so far as meeting the carer's needs involves the provision of care and support to an adult cared for by the carer—
- (i) there is not a charge under section 59 for meeting those needs and section [F¹43(5)], (6) or (7) applies, or
- (ii) in so far as there is a charge, section [F²43(1)] or (2) applies;
- (b) in so far as meeting the carer's needs involves the provision of care and support to a disabled child aged 16 or 17 who is cared for by the carer—
- (i) there is not a charge under section 59 for meeting those needs and section [F³43(5)], (6) or (8) applies, or
- (ii) in so far as there is a charge, section [F⁴43(3)] or (4) applies;
- (c) in so far as meeting the carer's needs involves the provision of care and support to a disabled child aged under 16 who is cared for by the carer—
- (i) there is not a charge under section 59 for meeting those needs and section [F⁵43(10)] or (11) applies, or
- (ii) in so far as there is a charge, section [F⁶43(3)] or (4) applies.

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Textual Amendments

- F1** Word in s. 42(4)(a)(i) substituted (6.4.2016) by [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#), s. 188(1), [Sch. 3 para. 62\(a\)](#); S.I. 2016/467, art. 3
- F2** Word in s. 42(4)(a)(ii) substituted (6.4.2016) by [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#), s. 188(1), [Sch. 3 para. 62\(b\)](#); S.I. 2016/467, art. 3
- F3** Word in s. 42(4)(b)(i) substituted (6.4.2016) by [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#), s. 188(1), [Sch. 3 para. 62\(c\)](#); S.I. 2016/467, art. 3
- F4** Word in s. 42(4)(b)(ii) substituted (6.4.2016) by [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#), s. 188(1), [Sch. 3 para. 62\(d\)](#); S.I. 2016/467, art. 3
- F5** Word in s. 42(4)(c)(i) substituted (6.4.2016) by [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#), s. 188(1), [Sch. 3 para. 62\(e\)](#); S.I. 2016/467, art. 3
- F6** Word in s. 42(4)(c)(ii) substituted (6.4.2016) by [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#), s. 188(1), [Sch. 3 para. 62\(f\)](#); S.I. 2016/467, art. 3

Commencement Information

- I3** S. 42 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

43 Duty to meet support needs of a child carer: supplementary

- (1) This subsection applies if—
- the local authority is satisfied on the basis of a financial assessment that the financial resources of the adult cared for by the carer are at or below the financial limit, and
 - subsection (5), (6) or (7) applies.
- (2) This subsection applies if—
- the local authority is satisfied on the basis of a financial assessment that the financial resources of the adult cared for by the carer are above the financial limit, and
 - subsection (5), (6) or (7) applies.
- (3) This subsection applies if—
- in respect of an adult upon whom the local authority thinks it would impose a charge for the provision of care and support to the disabled child cared for by the carer, the local authority is satisfied on the basis of a financial assessment that it would not be reasonably practicable for the adult to pay any amount for the care and support, and
 - either—
 - subsection (5), (6) or (8) applies, in the case of a disabled child aged 16 or 17, or
 - subsection (10) or (11) applies, in the case of a disabled child aged under 16.
- (4) This subsection applies if—
- in respect of an adult upon whom the local authority thinks it would impose a charge for the provision of care and support to the disabled child cared for by the carer, the local authority is satisfied on the basis of a financial assessment that it would be reasonably practicable for the adult—
 - to pay the standard charge for the care and support, or
 - to pay any other amount for the care and support,

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- (b) the adult does not object to the provision of the care and support, and
 - (c) either—
 - (i) subsection (5), (6) or (8) applies, in the case of a disabled child aged 16 or 17, or
 - (ii) subsection (10) or (11) applies, in the case of a disabled child aged under 16.
- (5) This subsection applies if—
- (a) the local authority is satisfied that the person cared for by the carer has capacity to decide whether to have the needs in question met by the provision of care and support to that person, and
 - (b) the person agrees to have those needs met in that way.
- (6) This subsection applies if an authorised person agrees, on behalf of the person cared for by the carer, to have the needs in question met by the provision of care and support to that person.
- (7) This subsection applies if—
- (a) the local authority is satisfied that the adult cared for by the carer lacks capacity to decide whether to have the needs in question met by the provision of care and support to that adult,
 - (b) there is no authorised person to make the decision on the adult's behalf, and
 - (c) the local authority is satisfied that it is in the adult's best interest to have those needs met in that way.
- (8) This subsection applies if—
- (a) the local authority is satisfied that the disabled child cared for by the carer lacks capacity to decide whether to have the needs in question met by the provision of care and support to that child,
 - (b) there is no authorised person to make the decision on the child's behalf, and
 - (c) no objection has been made by a person with parental responsibility for the child to having those needs met in that way.
- (9) The local authority may disregard an objection for the purposes of subsection (8)(c) if it is satisfied that it would not be in the disabled child's best interests.
- (10) This subsection applies if—
- (a) the local authority is satisfied that the disabled child cared for by the carer has sufficient understanding to make an informed decision about having the needs in question met by the provision of care and support to that child, and
 - (b) the child agrees to have those needs met in that way.
- (11) This subsection applies if—
- (a) the local authority is satisfied that the disabled child cared for by the carer does not have sufficient understanding to make an informed decision about having the needs in question met by the provision of care and support to that child, and
 - (b) no objection has been made by a person with parental responsibility for the child to having those needs met in that way.
- (12) The local authority may disregard an objection for the purposes of subsection (11)(b) if it is satisfied that it would not be consistent with the disabled child's well-being.

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(13) In this section—

“authorised person” (“*person awdurdodedig*”) means a person authorised under the Mental Capacity Act 2005 (whether in general or specific terms) to decide on behalf of the person cared for by the carer whether to have the needs in question met by the provision of care and support to that person;

“standard charge” (“*ffi safonol*”) has the meaning given by section 63(3).

(14) For the meaning of “financial assessment” and “financial limit” see Part 5.

Commencement Information

I4 S. 43 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

44 Supplementary provision about the duties to meet carer's needs

- (1) This section applies in relation to the duties under sections 40 and 42.
- (2) Meeting some or all of a carer's needs for support may involve the provision of care and support to the person cared for by the carer, even where there would be no duty to meet the person's needs for that care and support under section 35 or 37.
- (3) Where a local authority is required by section 40 or 42 to meet some or all of a carer's needs for support, but it does not prove feasible for it to do so by providing care and support to the person cared for by the carer, it must, so far as it is feasible to do so, identify some other way in which to do so.

Commencement Information

I5 S. 44 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

45 Power to meet support needs of a carer

- (1) A local authority may meet a carer's needs for support if the person cared for by the carer is—
 - (a) within the local authority's area, or
 - (b) ordinarily resident in the authority's area, but outside its area.
- (2) A local authority has the power to meet needs under this section whether or not it has completed a needs assessment in accordance with Part 3 or a financial assessment in accordance with Part 5.

Commencement Information

I6 S. 45 in force at 6.4.2016 by [S.I. 2016/412](#), [art. 2](#) (with [art. 4](#), [Schs. 1, 2](#))

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 162(4)(ga) inserted by [2022 asc 1 Sch. 4 para. 30\(2\)\(b\)](#)
- s. 163(4A) inserted by [2014 c. 23 s. 75\(10\)](#) (Effect inserting (4) not applied at s. 163 as it appears to relate to s. 194 in view of the title of the section as cited i.e. "ordinary residence". In s. 194 another (4), identically worded, is inserted on the same date by S.I. 2016/413, regs. 2(1), 316(a))