



Carers and Direct Payments Act (Northern Ireland) 2002

2002 CHAPTER 6

An Act to make provision about the assessment of carers' needs; to provide for services to help carers; to provide for the making of direct payments to persons in lieu of the provision of personal social services or carers' services; and for connected purposes. [2nd May 2002]

Carers: assessments and services

Right of carers to assessment

1.—(1) Where—

- (a) the carer of an adult requests an authority to carry out an assessment of the carer's ability to provide and to continue to provide care for the person cared for; and
- (b) the authority is satisfied that the person cared for is someone for whom it may provide [^{F1}social care],

the authority shall carry out such an assessment.

(2) Where—

- (a) an authority carries out an assessment under the 1972 Order of the needs of a person for [^{F1}social care]; and
- (b) a carer of that person requests the authority, before it makes a decision as to whether the needs of that person call for the provision of any [^{F1}social care], to carry out an assessment of the carer's ability to provide and to continue to provide care for that person,

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the authority—

- (i) shall carry out such an assessment; and
 - (ii) shall take the results of that assessment into account in deciding what, if any, [F1social care] to provide to that person.
- (3) Subsections (1) and (2) do not apply if the carer provides or will provide the care in question—
- (a) by virtue of a contract of employment or other contract with any person; or
 - (b) as a volunteer for a voluntary organisation.
- (4) Subject to any directions given by the Department to the authority under—
- (a) Article 17 of the 1972 Order (in the case of a Board); or
 - (b) paragraph 6 of Schedule 3 to the Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1)(in the case of an [F2HSC trust]),

an assessment under this section is to be carried out in such manner, and is to take such form, as the authority considers appropriate.

(5) For the purposes of an assessment under this section, the authority may take into account, so far as it considers it to be material, any other assessment made under this section or Article 18A of the Children Order.

(6) Section 8 of the Disabled Persons (Northern Ireland) Act 1989 (c. 10) (duty of authority to take into account ability of carer of disabled person) does not apply in any case where an assessment is made under subsection (2) in respect of the carer in question.

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| F1 | Words in Act substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1) , ss. 32, 34(3), Sch. 6 para. 1(1)(a) (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, art. 2 |
| F2 | Words in Act substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1) , ss. 32, 34(3), Sch. 6 para. 1(1)(d) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2 |

Services for carers

2.—(1) Where an authority carries out an assessment under section 1(1) in respect of a carer, it shall consider the assessment and decide—

- (a) whether the carer has needs in relation to the care which he provides or intends to provide;
 - (b) if so, whether they could be satisfied (wholly or partly) by services which the authority may provide; and
 - (c) if they could be so satisfied, whether or not to provide services to the carer.
- (2) The services referred to are any services which—

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- (a) the authority sees fit to provide; and
 - (b) will in the authority's view help the carer care for the person cared for, and may take the form of physical help or other forms of support.
- (3) A service, although provided to the carer, may take the form of a service delivered to the person cared for if—
- (a) it is one which, if provided to him instead of to the carer, could fall within [F3social care]; and
 - (b) they both agree it is to be so delivered;
- but if a service is delivered to the person cared for it may not, except in prescribed circumstances, include anything of an intimate nature.
- (4) Regulations may make provision about what is, or is not, of an intimate nature for the purposes of subsection (3).
- (5) The authority may make in respect of any services provided under this section such charges (if any) as the authority may determine; and any sum falling to be paid to the authority by virtue of this subsection shall be recoverable as a debt due to the authority.
- (6) [F3Social care] shall not be provided to a carer solely by reason of his needs in relation to the care he provides or intends to provide.
- (7) Subsection (9) applies if an authority—
- (a) is either providing services under this section to the carer, or is providing [F3social care] to or in respect of the person cared for (but not both); and
 - (b) proposes to provide another service to (or in respect of) the one who is not receiving any such service,
- and the new service, or any service already being provided, is one which could be provided either under this section, or by way of [F3social care].
- (8) Subsection (9) also applies if—
- (a) an authority is not providing services to the carer (under this section) or to the person cared for (by way of [F3social care]), but proposes to provide services to each of them following an assessment under section 1(1) and under the 1972 Order; or
 - (b) an authority is providing services both to the carer (under this section) and to the person cared for (by way of [F3social care]), and proposes to provide to either of them a new service,
- and (in a paragraph (a) case) any of the services, or (in a paragraph (b) case) the new service, is one which could be provided either under this section, or by way of [F3social care].
- (9) In the case of each such service, the authority shall decide whether the service is, or is in future, to be provided under this section, or by way of [F3social

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care] (and hence whether it is, or is in future, to be provided to the carer, or to the person cared for).

(10) The authority's decision under subsection (9) is to be made without regard to the means of the carer or of the person cared for.

F3 Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 1(1)(a)** (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, **art. 2**

Vouchers

3.—(1) Regulations may make provision for the issue of vouchers by an authority.

(2) “Voucher” means a document whereby, if an authority agrees with the carer that it would help him care for the person cared for if the carer had a break from caring, the person cared for may secure that services in lieu of the care which would otherwise have been provided to him by the carer are delivered temporarily to him by another person by way of [^{F4}social care].

(3) The regulations may, in particular, provide—

- (a) for the value of a voucher to be expressed in terms of money, or of the delivery of a service for a period of time, or both;
- (b) for the person who supplies a service against a voucher, or for the arrangement under which it is supplied, to be approved by the authority;
- (c) for vouchers to be issued to the carer or to the person cared for;
- (d) for a maximum period during which a service (or a service of a prescribed description) can be provided against a voucher.

F4 Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), **Sch. 6 para. 1(1)(a)** (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, **art. 2**

Assessments and services for children who are carers

4. After Article 17 of the Children Order there shall be inserted—

“Assessments and services for children who are carers

17A.—(1) If —

- (a) a child (“the carer”) provides or intends to provide a substantial amount of care on a regular basis for a person aged 18 or over;

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- (b) the child requests an authority to carry out an assessment for the purposes of determining whether he is to be taken to be in need for the purposes of this Part; and
 - (c) the authority is satisfied that the person cared for is someone for whom it may provide [^{F5}social care],
- the authority—
- (i) shall carry out such an assessment; and
 - (ii) taking the results of that assessment into account, shall determine whether the child is to be taken to be in need for the purposes of this Part.
- (2) Paragraph (1) does not apply if the child provides or will provide the care in question—
- (a) by virtue of a contract of employment or other contract with any person; or
 - (b) as a volunteer for a voluntary organisation.
- (3) Subject to any directions given by the Department to the authority under—
- (a) Article 17 of the Health and Personal Social Services (Northern Ireland) Order 1972 (in the case of a Board); or
 - (b) paragraph 6 of Schedule 3 to the Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1)(in the case of an [^{F6}HSC trust]),
- an assessment under this Article is to be carried out in such manner, and is to take such form, as the authority considers appropriate.”.

F5 Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(a\)](#) (with [Sch. 6 para. 1\(2\)\(3\)](#)); S.R. 2009/114, [art. 2](#)

F6 Words in Act substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

Carers of disabled children: assessments and vouchers

Assessments: carers of disabled children

5. After Article 18 of the Children Order there shall be inserted—

“Assessments: carers of disabled children

18A.—(1) Where—