



# Carers (Scotland) Act 2016

## 2016 asp 9

### PART 2

#### ADULT CARER SUPPORT PLANS AND YOUNG CARER STATEMENTS

#### CHAPTER 1

#### ADULT CARER SUPPORT PLANS

##### *Duty to prepare adult carer support plan*

#### **6 Duty to prepare adult carer support plan**

- (1) In this Act an “adult carer support plan” means a plan prepared by a responsible local authority setting out—
  - (a) an adult carer’s identified personal outcomes,
  - (b) an adult carer’s identified needs (if any), and
  - (c) the support (if any) to be provided by the responsible local authority to an adult carer to meet those needs.
- (2) If a responsible local authority identifies a person as an adult carer, the responsible local authority must offer the person an adult carer support plan.
- (3) The responsible local authority must prepare an adult carer support plan in relation to a person if—
  - (a) the person accepts an offer under subsection (2), or
  - (b) subsection (4) applies.
- (4) This subsection applies if a person who appears to the responsible local authority to be an adult carer requests an adult carer support plan.
- (5) A responsible local authority must exercise its functions under this section in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).

- (6) For the purposes of this Chapter the “responsible local authority”, in relation to an adult carer, means the local authority for the area in which the cared-for person resides.

## 7 **Adult carers of terminally ill cared-for persons**

- (1) The Scottish Ministers must by regulations prescribe timescales for the preparation of adult carer support plans in relation to adult carers of terminally ill cared-for persons.
- (2) For the purposes of this section and section 13, a cared-for person is terminally ill at any time if at that time the person suffers from a progressive disease and death in consequence of that disease can reasonably be expected within 6 months.

## 8 **Adult carers: identification of outcomes and needs for support**

- (1) The Scottish Ministers may by regulations make provision about the identification of adult carers’ personal outcomes and their needs for support, including—
- (a) how personal outcomes and needs for support are to be identified,
  - (b) the process for doing so (including arrangements for the involvement of adult carers and cared-for persons),
  - (c) who may carry out identification,
  - (d) the sharing of information about adult carers and cared-for persons for the purpose of identifying personal outcomes and needs for support,
  - (e) the factors to be taken into account in identifying adult carers’ personal outcomes and needs for support,
  - (f) the circumstances in which adult carers’ personal outcomes and needs for support should be reviewed.
- (2) In identifying an adult carer’s personal outcomes and needs for support, a responsible local authority must, in particular, take into account any impact that having one or more protected characteristic (within the meaning of section 149(7) of the Equality Act 2010) has on the adult carer.

### *Content and review of adult carer support plan*

## 9 **Content of adult carer support plan**

- (1) An adult carer support plan must contain—
- (a) information about the adult carer’s personal circumstances at the time of preparation of the plan, including—
    - (i) the nature and extent of the care provided or to be provided,
    - (ii) the impact of caring on the adult carer’s wellbeing and day-to-day life,
  - (b) information about the extent to which the adult carer is able and willing to provide care for the cared-for person,
  - (c) information about whether the adult carer has arrangements in place for the provision of care to the cared-for person in an emergency,
  - (d) information about whether the adult carer has arrangements in place for the future care of the cared-for person,
  - (e) information about the identification of the adult carer’s personal outcomes, including about the carer’s identified personal outcomes,

- (f) information about the identification of the adult carer's needs for support, including—
    - (i) if the adult carer has identified needs, those needs,
    - (ii) if no needs for support are identified, that fact,
  - (g) information about the support available to adult carers and cared-for persons in the responsible local authority's area,
  - (h) if the adult carer does not reside in the responsible local authority's area, information about the support available to adult carers in the area where the adult carer resides,
    - (i) if the adult carer's identified needs meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the adult carer to meet those needs,
    - (j) if the adult carer's identified needs do not meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the adult carer,
  - (k) information about whether support should be provided in the form of a break from caring,
  - (l) information about the circumstances in which the plan is to be reviewed.
- (2) Each second and subsequent adult carer support plan must also contain information about the extent to which any support provided under a previous plan has assisted in the achievement of the adult carer's identified personal outcomes.
- (3) The Scottish Ministers may by regulations make provision about—
- (a) other information which an adult carer support plan must (or must not) contain,
  - (b) the form of adult carer support plans.

## **10 Review of adult carer support plans**

The Scottish Ministers may by regulations make provision about the review of adult carer support plans, including—

- (a) the circumstances in which plans are to be reviewed,
- (b) the frequency of review,
- (c) the procedure for review,
- (d) arrangements for obtaining the views of adult carers and cared-for persons.

### *Provision of information about plan*

## **11 Adult carer support plan: provision of information to carer etc.**

- (1) The responsible local authority must provide the persons mentioned in subsection (2) with the information contained in the adult carer support plan.
- (2) Those persons are—
- (a) the adult carer to whom the plan relates, and
  - (b) any other person the adult carer requests.
- (3) Subsection (1) does not apply to the extent that the responsible local authority considers that provision of the information would not be appropriate.

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

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- (4) The information is to be provided as soon as practicable after—
- (a) the plan is prepared, or
  - (b) in the case of a revised plan, the revised plan is prepared.

## CHAPTER 2

### YOUNG CARER STATEMENTS

#### *Duty to prepare young carer statement*

#### **12 Duty to prepare young carer statement**

- (1) In this Act a “young carer statement” means a statement prepared by a responsible authority setting out—
- (a) a young carer’s identified personal outcomes,
  - (b) a young carer’s identified needs (if any), and
  - (c) the support (if any) to be provided by the responsible local authority to a young carer to meet those needs.
- (2) If a responsible authority identifies a person as a young carer, the responsible authority must offer the person a young carer statement.
- (3) The responsible authority must prepare a young carer statement in relation to a person if—
- (a) the person accepts an offer under subsection (2), or
  - (b) subsection (4) applies.
- (4) This subsection applies if a person who appears to the responsible authority to be a young carer requests a young carer statement.
- (5) Subsection (3) applies whether or not the young carer requires a child’s plan in accordance with section 33 of the 2014 Act.
- (6) Where the responsible authority, in relation to a young carer, is not the responsible local authority, the responsible authority must not provide the young carer statement to the young carer without the approval of the responsible local authority.
- (7) A responsible authority must exercise its functions under this section in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements (within the meaning of Section L2 of Part 2 of schedule 5 of the Scotland Act 1998).
- (8) For the purposes of this Chapter—
- “responsible authority” has the meaning given by sections 19 and 20,  
 “responsible local authority” means the local authority for the area in which the cared-for person resides.

#### **13 Young carers of terminally ill cared-for persons**

The Scottish Ministers must by regulations prescribe timescales for the preparation of young carer statements in relation to young carers of terminally ill cared-for persons.

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

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## **14 Young carers: identification of outcomes and needs for support**

- (1) The Scottish Ministers may by regulations make provision about the identification of young carers' personal outcomes and their needs for support, including—
  - (a) how personal outcomes and needs for support are to be identified,
  - (b) the process for doing so (including arrangements for the involvement of young carers and cared-for persons),
  - (c) who may carry out identification,
  - (d) the sharing of information about young carers and cared-for persons for the purpose of identifying personal outcomes and needs for support,
  - (e) the factors to be taken into account in identifying young carers' personal outcomes and needs for support,
  - (f) the circumstances in which young carers' personal outcomes and needs for support should be reviewed.
- (2) In identifying a young carer's personal outcomes and needs for support, a responsible authority must, in particular, take into account any impact that having one or more protected characteristic (within the meaning of section 149(7) of the Equality Act 2010) has on the young carer.

### *Content and review of young carer statement*

## **15 Content of young carer statement**

- (1) A young carer statement must contain—
  - (a) information about the young carer's personal circumstances at the time of the preparation of the statement, including—
    - (i) the nature and extent of the care provided or to be provided,
    - (ii) the impact of caring on the young carer's wellbeing and day-to-day life,
  - (b) information about the extent to which the young carer is able and willing to provide care for the cared-for person,
  - (c) information about the extent to which the responsible authority considers that the nature and extent of the care provided by the young carer is appropriate,
  - (d) information about whether the young carer has arrangements in place for the provision of care to the cared-for person in an emergency,
  - (e) information about whether the young carer has arrangements in place for the future care of the cared-for person,
  - (f) information about the identification of the young carer's personal outcomes, including about the young carer's identified personal outcomes,
  - (g) information about the identification of the young carer's needs for support, including—
    - (i) if the young carer has identified needs, those needs,
    - (ii) if no needs for support are identified, that fact,
  - (h) information about the support available to young carers and cared-for persons in the responsible local authority's area,
  - (i) if the young carer does not reside in the responsible local authority's area, information about the support available to young carers in the area where the young carer resides,

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- (j) if the young carer’s identified needs meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the young carer to meet those needs,
  - (k) if the young carer’s identified needs do not meet the local eligibility criteria, information about the support which the responsible local authority provides or intends to provide to the young carer to meet those needs,
  - (l) information about whether support should be provided in the form of a break from caring,
  - (m) information about the circumstances in which the young carer statement is to be reviewed.
- (2) Each second and subsequent young carer statement must also contain information about the extent to which any support provided under a previous statement has assisted in the achievement of the young carer’s identified personal outcomes.
- (3) For the purpose of subsection (1)(a)(ii), the responsible authority is—
- (a) to assess the wellbeing of a young carer by reference to the extent to which the matters listed in section 96(2) of the 2014 Act are or, as the case may be, would be satisfied in relation to the young carer, and
  - (b) in doing so, to have regard to the guidance issued under section 96(3) of the 2014 Act.
- (4) The Scottish Ministers may by regulations make provision about—
- (a) other information which a young carer statement must (or must not) contain,
  - (b) the form of young carer statements.

## **16 Review of young carer statements**

The Scottish Ministers may by regulations make provision about the review of young carer statements, including—

- (a) the circumstances in which statements are to be reviewed,
- (b) the frequency of review,
- (c) the procedure for review,
- (d) arrangements for obtaining the views of young carers and cared-for persons.

### *Provision of information about statement*

## **17 Young carer statement: provision of information to carer etc.**

- (1) A responsible authority must provide the persons mentioned in subsection (2) with the information contained in the young carer statement.
- (2) Those persons are—
- (a) the young carer to whom the young carer statement relates,
  - (b) any other person the young carer requests.
- (3) Subsection (1) does not apply to the extent that the responsible authority considers that provision of the information would not be appropriate.
- (4) The information is to be provided as soon as practicable after—
- (a) the statement is prepared, or

- (b) in the case of a revised statement, the revised statement is prepared.

*Continuation of young carer statement*

**18 Continuation of young carer statement**

Despite the fact that a young carer has attained the age of 18 years, any young carer statement prepared in relation to that carer continues to have effect until the carer is provided with an adult carer support plan.

*Meaning of responsible authority: young carers*

**19 Responsible authority: general**

- (1) For the purposes of this Chapter the “responsible authority”, in relation to a young carer, is—
- (a) where the young carer is a pre-school child, the health board for the area in which the child resides,
  - (b) where the young carer is not a pre-school child, the local authority for the area in which the child resides.
- (2) Subsection (1) is subject to section 20.
- (3) In this section and section 20 “pre-school child” has the meaning given by section 36(3) of the 2014 Act.

**20 Responsible authority: special cases**

- (1) Where in pursuance of a decision of a local authority or health board a young carer who is a pre-school child resides in the area of a health board which is different to that in which the young carer would otherwise reside, the health board for the area in which the young carer would otherwise reside is the responsible authority in relation to the young carer.
- (2) Where the young carer is a pupil at a public school which is managed by a local authority other than the one for the area in which the young carer resides, that other authority is the responsible authority in relation to the young carer.
- (3) Where the young carer is a pupil at a grant-aided school or an independent school, the directing authority of that school is the responsible authority in relation to the young carer.
- (4) Subsection (3) does not apply where the young carer is such a pupil by virtue of a placement by the local authority for the area in which the young carer resides.
- (5) In this section “grant-aided school”, “independent school” and “public school” have the meanings given by section 135 of the Education (Scotland) Act 1980.