



# Carers (Equal Opportunities) Act 2004

## 2004 CHAPTER 15

An Act to place duties on local authorities and health bodies in respect of carers; and for connected purposes. [22nd July 2004]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### 1 Duty to inform carers of right to assessment

(1) In section 1 of the Carers (Recognition and Services) Act 1995 (c. 12) (assessment of ability of carers to provide care), after subsection (2A) there is inserted—

“(2B) In any case where—

- (a) a local authority are carrying out an assessment mentioned in paragraph (a) of either subsection (1) or subsection (2) above in relation to the relevant person or (as the case may be) a disabled child, and
- (b) it appears to the local authority that an individual may be entitled to request (but has not requested) an assessment under the subsection in question of his ability to provide and to continue to provide care for the relevant person or the disabled child,

the local authority must inform the individual that he may be so entitled before they make their decision as to the needs of the relevant person or the disabled child.”

(2) After section 6 of the Carers and Disabled Children Act 2000 (c. 16) there is inserted—

#### “6A Duty to inform carers of right to assessment

- (1) Subsection (2) applies if it appears to a local authority that it would be required to carry out a carer's assessment on being asked to do so by—
  - (a) the carer, or

- (b) a person with parental responsibility for a disabled child (“the responsible person”).
- (2) The local authority must inform the carer or, as appropriate, the responsible person that he may be entitled to a carer’s assessment (but this is subject to subsections (3) and (4)).
- (3) Subsection (2) does not apply in relation to the carer if the local authority has previously—
  - (a) carried out a carer’s assessment for him in relation to the person cared for,
  - (b) informed him that he may be entitled to a carer’s assessment in relation to the person cared for, or
  - (c) carried out an assessment of him under section 4(3) of the Community Care (Delayed Discharges etc.) Act 2003 in relation to the person cared for.
- (4) Subsection (2) does not apply in relation to the responsible person if the local authority has previously carried out a carer’s assessment for him in relation to the disabled child or informed him that he may be entitled to a carer’s assessment in relation to the disabled child.
- (5) In this section “carer’s assessment” means—
  - (a) in the case of the carer, an assessment under section 1 of his ability to provide and to continue to provide care for the person cared for,
  - (b) in the case of the responsible person, an assessment under section 6 of his ability to provide and to continue to provide care for the disabled child.”

## 2 Assessment of carers

- (1) In section 1 of the Carers (Recognition and Services) Act 1995 (c. 12) (assessment of ability of carers to provide care), after subsection (2B) (inserted by section 1) there is inserted—
  - “(2C) An assessment under subsection (1) or (2) above must include consideration of whether the carer—
    - (a) works or wishes to work,
    - (b) is undertaking, or wishes to undertake, education, training or any leisure activity.”
- (2) In section 1 of the Carers and Disabled Children Act 2000 (c. 16) (right of carer to assessment), after subsection (3) there is inserted—
  - “(3A) An assessment under subsection (1) must include consideration of whether the carer—
    - (a) works or wishes to work,
    - (b) is undertaking, or wishes to undertake, education, training or any leisure activity.”
- (3) In section 6 of that Act (assessment of person with parental responsibility caring for disabled child), after subsection (2) there is inserted—

“(2A) An assessment under subsection (1) must include consideration of whether the person with parental responsibility for the child—

- (a) works or wishes to work,
- (b) is undertaking, or wishes to undertake, education, training or any leisure activity.”

### **3 Co-operation between authorities**

(1) If a local authority requests an authority mentioned in subsection (5) to assist it in planning the provision of services to persons—

- (a) entitled to an assessment under any of the provisions mentioned in subsection (4), or
- (b) for whom those persons provide, or intend to provide, a substantial amount of care on a regular basis,

the authority mentioned in subsection (5) must give due consideration to the request.

(2) Subsection (3) applies if—

- (a) under a provision mentioned in subsection (4) a local authority is assessing, or has assessed, the ability of a person (“the carer”) to provide and to continue to provide care for another person (“the person cared for”), and
- (b) the local authority forms the view that the carer’s ability to provide and to continue to provide care for the person cared for might be enhanced by the provision of services (whether for the carer or the person cared for) by an authority mentioned in subsection (5).

(3) If the local authority requests such an authority to provide any such services the authority or person must give due consideration to the request.

(4) The provisions are—

- (a) section 1 of the Carers (Recognition and Services) Act 1995 (c. 12), and
- (b) sections 1 and 6 of the Carers and Disabled Children Act 2000 (c. 16).

(5) The authorities are—

- (a) any other local authority,
- (b) any local education authority,
- (c) any local housing authority, and
- (d) any Special Health Authority, Local Health Board, Primary Care Trust, National Health Service Trust or NHS foundation trust.

(6) Subsections (1) and (3) do not apply in relation to any action which could be the subject of a request by the local authority to the authority mentioned in subsection (5) under section 27 of the Children Act 1989 (c. 41).

(7) In this section—

“local authority” has the same meaning as in section 46 of the National Health Service and Community Care Act 1990 (c. 19),

“local education authority” has the same meaning as in the Education Act 1996 (c. 56), and

“local housing authority” has the same meaning as in the Housing Act 1985 (c. 68).

#### **4 Minor amendment**

In Schedule 1 to the Local Authority Social Services Act 1970 (c. 42) (which sets out enactments conferring functions referred to each local authority's social services committee), at the end there is inserted—

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“Carers (Equal Opportunities) Act 2004

Section 3, in so far as it confers functions Co-operation between authorities.”  
on a local authority within the meaning  
of that section.

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#### **5 Financial provision**

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided by virtue of any other Act.

#### **6 Short title, commencement and extent**

- (1) This Act may be cited as the Carers (Equal Opportunities) Act 2004.
- (2) Apart from this section, this Act comes into force on such day as may be appointed by order made by statutory instrument.
- (3) An order under subsection (2) is to be made—
  - (a) in relation to England, by the Secretary of State, and
  - (b) in relation to Wales, by the National Assembly for Wales.
- (4) Different days may be appointed for different provisions or for different purposes.
- (5) The Secretary of State may by order made by statutory instrument provide that section 3 of this Act shall have effect in its application to the Isles of Scilly with such modifications as are specified in the order.
- (6) A statutory instrument containing an order under subsection (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) This Act extends to England and Wales only.