

CARERS (EQUAL OPPORTUNITIES) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 2: Assessment of carers

17. Subsection (1) amends section 1 of the 1995 Act and provides that an assessment of a person's ability to care must include consideration of whether the carer works or wishes to work, is undertaking or wishes to undertake, any education, training or leisure activity. This ensures that best practice and current Department of Health guidance is enshrined in legislation. The effect of this amendment is that the local authority will have to ask the carer about those activities during the assessment, and then take this into account when making the decision about whether the needs of the cared for person or the disabled child (as the case may be) call for the provision of any services by them.
18. Subsection (2) makes a similar amendment to section 1 of the 2000 Act by adding a new subsection (3A). This will mean that when making any decision about services for the carer under section 2 of that Act, the local authority must consider whether a carer works or wishes to work, is undertaking or wishes to undertake, any education, training or leisure activity.
19. Subsection (3) makes similar changes to section 6 of the 2000 Act (assessment of persons with parental responsibility for disabled children). It does this by inserting a new subsection (2A). This feeds through to the existing duty of the local authority to take that assessment into account in deciding what, if any, services to provide under section 17 of the 1989 Act (provision of services to children and their families). For example, if the child's carer expressed an intention to undertake a college course or to return to employment, then the local authority would need to consider this when making any decision about services in light of the assessment.