



# Health and Care Act 2022

## 2022 CHAPTER 31

### PART 6

#### MISCELLANEOUS

##### *Social care*

PROSPECTIVE

#### **166 Cap on care costs for charging purposes**

- (1) The Care Act 2014 is amended as follows.
- (2) In section 15 (cap on care costs), for subsections (2) and (3) substitute—
  - “(2) The reference to costs accrued in meeting the adult’s eligible needs is a reference—
    - (a) in relation to eligible needs met by a local authority, to any amount the local authority charged the adult under section 14(1)(a) or 48(5) for meeting those needs;
    - (b) in relation to eligible needs met by a person other than a local authority, to what the cost of meeting those eligible needs would have been to the local authority that was the responsible local authority when the needs were met.
  - (3) A reference in subsection (2)(b) to eligible needs does not include any eligible needs during a period when the adult had neither a personal budget nor an independent personal budget, other than eligible needs at any time after a local authority was required to carry out a needs assessment that resulted in the preparation of a personal budget or an independent personal budget for the adult.
- (3A) For the purposes of this Part an adult’s needs are “eligible needs” if—

*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Care Act 2022, Section 166. (See end of Document for details)*

- (a) the needs meet the eligibility criteria,
- (b) the needs are not being met by a carer, and
- (c) the adult is ordinarily resident or present in the area of a local authority.

(3B) In this Part, “the responsible local authority” means the local authority in whose area the adult is ordinarily resident or in whose area the adult is present (where the adult is of no settled residence).”

(3) In section 24 (the steps for the local authority to take), for subsection (3) substitute—

“(3) Where, following a determination under section 13(1), no local authority is going to meet any of an adult’s needs for care and support, the local authority that is for the time being the responsible local authority must prepare an independent personal budget for the adult (see section 28) if—

- (a) the adult has any eligible needs, and
- (b) the adult has at any time either—
  - (i) asked a local authority that was, at that time, the responsible local authority, to prepare an independent personal budget, or
  - (ii) had needs met by a local authority as mentioned in section 24(1).”

(4) In section 26 (personal budget), for subsections (1) and (2) substitute—

“(1) A personal budget is a statement which specifies, in respect of the adult’s needs which a local authority is required or decides to meet as mentioned in section 24(1)—

- (a) the current cost to the local authority of meeting those needs,
- (b) how much of that cost the adult will be required to pay under section 14(1)(a), and
- (c) the balance, if any, of the cost referred to in paragraph (a).

(2) If the needs referred to in section 26(1) include eligible needs, the personal budget must also specify—

- (a) the current cost to the local authority of meeting those eligible needs,
- (b) how much of that cost the adult will be required to pay under section 14(1)(a), and
- (c) where the amount referred to in paragraph (a) includes daily living costs, the amount attributable to those daily living costs.

(2A) If the adult has needs which a local authority is required or decides to meet as mentioned in section 24(1) and also has eligible needs which are not being met by any local authority, the personal budget must specify—

- (a) what the current cost would be to the responsible local authority of meeting those eligible needs, and
- (b) where the amount referred to in paragraph (a) includes daily living costs, the amount attributable to those daily living costs.”

(5) In section 28 (independent personal budget)—

(a) for subsection (1) substitute—

“(1) An independent personal budget is a statement which specifies what the current cost would be to the responsible local authority of meeting

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the adult’s eligible needs (but the independent personal budget need not specify the cost of meeting those needs at any time when the local authority required to prepare it has ceased to be the responsible local authority or at any time when the adult has needs which a local authority is required or decides to meet as mentioned in section 24(1)).”;

(b) omit subsection (3).

(6) In section 29 (care account), in subsection (1), in the words before paragraph (a), for the words from “the local authority” to “present” substitute “the responsible local authority”.

(7) In section 31 (adults with capacity to request direct payments), in subsection (1), for paragraph (a) substitute—

“(a) a personal budget for an adult specifies an amount under section 26(1) (c) in respect of any needs, and”.

(8) In section 32 (adults without capacity to request direct payments), in subsection (1), for paragraph (a) substitute—

“(a) a personal budget for an adult specifies an amount under section 26(1) (c) in respect of any needs, and”.

(9) In section 37 (notification, assessment etc.), in subsection (15), omit paragraph (a).

(10) In section 80 (Part 1: interpretation), in the table in subsection (1), at the appropriate places insert—

“Eligible needs	Section 15(3A)”
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“The responsible local authority	Section 15(3B)”.
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#### Commencement Information

**II** S. 166 not in force at Royal Assent, see [s. 186\(6\)](#)

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**Changes to legislation:**

There are currently no known outstanding effects for the Health and Care Act 2022, Section 166.