

Social Services and Well-being (Wales) Act 2014 – Part 4: Section 57

Cases where a person expresses preference for particular accommodation

The Social Services and Well-being (Wales) Act 2014 will radically transform the way social services are delivered in Wales to meet the needs of the individual and make services sustainable for the future. It will come into force in April 2016.

The Act gives people a stronger voice and real control over the support they need to remove barriers to their wellbeing. It focusses on earlier intervention to prevent needs becoming critical, and promotes investment of resources in the short term, to give best value to the public purse overall.

The Act also promotes integration between the health and social care sectors to the greatest extent possible in order to achieve improved wellbeing outcomes.

The regulations and statutory code of practice in relation to Part 4 (direct payments and choice of accommodation) and Part 5 (financial assessment and charging) provide clarity and direction on section 57 of the Act. This technical briefing provides a brief summary of the duty but is not a legal document.

Key links:

The Care and Support (Choice of Accommodation) (Wales) Regulations 2015
http://www.legislation.gov.uk/wsi/2015/1840/pdfs/wsi_20151840_mi.pdf

These regulations have been made and will come into force on 6 April 2016.

Parts 4 and 5 Code of Practice (Charging and Financial Assessment)
<http://gov.wales/docs/dhss/publications/151218part4-5en.pdf>

This code of practice was issued under parts 4 and 5 of the Act on 18 December 2015. It is due to come into effect on 6 April 2016

Summary of the duty

Section 57 requires that where a local authority is to meet a person's needs under sections 35 to 38 of the Act, or sections 40 to

45, by providing or arranging the provision of accommodation of a specified type, and the person expresses a preference for particular accommodation of that type, it must provide or arrange that preferred accommodation where conditions set out in regulations are met.

Where preferred accommodation is more expensive than the usual cost a local authority would expect to incur for providing or arranging accommodation of the specified type, it can require the additional cost to be paid by a person set out in regulations.

What does it do?

Where a person's needs are to be met by the provision of accommodation in a care home, regulations ensure they are able to express choice for a particular care home of the type they require.

Certain conditions set out within the regulations must be met so as to ensure a person's preferred accommodation is able to meet their needs, namely: that care home accommodation is required; it is suitable to meet their needs; is it available and; the provider of the care home agrees to accommodation the person on the basis of the local authority's terms for the placement. Where these are met, the local authority must

provide or arrange for the person's preferred accommodation to be provided.

Regulations also enable an additional cost to be required where such preferred accommodation is more expensive than a local authority would expect to pay to meet a person's eligible needs in full in a care home of that type.

Where the care home meets the above conditions but is more expensive, the additional cost conditions must also be met. These include a local authority ensuring it is satisfied the person paying the additional cost can meet and maintain payments for the duration of the person's stay in preferred care home. The person paying the additional cost must enter into a written agreement with the local authority and agree to pay the additional cost. The local authority must ensure the person has sufficient information and advice to understand the terms of the agreement.

The additional cost can be paid by a third party or in very limited circumstances (detailed in the regulations) the person whose needs are being met in a care home.

Where a local authority refuses to provide or arrange preferred accommodation it must provide a written statement to the person setting out which condition has not been met that has resulted in them not being placed in their preferred care home.

Fit with the Act

The regulatory changes maintain the current choice of accommodation arrangements available to a person requiring accommodation in a care home. The regulations promote choice and ensure a person maintains their ability to make decisions and retain control over how and where their care needs are met.

What does this mean in practice?

The new provisions contain the same key principles that are currently in place with regard to a person's choice of accommodation. However, they extend choice to care homes across the UK and bring greater clarity to the arrangements through a clear set of requirements and conditions that are specific to situations where a person wishes to express choice for particular care home accommodation.

Further information

Social Services and Well-being (Wales) Act 2014:

<http://www.senedd.assemblywales.org/mglssueHistoryHome.aspx?lId=5664>

Further information from the Welsh Government website:

<http://wales.gov.uk/topics/health/socialcare>

CCW Information and Learning Hub:

<http://www.ccwales.org.uk/getting-in-on-the-act-hub/>