



How will the Care Act regulations impact children at transition age or young carer's?

We have compiled the following information regarding all the changes you need to be aware of at transitioning stage, and that young carers should be aware of when turning 18 with regards to Care Act 2014 Regulations.

The Care Act 2014 sets out some key new duties in relation to children who are approaching the age of 18 and will be transitioning to adult services.

Transition is often a period which causes young people and their parents concern, as it can be unclear how the transition from children's to adult services will take place. The provisions under the Care Act are designed to make the transition process easier to understand.

These provisions should be read alongside the corresponding parts of the Children and Families Act 2013, as this sets out how transition works for young people who have an Education, Health and Care Plan ("EHC plan"). More information on the Children and Families Act can be found on our website www.irwinmitchell.com/personal/protecting-your-rights/social-healthcare-law/The-Care-Act

Child's needs assessment

Section 58 of the Care Act 2014 provides that a 'child's needs assessment' must be carried out where it appears likely that a child will have needs for care and support after reaching age of 18.

The assessment must be carried out "where it would be of significant benefit to the child". The guidance says that there is no set age when the assessment would be of significant benefit – however it is likely to be required at a stage when the local authority can be reasonably confident about what the young person's needs for care and support will look like after the age of 18.

If a child's needs assessment is carried out, it must include:

- Details of how the child's needs may impact upon their wellbeing
- Outcomes that the child wants to achieve
- Whether, and to what extent, the provision of care and support might contribute to those outcomes.

There is no duty or power for a local authority to meet the child's needs under the Care Act before they reach the age of 18. Until that time, children with social care needs will continue to receive support from children's services. Some children will also be receiving services before the age of 18 via their EHC Plan.

However, once the child's needs assessment has been completed, section 59 of the Care Act provides that the local authority will need to provide:

- An indication as to which of the child's needs are likely to meet the eligibility criteria after the age of 18; and
- Advice and information about what can be done now in order to meet or reduce the needs now; and what can be done to delay or prevent further or more extensive needs developing.

When the child reaches the age of 18 the local authority may decide to treat the child's needs assessment as a full needs assessment under the Care Act 2014.

This should ensure a smooth transition without any delays or gaps in provision. If the local authority decides not to treat the child's needs assessment in that way, section 66 of the Care Act provides that existing services can continue to be provided to a child under the Children Act 1989 until the full needs assessment is completed.

Child's carer's assessment

Similar transition provisions also apply for a child's carer (such as a parent), before the child has reached the age of 18.

Under section 60, a child's carer's assessment should be carried out where it would be of significant benefit to the carer and where it is likely that the child they are caring for will have needs for care and support after 18.

Section 61 provides that the child's carer's assessment will need to consider the following:

- Whether the carer is able, and willing, to provide care for the child and is likely to continue to be able to do so after the child becomes 18
- The impact on the carer's wellbeing
- The outcomes that the carer wishes to achieve in day-to-day life
- Whether, and if so to what extent, support could help contribute to the achievement of those outcomes.

The local authority must also have regard to whether the carer wishes to work, or participate in training, education, and recreation.

Having carried out the child's carer's assessment, the local authority must inform the carer whether it is likely they will have eligible needs for support after the child has reached the age of 18, and it must provide information about what can be done to delay, prevent or reduce those needs.

Unlike for child's needs assessment, a child's carer's needs may be met by the local authority under the Care Act before the child has reached the age of 18.

Young carer's assessment

The Care Act also contains provisions for young carers who are approaching the age of 18, such as a child caring for an adult. Section 63 provides additional transition provisions where a young carer may have needs for support after reaching the age of 18.

Where it appears likely that a young carer will have needs for support after becoming 18, the local authority must carry out a young carers needs assessment where the young carer consents, and where it would be of significant benefit. Even if the young carer does not consent, the local authority must still carry out the assessment if it thinks there is risk of abuse or neglect.

The assessment will need to consider similar things to a child's carer's assessment. It will need to examine the willingness and ability of the young carer to provide care after the age of 18, the young carer's wishes as to education, training or recreation, the impact on wellbeing and the outcomes that the young carer wishes to achieve.

It must also consider whether, and to what extent, support could help contribute to the achievement of those outcomes.

There is no power to meet the young carer's needs under the Care Act before the age of 18. However, before reaching the age of 18 the young carer may still be able to access support under the provisions of section 17ZA, 17ZB and 17ZC of the Children Act 1989.

These provisions were inserted following the Children and Families Act 2013, and they provide local authorities with the power to assess and meet a young carer's needs.

“I was given very clear information and the degree of care and understanding was very good.”

- Chambers & Partners, 2015

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