

# Adult Social Care

Legal Update | January 2026

## Introduction

This legal update provides an overview of the adult social care legal framework in England, focusing on the Care Act 2014, section 117 aftercare, safeguarding duties, and ordinary residence. It is intended for local authority lawyers, social workers, and legal professionals working in adult social care.

## Care Act 2014 - Key Duties

### Duty to Assess (s.9)

Where it appears to a local authority that an adult may have needs for care and support, the authority must assess whether the adult does have needs, and if so, what those needs are. This duty applies regardless of the authority's view of the level of need or the adult's financial resources.

### Eligibility Criteria (s.13)

An adult's needs meet the eligibility criteria if: (a) the needs arise from or are related to a physical or mental impairment or illness; (b) as a result of the needs, the adult is unable to achieve two or more specified outcomes; and (c) as a consequence, there is a significant impact on the adult's wellbeing.

### Duty to Meet Needs (s.18)

A local authority must meet an adult's needs for care and support which meet the eligibility criteria if the adult is ordinarily resident in the authority's area (or present and of no settled residence) and the adult's financial resources are below the financial limit or the authority is satisfied it is not appropriate to require payment.

## Section 117 MHA Aftercare

Section 117 of the Mental Health Act 1983 imposes a joint duty on the ICB and local authority to provide aftercare services to persons who have been detained under sections 3, 37, 45A, 47 or 48 of the MHA. Key points:

- Aftercare cannot be charged for (s.117(3))
- Duty continues until both authorities are satisfied the person no longer needs services
- Ordinary residence is determined by where the person was resident before detention
- Services must reduce the risk of mental disorder worsening and/or readmission

## Safeguarding Adults

Section 42 of the Care Act 2014 requires a local authority to make enquiries (or cause enquiries to be made) where it has reasonable cause to suspect that an adult in its area: (a) has needs for care and support; (b) is experiencing, or is at risk of, abuse or neglect; and (c) as a result of those needs is unable to protect themselves.

## Ordinary Residence

Ordinary residence determines which local authority is responsible for meeting an adult's care needs. The key principles from R (Cornwall Council) v Secretary of State [2015] UKSC 46 are:

- Ordinary residence is to be given its natural and ordinary meaning
- A person can have more than one ordinary residence
- Residence must be adopted voluntarily and for settled purposes
- The deeming provisions in s.39 apply to specified accommodation

## Useful Resources

- legislation.gov.uk - Care Act 2014
- GOV.UK - Care and Support Statutory Guidance
- SCIE - Social Care Institute for Excellence
- Skills for Care - Workforce development resources
- ADASS - Association of Directors of Adult Social Services

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