

Ordinary Residence Best Practice Procedure

Transfer of adult care cases between Health and Social Care Partnerships/Authorities

Aim

This procedure aims to agree a best practice model for the transfer of adult social care cases between authorities under Ordinary Residence. It is intended to be applied in situations where an adult who has previously been supported by one local authority area relocates to another area becomes Ordinarily Resident in a different area, resulting in the transfer of responsibility for care management and financing of their social care needs to the new area.

Background

Adults who require social care support have a right to choose the area in which they wish to live. Where that person moves from one local authority area to another and is defined as having become Ordinarily Resident in the new area, there is a duty on the new local authority/partnership to provide services to meet their assessed needs. The definition of Ordinary Residence is set out in the Scottish Government Guidance of 2015 (ref: Circular No: CCD 3/2015 Guidance on the recovery of expenditure on accommodation and services under section 86 of the Social Work (Scotland) Act 1968

The protocol described in CCD3/2015 is that the originating authority retains responsibility for the adult's care for the first 3 months after the move (to facilitate an effective transfer of responsibility to the new area and to allow the new local authority time to review the care needs and put in place the appropriate services). It also highlights that transitional funding may be needed, the cost of which should be met by the original authority for a period of a minimum of 3 months (or an alternative period to be agreed by both local authorities). At the end of the period of transitional funding, the new local authority would then become responsible for providing and funding the individual's care.

When an adult moves into one local authority area from another, it is important to establish promptly if the adult will be considered to be "Ordinarily Resident" in their new area. In these circumstances, either the new authority/partnership will become

responsible for all aspects of their care, including funding, or the adult will remain the responsibility of the originating area.

The guidance CCD3/2015 does not set out a best practice model describing how the transfer arrangements should be conducted, and there have been examples of practice that has led to protracted disputes and complaints between authorities/partnerships over how transfers have been managed. This proposal aims to address this situation.

Best Practice Procedure

It is proposed that at the point when it becomes clear the adult in receipt of services in one area intends to move to another area, and it is believed that they will become ordinarily resident in their new area, the Locality/Service Manager in the originating authority will write to their equivalent in the new authority to request transfer of the case under Ordinary Residence. Appropriate documentation supporting the request should be provided including:

- an up to date assessment of needs;
- a care plan;
- a summary including any significant events; and
- a financial assessment.

Additional risk assessments may be required, according to the adult's circumstances.

On receipt of the request and information sufficient to make a judgement, the Locality/Service Manager in the new area will confirm whether the adult will be accepted as Ordinarily Resident in their area.

Where it is agreed that the Adult will become Ordinarily Resident in the new area, the Locality/Service Manager in the new area should:

1. Identify a Team Manager and a Care Manager to lead the response to the request.
2. Write back to the originating authority within 2 weeks confirming an in-principle decision to accept transfer of responsibility for the adult's care with the expectation that a complete core case record is shared and a case transfer meeting(s) take place prior to the arrangement being concluded.
3. Ensure that the originating authority, the adult and their carers are made aware that the adult's needs will be reviewed in accordance with the new area's care management and SDS procedures and that the personal budget and service delivery options for meeting the adult's needs may vary from the prevailing arrangements.
4. Protect the adult's interests by ensuring that the processes for review and SDS budget/options are considered at the earliest opportunity so that the adult is fully involved in planning their care and is aware of the variations between the originating and new areas' procedures and service delivery models.

A case transfer meeting should be arranged involving the Team Managers and Care Managers from the originating and new authority areas, the service user (if appropriate), their carer(s), and any other relevant persons (such as the former and the new care provider). This meeting will be particularly important in providing an opportunity to discuss issues in detail such as:

- Complex care needs
- Current or previous adult protection concerns
- The details of high cost care packages and how this will be managed using local eligibility criteria
- Information to be provided on Charging policies, thresholds, SDS etc.
- Issues such as the management of challenging behaviour, previous offending history, significant events.
- Legal matters pertaining to the adult such as AWI, Mental Health transfer of Guardianship, Power of Attorney, details of Welfare and/or Financial Guardians who must be involved in all decision making.

Where the Adult lacks capacity and there are no powers in place, the issue of consent needs to be resolved. Advice should be sought from a MHO/Legal Services before decisions are taken or work allocated.

Where there is a failure to agree to the care transfer, the Locality/Service Manager in the new authority should bring the matter to the attention of their Head of Service, who will write to their equivalent Head of Service in the originating authority within 2 weeks, highlighting the reasons for not accepting transfer of the case under ordinary residence.

As per Circular No: CCD 3/2015, a timescale of one month is the suggested period within which the originating partnership should issue a response. Every effort should be made to resolve any disputes as quickly as possible.

It is suggested that the main elements outlined below for resolving disputes should be followed:

- If agreement is not reached at operational level, legal advice should be sought and senior management should seek to agree responsibility for funding.
- If agreement is still not reached, the details should be passed to the partnership Chief Officer for them to negotiate an agreement.
- Where agreement cannot be reached within 4 months of the dispute commencing the authorities may wish to consider requesting a determination of ordinary residence under section 86(2) of Guidance CCD 3/2015.

The dispute should be treated as having commenced on the date that the originating local authority has issued a written request for reimbursement under section 86 to new local authority.