

# CARE ACT 2014

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 1 – Care and Support

##### Assessing needs

##### *Section 12 – Assessments under sections 9 and 10: further provision*

107. This section requires the Secretary of State to make regulations about how a needs assessment or a carer's assessment is carried out, to ensure consistent practice in the key elements of the assessment process.
108. The regulations may in particular make provision about matters that a local authority must consider when carrying out an assessment, and about the assessment process, to ensure that it is carried out in an appropriate and proportionate manner. The local authority may be required to have regard to the family needs of the person being assessed, for instance the need to ensure that a child is not undertaking an inappropriate caring role for the adult concerned. Regulations may specify who may or must carry out an assessment, in particular that an expert must carry out the assessment in cases where the adult or carer has a complex condition, including allowing for self-assessment, joint assessments, and for a third party to carry out the assessment on behalf of the local authority. They may also specify when a local authority should refer a person for assessment by the NHS when they believe that the person has NHS continuing healthcare needs.
109. This section also makes clear that a local authority may combine a needs or carer's assessment with some other assessment it is carrying out of the individual or another person, provided that both individuals agree or in the case of a child who lacks capacity or is not competent to agree, provided it is satisfied that combining the assessments would be in the child's best interests. For example, a local authority may combine an assessment of a young carer with the needs assessment of the adult he or she cares for. This section also ensures that a local authority, when carrying out a needs or carer's assessment, may work jointly with or on behalf of another body which is carrying out another assessment of the person or, for example, someone that person is caring for or who cares for that person. For example, if a local authority is carrying out a carer's assessment, and an NHS body is carrying out a continuing healthcare assessment of the person he or she is caring for, the local authority could jointly carry out the continuing healthcare assessment jointly with the NHS body.