



Social Services and Well-being (Wales) Act 2014

2014 anaw 4

PART 3

ASSESSING THE NEEDS OF INDIVIDUALS

Assessing carers

26 Refusal of a needs assessment for a carer aged 16 or 17

- (1) If a carer aged 16 or 17 (or, where applicable, an authorised person) refuses a needs assessment under section 24, the duty under that section to assess the carer's needs does not apply.
- (2) If a person with parental responsibility for a carer aged 16 or 17 refuses a needs assessment for the carer under section 24 in circumstances in which the local authority is satisfied that—
 - (a) the carer lacks capacity to decide whether to refuse to have the assessment, and
 - (b) there is no authorised person to make the decision on the carer's behalf,the duty under that section to assess the carer's needs does not apply.
- (3) But a refusal under subsection (1) or (2) does not discharge a local authority from its duty under section 24 in the following cases—
 - CASE 1 - the local authority is satisfied, in the case of a refusal given by the carer, that the carer lacks capacity to decide whether to refuse to have the assessment;
 - CASE 2 - the local authority is satisfied, in the case of a refusal given by a person with parental responsibility for the carer, that the person lacks capacity to decide whether to refuse the assessment;
 - CASE 3 - the local authority is satisfied, in the case of a refusal given by a person with parental responsibility for the carer, that not having the assessment would not be in the carer's best interests.

Status: This is the original version (as it was originally enacted).

- (4) Where a local authority has been discharged from its duty under section 24 by a refusal under this section, the duty is re-engaged if—
- (a) the carer (or, where applicable, an authorised person) subsequently asks for an assessment,
 - (b) a person with parental responsibility for the carer subsequently asks for an assessment in the circumstances described in subsection (2), or
 - (c) the local authority considers that the carer’s needs or circumstances, or the needs or circumstances of a person with parental responsibility for the carer, have changed,
- (subject to any further refusal under this section).
- (5) In this section “authorised person” means a person authorised under the Mental Capacity Act 2005 (whether in general or specific terms) to decide whether to refuse, or ask for, a needs assessment on the carer’s behalf.