

# COMMUNITY CARE (DELAYED DISCHARGES ETC.) ACT 2003

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1 – Delayed Discharge Payments**

#### **Determination of need for community care services on discharge**

#### ***Section 2: Notice of patient's likely need for services on discharge***

11. Under *subsections (1) and (2)*, NHS bodies with responsibility for patients are required to inform local authorities with social services responsibilities (in Part 1 referred to as “social services authorities”) of patients who are likely to need community care services in order to be safely discharged.
12. Under *subsection (2)(a)*, the social services authority to be notified is the one which appears to the NHS body to be the one in which the patient is ordinarily resident when the notice of likely need is given. The NHS is not required to undertake lengthy investigations to establish with certainty which authority this is, as the notice will be effective even if the NHS notifies an authority other than the one in which the patient is ordinarily resident. Provided the NHS body has made reasonable efforts to identify which authority is responsible, then it must serve notice to that authority. *Subsection (2)(b)* provides for cases where a patient appears to have no settled residence, e.g. in the case of a homeless person.
13. *Subsection (3)(a)* requires the NHS body to make explicit that it is giving notice under section 2. This is to ensure that the recipient social services authority can recognise this notice as the formal start of the process provided for under this Act. *Subsection (3)(b)* requires that notice is not given earlier than eight days before the day of expected admission. The admission day is itself to be counted in this eight day period. This ensures that a section 2 notice is not provided too far in advance of admission. Otherwise there is a risk that preliminary planning would be wasted if the patient's condition changed.
14. *Subsection (4)* places a duty upon the NHS to consult the patient, and where appropriate his carer, before issuing a notice to the social services authority of the patient's likely need for community care services upon discharge under section 2. This is to prevent the NHS from initiating assessments which are not required, because, for example, the patient will make his own arrangements. It also means that a patient will know that the process in the Act applies. The NHS body only has to consult the carer if they know who the carer is, and if it is reasonably practicable to do so.
15. *Subsection (5)* defines “the responsible NHS body” which is required to give notice of possible need. This can be either the NHS body which is providing the care, (usually the NHS trust which manages the hospital that the patient is in) or, in the case of NHS

*These notes refer to the Community Care (Delayed Discharges  
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patients whose treatment is provided by an independent hospital, the NHS body which made arrangements for this non-NHS treatment.