



A – Z Introductory Guide to Health and Social Care in Scotland

Ordinary Residence

Brief Description

The Executive's long established policy and guidance is that, normally, the local authority in which a person is ordinarily resident is responsible for the community care services for that person. In other cases, such as an emergency or where ordinary residence cannot be determined, the local authority "of the moment" – where the person is physically located – would be responsible. Where a local authority undertakes the care needs assessment and arranges the provision of services for a person living in their area, that authority should retain responsibility for arranging and funding these services even when it places that person in residential accommodation in the area of another local authority.

National Policy and Key Developments

- Ordinary Residence Guidance Circular SWSG 1/96 was issued in 1996 to local authorities in Scotland to advise them how to identify the ordinary residence of people needing social work services under Section 86(1) of the Social Work (Scotland) Act 1968 to determine which authority is responsible. It also set out the procedures for seeking a determination by Scottish Ministers of ordinary residence under Section 86(2) of the 1968 Act where there was a dispute between authorities.
- Local authorities have requested a review of the guidance for some time to address concerns, principally about clarity, leading to unnecessary disputes between authorities, which are costly and time-consuming to resolve. Also, changing patterns of care provision, including free personal and nursing care and the growing use of supported accommodation rather than care homes have increased the demand for a review.
- Following consultation with legal colleagues and an expert group of local authority practitioners, the Executive issued a consultation letter on 2 September 2005 seeking views on proposals to amend the 1968 Act. The main purpose of the proposals is to clarify and update the provisions that determine which local authority is responsible for providing a person's community care services.

Relevant legislation and statutory guidance

Circular SWSG 1/96 contains guidance on the identification of the ordinary residence of people who require social work services:

<http://www.scotland.gov.uk/library/swsg/index-f/c152.htm>

Link to 2 September 2005 consultation letter:

<http://www.scotland.gov.uk/Publications/2005/09/placed-persons/contents>

How can I find out more?

The Executive cannot advise on individual ordinary residence disputes for which local authorities should seek their own legal advice.

For other information, please contact John Stirling on 0131 244 3742

Or write to John Stirling
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