

# KNOW YOUR RIGHTS, OWN YOUR LIFE

**Rights exist to protect and guide people.** When we know how and when to use them, we gain the clarity to make decisions with confidence and the strength to act when it matters.

**Knowing our rights can change our lives.** It gives us the tools to make decisions that define our future.

## COMMUNITY CARE (DELAYED DISCHARGES ETC.) ACT 2003

What You Need to Know and How It Can Help You

### Table of Contents

#### 1. Overview

- Highlight: “The Community Care (Delayed Discharges etc.) Act 2003 was introduced to prevent unnecessary hospital delays by ensuring timely community care, accountability, and coordinated discharge planning across health and social care.”

#### 2. Guidance for Families, Supported People and Carers

- Consultation and Involvement
- Clarity for Families
- Involvement in Decision-Making
- Timely Assessment of Needs
- Right to Ongoing Review
- Choice and Safety
- Transparency and Communication
- Access to Free Short-Term Support
- Clarity and Accountability
- Support for Carers
- Free Services

#### 3. Obligations and Duties for Commissioners, Public Bodies and Local Authorities

- Notices and Coordination
- Assessments and Decisions
- Delayed Discharge Payments
- Dispute Resolution and Responsibility
- Regulatory Powers

#### 4. How Individuals and Families Can Take Part and Benefit From the Act

## OVERVIEW

The **Community Care (Delayed Discharges etc.) Act 2003** was enacted to address delays in hospital discharges caused by a lack of timely community care services. It requires social services authorities to make payments to the NHS when hospital discharges are delayed due to unmet community care needs. Additionally, it allows the **Secretary of State** and the **National Assembly for Wales** to make certain community care services free of charge.

The Act applies to England and Wales and aims to ensure that individuals ready for discharge from hospitals receive suitable community support without unnecessary delay. It establishes duties for NHS bodies, social services authorities, and local authorities, and introduces:

- Mechanisms for notice
- Discharge planning
- Assessment
- Dispute resolution

## GUIDANCE FOR FAMILIES, SUPPORTED PEOPLE AND CARERS

### Consultation and Involvement

- Before discharge, the responsible NHS body must consult the patient and, where practicable, their carer about the discharge process and the services needed to ensure safe return home (Section 2(4)).
- Carers have the right to request an assessment of their needs under Section 4(3) of the Act, which refers to Section 1 of the Carers and Disabled Children Act 2000.
- By understanding the right to consultation, assessment, and safe discharge, supported people can take an active role in their care journey.
- They can ask questions, request assessments, and ensure their views are included in the discharge plan, aligning with the principles of person-centred and inclusive support.

## Clarity for Families

- Families are entitled to be informed of discharge plans and any decisions about community care services that affect them.
- This transparency allows families to prepare home environments, arrange care, and understand their responsibilities.

## Involvement in Decision-Making

- The Act gives supported people a right to be consulted by the responsible NHS body before any discharge notice is issued. According to Section 2(4)(a), the NHS must consult the patient about their needs and the proposed discharge arrangements to ensure that decisions are made with, not about, the individual.
- This ensures that people receiving care have an active voice in planning their transition from hospital to home or another setting, in line with their personal needs and preferences.

## Timely Assessment of Needs

- Once the NHS identifies that safe discharge is unlikely without community care services, it must give formal notice to the relevant social services authority (Section 2(1)-(2)).
- The social services authority then has a duty to carry out a needs assessment (Section 4(2)(a)) to identify the community care services required for safe discharge.
- Supported people benefit because this duty ensures that their health, independence, and safety needs are assessed before leaving hospital, avoiding premature discharge or lack of appropriate support at home.

## Right to Ongoing Review

- The responsible authority must keep under review both the patient's and the carer's needs (Section 4(6)), ensuring that care arrangements remain appropriate as circumstances change.

- This provision helps supported people receive **continuous and adaptive support**, particularly if their condition or independence level evolves after discharge.

### Choice and Safety

- The Act makes it clear that discharge must not occur unless the necessary community care services are in place “in order for it to be safe to discharge him” (Section 4(2)(a)).
- This guarantees that supported people are **not discharged unsafely or left without the help they require at home**.

### Transparency and Communication

- Supported people, their families, and carers have the right to **receive notice and information about discharge plans and decisions** (Sections 2 and 5).
- The NHS must notify the social services authority and the individual (or their representative) of the proposed discharge day (Section 5(3)), enabling everyone involved to prepare and coordinate in advance.

### Access to Free Short-Term Support

- Under Section 15, the Secretary of State can require that specific **community care or carer services be provided free of charge** for up to six weeks after discharge.
- Supported people benefit directly from this provision, which helps reduce financial barriers during recovery and adjustment periods at home.

### Clarity and Accountability

- The Act’s structure ensures that the responsibilities of each public body are clearly defined, helping supported people and their advocates **hold services accountable**.

- For example, if a delay in discharge occurs because a local authority has not provided the necessary community care, that authority must make **a financial payment** to the NHS (Section 6). This provision encourages local authorities to act promptly in arranging post-hospital care.

### Support for Carers

- **Carers play an essential role in the well-being of supported people.** The Act ensures that carers receive the necessary services to enable the safe discharge of the patient. These services can include respite, practical support, or information. Under Section 4(3), **the authority must assess a carer's needs and decide what services to make available to them, in consultation with the NHS.**
- Carers' needs must be reviewed alongside the patient's to maintain ongoing safety and well-being post-discharge (Section 4(6)).

### Free Services

- Section 15 allows the **Secretary of State** to require certain community care services and carer services to be **free of charge** for a limited period (up to six weeks), easing the financial burden on families during recovery and transition.

#### **This is how knowing our rights can change lives.**

When families and young people understand what support they're entitled to, they can make informed choices, access the right services, and create new possibilities for their future. One expiring example is Lisa, who spent nearly 30 years in a hospital, experiencing complex mental health needs and limited control over her life. Today, Lisa leads a fulfilling and independent life, marked by significantly reduced behaviours of concern and improved self-care practices.

**MORE**



# OBLIGATIONS AND DUTIES FOR COMMISSIONERS, PUBLIC BODIES AND LOCAL AUTHORITIES

## Notices and Coordination

- NHS bodies must issue formal **notices** to the appropriate **social services authority** when a patient is likely to need community care to be safely discharged (Section 2).
- Notices remain valid until discharge, unless withdrawn, ensuring accountability (Section 3).

## Assessments and Decisions

Upon receiving notice, the responsible authority must:

- **Assess** the patient's needs to identify necessary community care services (Section 4(2)(a)).
- **Consult** the NHS before deciding which services will be made available (Section 4(2)(b)).
- **Assess carers' needs** if requested and determine services required for safe discharge (Section 4(3)).

## Delayed Discharge Payments

- If the **social services authority** fails to provide required services on time, resulting in delayed discharge, it must make **daily payments** to the NHS (Section 6(2)).
- Payments continue for each day of delay until all agreed services are in place (Section 6(4)–(6)).
- The **amount** of the payment is set by regulation and determined concerning the cost of maintaining hospital accommodation versus community care (Section 7).

## Dispute Resolution and Responsibility

- The **Secretary of State** or **National Assembly for Wales** determines disputes about a person's ordinary residence (Section 8).
- Panels appointed by **Strategic Health Authorities** or **Local Health Boards** help resolve disputes between public authorities (Section 9).
- Regulations allow adjustments between authorities when responsibilities shift or residence disputes arise (Section 10).

## Regulatory Powers

- Ministers can make regulations defining which services must be free and under what conditions (Sections 11 and 15).
- The Act empowers both **England** and **Wales** to issue regulations suited to local systems (Sections 15–16).

## HOW INDIVIDUALS AND FAMILIES CAN TAKE PART AND BENEFIT FROM THE ACT

### Understand the rights and the processes

You can benefit by **knowing their rights to timely discharge, assessment, and community support**, and also **request consultations and seek clarity on discharge timelines**, as hospitals are legally bound to

### Communicate proactively

Communicate openly with hospital discharge teams to ensure the **Section 2\* notice** is issued early. Carers can request a carer's assessment proactively to ensure they receive support.

**Section 2\*** - "Notice of patient's likely need for community care services"

**The NHS body identifies that community care will be needed and is required by law to issue a Section 2 notice. By communicating early:**

- The **supported person** can make sure their needs and preferences are discussed before the NHS issues the notice (as per Section 2(4)(a))
- The **carer** can ensure they are consulted and can request an assessment of their own needs (which then triggers Section 4(3) of the Act – the carer’s assessment duty)
- The **early issue of the Section 2** notice allows the local authority more time to arrange support services, avoiding discharge delays or unsafe transitions.

### Use free service provision

You can benefit financially by asking the local authority if the post-discharge care qualifies as a “**free service**” under Section 15, such as short-term personal care or accommodation following hospitalisation.

### Prevent delays

By engaging early and ensuring assessments are completed promptly, you can **avoid delayed discharges** that may otherwise incur penalties for local authorities. Understanding this legal framework encourages **collaboration** between families, hospitals, and local services, ensuring a smooth transition to home or community care.

### Advocacy and complaints

The Act encourages you to **raise concerns** about delayed discharges, unmet community needs, or inadequate communication. Awareness of the **obligations on public bodies** allows you to hold systems accountable and ensure they receive the care and support they are entitled to.

Original Sources:

[www.legislation.gov.uk/ukpga/2003/5/2010-10-01/data.pdf](http://www.legislation.gov.uk/ukpga/2003/5/2010-10-01/data.pdf)

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