

22 March 2010

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Baroness Barker
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Dear 

During Report stage of the Personal Care at Home Bill on 17 March, you specifically asked me whether, under the provisions of the Bill and the regulations it will be possible for people to move and for it to be accepted that their needs remain the same.

In other words, you asked me to confirm whether a receiving authority would still be required to carry out an assessment of needs in all cases, including where the receiving authority was continuing to provide a package of personal care which was being provided free prior to the move, under the proposed directions.

During the debate, my reply was as follows.

"Where a person in receipt of free personal care moves from one authority to another, they must continue to be provided with the same package of free personal care as they had before their move, until the new authority has assessed their needs for community care services and decided what services to provide in the light of that assessment. They do not need to make that assessment; that is for them to decide."

This information (namely that the receiving authority would not need to make an assessment of needs for community care services) was incorrect. Any new authority will continue to have a duty to carry out an assessment of needs for community care services under Section 47(1) of the National Health Service and Community Care Act 1990, even where a person is continuing to receive free personal care following a move under the proposed directions and regulations. This duty of assessment would not be amended or removed under the Personal Care at Home Bill.

However, while the new authority will continue to be subject to such a duty to assess, they should of course take into account the support received from the previous authority in making their own judgement, and the effect of any substantial

changes on the person. If the new authority decides to provide a significantly different support package, clear written explanations should be given. This is made clear in the new guidance which replaces the FACS guidance¹.

I hope that this has clarified the matter for you. This letter has been copied to other peers who spoke at Report stage and a copy placed in the Library.

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Glenys

GLENYS THORNTON

¹ "Prioritising need in the context of Putting People First: A whole system approach to eligibility for social care".