

Circular No: CCD 3/2015

Guidance on the recovery of expenditure on accommodation and services under section 86 of the Social Work (Scotland) Act 1968

June 2015

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Executive summary

This guidance¹ explains how Scottish local authorities should determine a person's ordinary residence for the purpose of recovering, under section 86 of the Social Work (Scotland) Act 1968 ("the 1968 Act"), expenditure incurred in the provision of accommodation etc.

This circular comes into force on the 1st of June 2015 and replaces Scottish Government Circular CCD 3/2010. It contains guidance only and is not intended to be a definitive interpretation of the law, which is a matter for the Courts. Local authorities are, however, encouraged to follow the guidance to help achieve consistency and equity across Scotland.

Section 86 of the 1968 Act applies in respect of accommodation and/or services provided as well as payments made under:

- the Social Work (Scotland) Act 1968;
- Part II of the Children (Scotland) Act 1995;
- the Children's Hearings (Scotland) Act 2011;
- Sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003;
- Self-directed Support (Scotland) Act 2013

Whilst this guidance primarily relates to individuals moving between areas within Scotland, provision is made in respect of cross-border residential care placements between the different territories of the UK in order to ensure local authorities are aware of the framework for such placements provided for under Schedule 1 to the Care Act 2014. The Scottish Government is working with the other administrations in England, Wales and Northern Ireland to issue Joint Best Practice Guidance to provide local authorities with further clarity on cross-border placements.

Where a dispute regarding an individual's ordinary residence arises between local authorities which may ultimately require to be determined by Scottish Ministers under section 86(2) of the 1968 Act, this guidance should be followed in order to determine ordinary residence. Where agreement cannot be reached, procedures are outlined for dispute resolution.

Flowcharts providing an overview of how to determine ordinary residence are annexed to the guidance.²

This guidance has been developed with assistance from a working group with representatives from COSLA, SOLAR, Alzheimer Scotland and Scottish local authorities. For additional background, the working group papers can be accessed at: <http://www.gov.scot/Topics/Health/Support-Social-Care/Financial-Help/OrdinaryResidence/ORCBWG>

¹ By virtue of section 5 of the Social Work (Scotland) Act 1968, local authorities shall perform their functions under the general guidance of Scottish Ministers.

² These should be read alongside the guidance and case studies.

Key Principles

The following guiding principles should be applied in all cases in order to ensure a person-centred approach is adopted:

- The welfare of the individual is paramount;
- The individual should be able to choose where and how they live whenever reasonably practicable, taking account of the individual's assessed needs;
- The individual's needs should be met by the local authority in which the individual is physically present at the time when the need for community care services arises (the local authority of the moment) at the earliest opportunity and disputes about payment should not result in delays in meeting need.
- Reciprocity and co-operation. The smooth functioning of out of area placements is in the interests of all parties and most importantly the interests of those in need of care. All authorities are expected to co-operate fully and communicate properly.

PART 1: determining ordinary residence

Introduction

1. It is important to understand the distinction between responsibility for **providing**³ care and responsibility for **funding** it.
2. Under the 1968 Act, Scottish local authorities have a duty to **provide** community care services⁴ to persons within their area who have been assessed as in need of such services. This duty applies equally, therefore, in respect of persons who are ordinarily resident within a local authority area and persons who are physically present in a local authority area when their need for community care services arises but who are ordinarily resident in a different local authority area.
3. Where a local authority **provides** care to someone in its area who is ordinarily resident elsewhere, section 86 of the 1968 Act enables certain expenditure incurred in doing so to be **recoverable** from the local authority in whose area the individual is ordinarily resident.
4. The question of where an individual is ordinarily resident is, therefore, key to the operation of section 86 of the 1968 Act. This guidance is intended to assist local authorities in determining where an individual is ordinarily resident.
5. The provision of services should never be delayed pending resolution of any dispute arising in connection with a person's ordinary residence. The local authority where the individual is present should, on a without prejudice basis, assume responsibility for assessing need and providing care whilst any dispute about payment is resolved.⁵

³ Either by making arrangements with another local authority who undertakes to provide, or secure the provision of, the relevant care or by contracting with a care provider directly or by providing the care directly.

⁴ 'community care services' is defined in section 12A(8) of the 1968 Act as "services, other than services for children, which a local authority is under a duty or has a power to provide, or secure the provision of, under Part II of this Act or section 25, 26 or 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003".

⁵ See Part 3 for guidance on referring disputes to Scottish Ministers for a Determination under section 86(2) of the 1968 Act.

Section 86 of the 1968 Act – periods to be disregarded when determining ordinary residence

6. Section 86 of the 1968 Act provides for recovery of expenditure incurred by a local authority in the provision of accommodation and/or services to an individual who is ordinarily resident in the area of another local authority. Section 86 also provides a framework for determining where an individual's ordinary residence is. For this purpose, time spent in certain types of accommodation and time spent in accommodation provided under certain legislation, is to be disregarded in determining an individual's ordinary residence.
7. Section 86(1) of the 1968 Act provides that any expenditure incurred by a local authority in respect of a person who is ordinarily resident elsewhere, can be **recovered** from the local authority of ordinary residence, in any of the following circumstances:
 - In providing **accommodation** for such persons, under the 1968 Act or under section 25 of the Children (Scotland) Act 1995 or under or by virtue of the Children's Hearings (Scotland) Act 2011;
 - In providing **services or facilities** for such persons, under Part II of the 1968 Act, or Part II of the 1995 Act (including, in the case of a child, any expenses incurred after he has ceased to be a child, and, in the event of another local authority taking over, under section 25(4) of the 1995 Act, the provision of accommodation for him, including also any travelling or other expenses incurred in connection with taking over);
 - In making a **direct payment** for such persons, under the Social Care (Self-directed Support) (Scotland) Act 2013 for the purpose of arranging for the provision of support within the meaning of section 5 or 8 of that Act;
 - For the conveyance of such persons;
 - In administering a compulsory supervision order or interim compulsory supervision order in respect of such persons;
 - In providing services for such persons under sections 25-27 of the Mental Health (Care and Treatment) (Scotland) Act 2003
8. In determining an individual's ordinary residence for the purpose of section 86(1), section 86(3) provides for time spent in certain types of accommodation or accommodation provided pursuant to various statutory duties to be disregarded in deciding whether or not a person's ordinary residence has changed from one local authority area to another. These "**disregard provisions**" are as follows:
 - Any period during which the individual is provided with accommodation under the 1968 Act, or under sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003;

- Any period during which the individual was a patient in a health service hospital⁶, or in a hospital managed by a National Health Service trust⁷;
9. Section 86(3) further provides that, in the case of a child whose ordinary residence requires to be determined, the following periods of time spent residing in a place are to be **disregarded**:
- As an inmate of a school or other institution;
 - In accordance with the requirements of a compulsory supervision order or interim compulsory supervision order, supervision order, community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995, youth rehabilitation order or probation order or the conditions of a recognizance;
 - While boarded out under the 1968 Act or under the Children and Young Persons (Scotland) Act 1937 by a local authority or education authority;
 - While placed with local authority foster parents under the Children Act 1989;
 - While provided with accommodation under paragraph (a) of, or by virtue of paragraph (c) of, section 26(1) of the Children (Scotland) Act 1995.
10. Section 86(5) provides a further circumstance which is to be **disregarded** for the purpose of determining an individual's ordinary residence. Section 86(5) must be read alongside section 86(4).
11. Section 86(4) applies where a local authority ("the responsible authority") performs a function under the following legislation:
- a) the 1968 Act;
 - b) Part II of the Children (Scotland) Act 1995;
 - c) section 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003;
 - d) the Children's Hearings (Scotland) Act 2011

by **making arrangements** with a person ("the provider") in terms of which the provider undertakes to accommodate, or to secure accommodation for, another person.

12. Section 86(5)(a) provides that where section 86(4) applies, any expenditure incurred under the arrangements by a provider which is a local authority is **recoverable** from the responsible authority.

⁶ Within the meaning of section 108(1) of the National Health Service (Scotland) Act 1978.

⁷ Established under the National Health Service Act 2006, the National Health Service (Wales) Act 2006 or section 12A of the National Health Service (Scotland) Act 1978.

13. Section 86(5)(b) provides that any period during which the individual is accommodated **under these arrangements** is to be **disregarded** for the purpose of determining their ordinary residence for the purposes of section 86(1).
14. The Recovery of Expenditure for the Provision of Social Care Services (Scotland) Act 2010 (“2010 Regulations”) were introduced under section 86(6). The 2010 Regulations provide, at regulation 3, that expenditure incurred by a local authority in providing **services or facilities under arrangements** made under: the 1968 Act; Part II of the Children (Scotland) Act 1995; or section 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003 is **recoverable** from the authority who has arranged the placement.
15. Regulation 4 establishes that the time a person stays in accommodation with support under arrangements made by a local authority is to be **disregarded** for the purposes of establishing the individual’s ordinary residence.

Meaning of ‘ordinarily resident’

16. There is no statutory definition of the term ‘ordinarily resident’ in the 1968 Act, nor have the Scottish courts been asked, as at the date of this Circular taking effect, to interpret its meaning.
17. The courts in England have, however, sought to interpret the term ‘ordinarily resident’ for the purpose of attributing responsibility for payment of an individual’s care costs to a particular local authority.
18. The starting point for determining a person’s ordinary residence is with regard to the dictum of Lord Scarman in *Shah v London Borough of Barnet* [1983] 1 All E.R. 226:

‘unless ... it can be shown that the statutory framework or the legal context in which the words are used requires a different meaning I unhesitatingly subscribe to the view that “ordinarily resident” refers to a man’s abode in a particular place or country which he has **adopted voluntarily** and for **settled purposes** as part of the regular order of his life for the time being, **whether of short or long duration.**’
19. This case assists local authorities to determine the ordinary residence of people who have capacity to make their own decisions about where they wish to live.
20. For people who lack capacity to make such decisions, an alternative approach⁸ is appropriate because a person’s lack of mental capacity may mean that they are not able to voluntarily adopt a particular place for settled purposes.

⁸ See paragraphs 21-30 below for guidance on determining the ordinary residence of persons who lack capacity.

People who lack capacity to decide where to live

21. In considering whether or not an individual has adopted their place of residence voluntarily, a local authority will need to consider the individual's capacity to choose where they live. Where a person lacks the mental capacity to make such decisions, it is not appropriate to speak of the individual having adopted a residence voluntarily, or there being a degree of settled purpose. In such cases, an individual's ordinary residence should be determined having regard to their specific circumstances, as outlined below.

(a) the decision to move from one local authority area to another was taken by the individual's proxy decision-maker⁹

22. Where an individual has been assessed as lacking capacity, the Adults with Incapacity (Scotland) Act 2000 ("the 2000 Act")¹⁰, provides for the support and safeguarding of the individual by enabling others to make certain decisions in respect of their property, financial affairs and/or health and personal welfare on their behalf. In Scotland, such decisions can only be taken lawfully by persons with the legal authority to do so. Such legal authority is acquired by way of power of attorney or guardianship, or other form of intervention order, granted by the court.

23. The effect of a person having formally acquired proxy decision making status is that any decision made in that capacity is to be treated as if the individual who lacks capacity has made the decision themselves.

24. Therefore, where a decision to move from one area to another has been taken on a person's behalf by their proxy, the requisite voluntary adoption of a place for a settled purpose, as outlined in *Shah*, can be derived from the proxy decision-maker.

25. Determining the ordinary residence of a person who lacks capacity by reference to decisions taken by a proxy decision maker excludes any need to determine the ordinary residence of an incapable adult by reference to the English case of *Vale*, which, in the majority of cases, will entail an assessment of where a person would have chosen to live if they had capacity to do so.¹¹

26. Where the proxy decision maker takes the decision to move the individual out of area and the proxy arranges the move without the local authority making arrangements, the individual's ordinary residence will change to the new area for the reasons outlined above. Where, however, the proxy takes the decision to move the individual and the local authority arranges the move, the individual's ordinary residence will not change as a result of that move, as illustrated in the following scenario.

⁹In relation to adults, 'proxy' is the general term used for someone who has been authorised under the Adults with Incapacity (Scotland) Act 2000 to act and make decisions on behalf of an adult with incapacity.

¹⁰ For further information on the 2000 Act, see publications available at:

<http://www.gov.scot/Topics/Justice/law/awi/010408awiwebpubs>

¹¹ See Annex A.

Case Study 1

Mr Example 1 lives in area A. Mr Example 1 lacks capacity and his son is his guardian. Local authority A has assessed Mr Example 1 as needing residential care. Mr Example 1's guardian asks local authority A to arrange for Mr Example 1 to move into a care home in area B as this is near Mr Example 1's family.

Local authority A arranges for local authority B to provide a place in a care home for Mr Example 1 that meets his assessed needs and takes account of his guardian's choice as far as possible¹². The two councils enter into an arrangement as set out in Annex D which sets out the agreement on: financial assessments; reviews of care needs; and procedures for local authority A to re-imburse local authority B as appropriate.

Under section 86(5)(b) of the 1968 Act, any period during which Mr Example 1 is accommodated under these arrangements between the local authorities is disregarded for the purpose of determining his ordinary residence. As such, Mr Example 1's ordinary residence has not changed, he remains ordinarily resident in the area of local authority A.

Alternatively, local authority A may decide to contract directly with a care home provider in area B and to remain fully responsible for reviewing care needs etc.

Under section 86(3) of the 1968 Act, any period Mr Example 1 spends accommodated under this arrangement is disregarded for the purpose of determining his ordinary residence, as local authority A is providing his accommodation under the 1968 Act. Consequently, Mr Example 1's ordinary residence has not changed, he remains ordinarily resident in the area of local authority A.

(b) the decision to move the individual out of area was taken by someone without the legal authority to make such decisions

27. It follows that the physical move of a person from one local authority area to another does not change their ordinary residence unless the criteria for ordinary residence set out in *Shah* (that a person's residence in a place results from a voluntary decision for settled purposes) is satisfied either by the competent decision of the person or the competent decision of someone authorised to make that decision on their behalf. Consequently, residence in a local authority area, for however long, will not, in the absence of a capacitous decision by the person or a decision by someone with specific authority, transfer ordinary residence to the area of actual residence.

¹² In accordance with the Social Work (Scotland) Act 1968 (Choice of Accommodation) Directions 1993.

(c) Child to adult transition

28. In relation to young people leaving care, continuity of support is key to making a success of throughcare and aftercare services. *Supporting Young People Leaving Care in Scotland Regulations* and associated guidance¹³ make it clear that the responsible authority¹⁴ is the local authority that is looking after or last looked after the young person.
29. From April 2015, the Children and Young People (Scotland) Act (“the 2014 Act”) extends eligibility for aftercare assistance up to the age of 25 years old. This is set out in Part 11 and associated guidance which will be available from April 2015. In addition, Corporate Parenting duties in the 2014 Act reinforce the responsibility of Local Authorities (as corporate parents listed in schedule 4) to collaborate with each other and other Corporate Parents in fulfilling their duties under the 2014 Act.
30. At the end of the transitional period¹⁵, the recovery of costs for accommodation and/ or services covered by section 86 of the 1968 Act, will fall to be determined following the principles and guidance set out in this circular.

¹³ <http://www.scotland.gov.uk/Publications/2004/03/19113/34719>

¹⁴ As defined in regulation 2(1) of The Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003.

¹⁵ From being a looked after child to independent adult living.

PART 2: particular situations in which a person's ordinary residence may require to be determined

Recovering costs – accommodation provided under arrangements¹⁶ between local authorities

31. Section 86(5)(a) of the 1968 Act provides that where a local authority (“the responsible authority”) performs the function of arranging accommodation for a person by making arrangements for it to be provided by another local authority (“the providing authority”) the costs incurred in the provision of the accommodation can be **recovered** by the providing authority from the responsible authority.
32. Section 86(5)(b) of the 1968 Act provides that time spent in accommodation provided to an individual under such an arrangement is to be **disregarded** in determining an individual's ordinary residence for the purpose of recovering expenditure under section 86.
33. Section 86(4) of the 1968 Act applies where a Scottish local authority (“the responsible authority”) performs a function under the 1968 Act (or any of the other enactments listed in that subsection) by making arrangements with another local authority or third party (“the provider”). Arrangements, in this context, means contractual arrangements whereby the provider (either a local authority or third party) undertakes to perform the function of accommodating or securing accommodation for a person on behalf of the responsible authority. Under such arrangements, the statutory duty to meet a person's needs for accommodation remains with the responsible authority whilst the contractual duty to make the necessary arrangements with a suitable care provider for a person's accommodation falls on the provider.
34. Liability for costs incurred in the provision of accommodation under any of the enactments listed in section 86(4) and in pursuance of such arrangements also remains with the responsible authority. Where the provider is another local authority then any costs incurred by the provider in carrying out the arrangements are recoverable from the responsible authority (section 86(5)(a)). Where the provider is a third party, payment of costs will be governed by the contract between the responsible authority and the third party provider. Any period during which the person is accommodated under the arrangements is to be disregarded in determining the person's ordinary residence.

Case Study 2

Mr Example 2 lives on his own in area A and has a package of care in his own home. His only son, John, lives in area B. Mr Example 2 is becoming increasingly frail and a bit forgetful and the neighbours regularly telephone John with concerns.

¹⁶ As defined in the glossary.

John has a young family and full time job and is finding it increasingly difficult to travel back and forwards to check on his Dad. He asks local authority A to review his Dad's care package and Mr Example 2 is assessed as needing residential care. John would like his Dad to move into a care home near him and his Dad agrees that this would be a good move.

Local authority A then arranges for local authority B to provide Mr Example 2 with a place in a care home that meets his assessed needs and takes account of his choice as far as possible¹⁷. The two councils enter into an arrangement as set out in Annex D which covers agreed arrangements for: financial assessments; reviews of care needs; and procedures for local authority A to re-imburse local authority B as appropriate.

Any time spent by Mr Example 2 in this care home under these arrangements is disregarded under section 86(5)(b) of the 1968 Act, for the purpose of determining his ordinary residence. Therefore, Mr Example 2 remains ordinarily resident in area A.

Alternatively, local authority A may decide to contract directly with a care home provider in area B and to remain fully responsible for reviewing care needs etc. Any time spent by Mr Example 2 in the care home under this contract would also be disregarded, under section 86(3) of the 1968 Act, as it is being provided by local authority A under the 1968 Act. Therefore, Mr Example 2 would remain ordinarily resident in area A.

35. Where the responsible authority is not in fact the authority of ordinary residence¹⁸, then the responsible authority can in turn recover the costs from the authority of ordinary residence.

Case Study 3

Mrs Example 3 lives in area A. She visits her daughter in area B and while there falls and breaks her hip. After a spell in hospital in area B, her mobility remains impaired with little if any potential for improvement. A local authority B social worker carries out an assessment, and concludes that she is unfit to return home even with a care at home package including equipment and adaptations and is in need of a residential care placement. Mrs Example 3 has a sister and two daughters in area C and would like to go into a care home near them. The family agrees with this.

All three local authorities concerned then work together as appropriate to secure a place in a care home for Mrs Example 3 that meets her assessed needs and takes account of her choice as far as possible¹⁹. Subsequently, local authority B and local

¹⁷ In accordance with the Social Work (Scotland) Act 1968 (Choice of Accommodation) Directions 1993.

¹⁸ For example, where the individual happens to be in the authority's area at the time of need.

¹⁹ In accordance with the Social Work (Scotland) Act 1968 (Choice of Accommodation) Directions 1993.

authority C enter into an arrangement under which local authority C agrees to provide, or secure the provision of, accommodation to Mrs Example 3 on behalf of local authority B.

Local authority A remains financially responsible for the care package as Mrs Example 3's ordinary residence has not changed as a consequence of her circumstances, for the following reasons:

- Mrs Example 3's visit to her daughter did not change her ordinary residence as she did not voluntarily adopt this residence for settled purpose, rather this was a temporary absence from her residence;
- time spent in hospital is disregarded under section 86(3) of the 1968 Act;
- time spent in accommodation provided under the 1968 Act is disregarded under section 86(3) of the 1968 Act; and
- time spent in the care home under arrangements between local authorities is disregarded under section 86(5)(b) of the 1968 Act.

Any expenditure incurred by local authority C as a result of this arrangement, can be recovered from local authority B under section 86(5)(a). Local authority B can recover this cost from local authority A, as Mrs Example 3 remains ordinarily resident in their area.

Alternatively, local authority A may make the arrangements for accommodation directly with local authority C. Under these arrangements, local authority C agrees to provide, or secure the provision of, accommodation to Mrs Example 3 on behalf of local authority A. Any expenditure incurred by local authority C as a result of this arrangement can be recovered from local authority A, under section 86(5)(a).

Recovering costs – [services provided under arrangements between local authorities](#)

36. The 2010 Regulations apply in respect of all services or facilities provided to enable a person to live in “accommodation with support” (as defined in those Regulations). The type of tenancy and type of accommodation is irrelevant, as the regulations link the definition of “accommodation with support” to an arrangement made under section 86.

37. In other words, where a local authority enters into an arrangement with another local authority in order to fulfil its statutory duties under any of the enactments listed in Regulation 2(1)²⁰, the 2010 regulations provide for the **recovery** of expenditure incurred by the provider in the provision or securing the provision of

²⁰ Those are: the Social Work (Scotland) Act 1968; Part II of the Children (Scotland) Act 1995; or sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

those services or facilities from the authority on whom the duty to meet the individual's need falls. If the authority on whom the duty to meet the individual's need falls is not the authority in whose area the person is ordinarily resident, then further steps may, in turn, be taken to recover expenditure from the local authority of ordinary residence.

38. The Regulations also make clear that any period in which a person is residing under arrangements, in accommodation with support, shall be **disregarded** for the purpose of determining their ordinary residence for the purpose of section 86(1) of the 1968 Act.
39. Prior to the introduction of the 2010 Regulations, where a local authority assessed an individual as needing care at home or in a specialist setting, such as sheltered housing or supported housing, and arranged for that care in another local authority area, this would not have been disregarded for the purposes of establishing ordinary residence. The cost of any care services could therefore fall to the new local authority depending on the specific circumstances. As a consequence, local authorities with, for example, specialist units could end up paying for expensive care packages for those placed in the units by other authorities. Likewise, the authority making the placement could offload expensive care packages.
40. The Regulations are not intended to be used when someone in receipt of care at home decides to move to live in the area of another local authority. In such cases local authorities are encouraged to consider setting up transitional arrangements to help people to move.²¹

Case Study 4

Mr Example 4 lives in his own home in area A and suffers from multiple sclerosis. He requires community care services at home to assist him with his daily living. He is recovering from alcohol dependency and needs supported accommodation to help with his rehabilitation.

There are no appropriate rehabilitation units in area A and the local authority therefore arranges for Mr Example 4 to go into a rehabilitation unit in area B and agrees the arrangements for the provision of community care services with local authority B (see Annex E).

The 2010 Regulations apply, accordingly, the cost of community care services provided by local authority B can be recovered from local authority A and Mr Example 4's ordinary residence has not changed as a consequence of the placement: this period is disregarded for the purpose of determining his ordinary residence.

On completion of his rehabilitation, A would arrange for Mr Example 4 to return home with the appropriate package of home care services. If Mr Example 4 decides

²¹ See paragraphs 67-69 on transitional arrangements.

instead to move permanently to area B, his ordinary residence would change and the costs of care services at home would fall to local authority B at the conclusion of any period of transitional funding.

Recovering costs – accommodation and/or services provided by means other than arrangement between local authorities

41. There will be cases where accommodation and/or services are provided by a local authority to a person not ordinarily resident in that authority's area, otherwise than by arrangement with another local authority. For example, where a local authority responds to the urgent needs of a person in their area or where the local authorities concerned fail to agree the terms of an arrangement.
42. In the absence of an arrangement, the costs are likely to be recoverable from the local authority of ordinary residence²² under section 86(1), depending on the specific circumstances.

²² See paragraphs 1-30 above on establishing ordinary residence.

PART 3: dispute resolution process

Responsibility to pay for and provide care pending dispute resolution

43. Where disputes arise between local authorities regarding the ordinary residence of individuals, the local authority where the individual is present should, on a without prejudice basis, assume responsibility for assessing need and providing care whilst the dispute is resolved. Determination of ordinary residence must not delay the process of meeting the individual's needs.
44. Where the dispute has arisen due to service re-provisioning, for example as a consequence of de-registration of a care home, it is the Scottish Government's position that the local authority responsible for the original placement should continue to pay for the accommodation and/or services until any dispute is resolved. It is inappropriate to expect an independent provider to absorb the costs of care pending the resolution of a dispute.

Procedure for referring disputes for determination

45. Every effort should be made to resolve any disputes as quickly as possible, and local authorities will wish to put in place appropriate procedures for dealing with disputes.
46. Whilst it is a matter for local authorities to set their own procedures, it is suggested that the main elements outlined below for resolving disputes should be followed.
47. Local authorities will wish to correspond with each other in a timely manner. Where a local authority corresponds with another authority, a timescale of one month is the suggested period within which the latter should issue a response.
 - Operational managers in the local authorities concerned should make every effort to reach agreement in accordance with the principles set out in this guidance
 - If agreement is not reached at operational level, legal advice should be sought and senior management should seek to agree responsibility for funding
 - If agreement is still not reached, the details should be passed to the Directors of Social Work for them to negotiate an agreement
48. Where agreement cannot be reached within 4 months of the dispute commencing the authorities may wish to consider requesting a determination of ordinary residence under section 86(2). Local authorities should:
 - Submit an agreed statement of facts to Scottish Ministers requesting a determination of ordinary residence under section 86(2) or where agreement

on the facts cannot be reached, submit separate statements of facts to Scottish Ministers requesting a determination; and

- Provide relevant supporting documents.
49. The dispute should be treated as having commenced on the date that a local authority has issued a written request for reimbursement under section 86 to another local authority.
50. This guidance is in effect from 1st June 2015. The date which the dispute commenced will determine which guidance is to be applied to the dispute. Local authorities do, however, have discretion to apply this guidance to disputes arising prior to the guidance taking effect. Where local authorities are unable to agree which guidance applies, Scottish Ministers will make a determination of ordinary residence in accordance with the guidance which is in effect at the date the request for a determination under section 86(2) is made by the local authorities.
51. Requests for a determination should be emailed or posted to the contacts given at the end of this circular.
52. In the interests of transparency, any information submitted by one party will be copied to the other for comment. A time limit for response will be set.
53. The Scottish Ministers, once in receipt of all relevant facts, will proceed to make a determination of ordinary residence under section 86(2) of the 1968 Act. The Scottish Ministers' decision is final subject only to judicial review.

PART 4: Related matters

Cross-border framework

54. This guidance primarily relates to individuals moving between different areas within Scotland.
55. Schedule 1 to the Care Act 2014 makes provision for cross-border residential care placements between Scotland, England, Wales and Northern Ireland. Schedule 1 provides that where an individual is placed into residential accommodation in any of these territories, their ordinary residence does not change and the placing authority retains responsibility for the individual.
56. The Care and Support (Cross-border Placements) (Business Failure Duties) (Scotland) Regulations 2014 provide that, where an individual is placed cross-border **into** Scotland that there should be no interruption to the individual's service provision as a result of provider failure. In other words, where the care provider is no longer able to provide care to the individual due to circumstances of provider failure, for example, bankruptcy or entering administration, the individual should not experience any gap in their service provision.
57. In such cases, the Scottish local authority in whose area the individual is residing will (in accordance with its duties under section 12 or 13A of the 1968 Act) be required to ensure that the needs of the individual continue to be met until such time as the placing authority can make alternative accommodation arrangements. Schedule 1 provides that the Scottish local authority can recover expenditure incurred from the local authority of ordinary residence.
58. The Care and Support (Cross-border Placements and Business Failure: Temporary Duty) (Dispute Resolution) Regulations 2014 set out who is to determine disputes. The regulations provide that where the adult in question is living (or, in a case where the adult is homeless, is physically present) in the same territory as that in which an authority which is party to a dispute is situated, the dispute is to be determined by the 'responsible person' in relation to that authority. The 'responsible person' is, in relation to a local authority in England, the Secretary of State, in relation to a local authority in Wales, the Welsh Ministers, in relation to a local authority in Scotland, the Scottish Ministers and in relation to an HSC trust in Northern Ireland, the Department of Health, Social Services and Public Safety.
59. Section 5 of the Community Care and Health (Scotland) Act 2002 will be commenced and in force in June 2015. Section 5 enables Scottish local authorities to make arrangements for the provision of residential accommodation, or residential accommodation with nursing, to persons so in need, in 'appropriate establishments'²³ cross-border.

²³ As defined in the Community Care (Provision of Residential Accommodation Outwith Scotland) (Scotland) Regulations 2015 which are intended to be in force in June 2015.

60. Joint Best Practice Guidance will be issued in due course by Department of Health, Scottish Government, Department of Health, Social Services and Public Safety and Welsh Government to provide local authorities with further clarity on cross-border placements.

Free personal and nursing care

61. Where an individual has been assessed as needing personal or nursing care by a Scottish local authority under section 12A of the 1968 Act, and the care is provided under the 1968 Act, the individual cannot be charged for the care covered by section 1 of the Community Care and Health (Scotland) Act 2002²⁴.

62. The costs of providing personal and nursing care services to an individual who is ordinarily resident in another local authority area can be recovered from that other authority.

Case Study 5

Mrs Example 5 lives in area A and local authority A has assessed her as needing residential care with nursing. The financial assessment is conducted and Mrs Example 5 is assessed as having sufficient means to pay for her care package. Mrs Example 5 is entitled to free personal and nursing care.

Local authority A takes account of Mrs Example 5's wish to move to area B to be near her sister, and helps her find a suitable care home in local authority B's area (either directly or by asking local authority B to help). Local authority A then enters into a contract with the care home in local authority B for the free personal and nursing care element of the care. They also agree a protocol with local authority B covering the review of Mrs Example 5's care and an agreement to pay for the care when Mrs Example 5's capital falls below the capital threshold.

Mrs Example 5's ordinary residence has not changed as a result of her move into a care home in local authority B as she is being provided with residential care under the 1968 Act, therefore, section 86(3) of the 1968 Act applies.

(a) Self-arrangers

63. Free personal and nursing care is an entitlement for those who are assessed by a local authority as having personal or nursing care needs that call for the provision of services. If a self-arranger²⁵ wishes to access free personal and nursing care, they will have to express this to the local authority and proactively request a needs assessment.

²⁴ See also the Community Care (Free Personal and Nursing Care) (Scotland) Regulations 2002 (S.S.I. 2002/303) as amended by S.S.I. 2008/78.

²⁵ See glossary.

64. The Scottish Government has produced guidance on the entitlement to free personal and nursing care by self-arrangers, which can be accessed here:

http://www.sehd.scot.nhs.uk/publications/CC2010_01.pdf

Case Study 6

Miss Example 6 sells her home in area A and moves into a care home in area B to be beside the sea. She applies to local authority B for a care needs assessment and is assessed as needing residential care. Local authority B provides free personal care. As Miss Example 6 is now ordinarily resident in their local authority area, local authority B cannot recover the cost of accommodation or of the care package in so far as this relates to her personal care.

Miss Example 6 then decides of her own accord to move to a new luxury purpose built care home back in area A and arranges the move herself. She then applies to local authority A for a needs assessment and is assessed as needing residential care. Local authority A then provides the free personal care as Miss Example 6's ordinary residence has changed again.

(b) Cross-border

65. Scottish Government guidance on free personal and nursing care provides that placements in Scotland of people ordinarily resident in local authority areas in England, Wales and Northern Ireland are not eligible for free personal and nursing care payments.

This guidance can be accessed here:

<http://www.scotland.gov.uk/Resource/Doc/55971/0015597.pdf>

66. Funding responsibility for placements made under Schedule 1 to the Care Act 2014 rests with the placing authority. Where an individual is entitled to free personal and nursing care and is placed cross-border into England, Wales or Northern Ireland, into residential accommodation by a Scottish local authority, that authority is responsible for paying the free nursing care costs at the applicable rate in the area where the individual has been placed.

Transitional arrangements for individuals moving of their own accord

67. Where an individual chooses to move between local authority areas of their own accord, without local authorities entering into an arrangement (other than a transitional arrangement), such a move will not attract the ordinary residence disregards in section 86 or the 2010 Regulations. The individual's ordinary residence is likely to change and the local authority in the area to which the person has moved will, therefore, become responsible for the provision of the care and for the costs, as illustrated in the scenarios below.
68. In such cases it can be extremely difficult for them to do so without being sure that the care services they need will be in place when they do move. The Scottish Government is aware of a number of cases where individuals have been unable to move as the local authority for the area in which the individual wishes to move will not accept responsibility for providing the care services until the person is physically present there. Nor will the existing local authority help with arranging the care in the new area, for fear of being held responsible for the cost of that care in perpetuity. This can cause considerable distress to the individuals concerned.
69. The Scottish Government continues to promote choice of accommodation wherever possible. Where a person has shown a definite intention to move between local authority areas on a permanent basis and has **sought the assistance** of local authorities, those authorities should provide as much help as possible in facilitating the move. Transitional funding may be needed, and the attached protocol at Annex F provides for the cost of the existing care package to be met by the original authority for a period of a minimum of 3 months (or an alternative period to be agreed by both local authorities) in order to allow the new local authority time to review the care needs and put in place the appropriate services. At the end of the period of transitional funding, the new local authority would then become responsible for providing and funding the individual's care.

Case Study 7

Mr Example 7 is quadriplegic as a result of a serious injury while playing rugby. He lived in area A with his wife and the council adapted his house and provided a care package to enable him to live at home. His marriage broke down and he decided to return to area B to be near his family and friends. He secured a tenancy in a specially adapted house with the help of a voluntary organisation.

Local authority A then contacted local authority B to set up a protocol in which they agreed to pay for Mr Example 7's care package for a period of 3 months from the date of his move. Local authority A agreed to pay the cost of the care package they had assessed Mr Example 7 as needing during the 3 month transitional period, but at local authority B prices. Local authority B arranged for the care package to be put in place, based on local authority A's assessment, and recovers the costs from local authority A.

Local authority B reviewed the care package after 2 months and decided to increase the package with immediate effect. Local authority A continued to pay the original

agreed amount until the transitional arrangements came to an end and local authority B met the cost of the additional care. At the end of 3 months, local authority B took over responsibility for paying for the full care package and for conducting the financial assessment.

Case Study 8

Miss Example 8 requires a wheelchair for mobility and has other care needs. She has lived in area A for the last 20 years to be near her work. Her family live in area B and when she retires she decides to buy a house near them. Before she can move she needs to have a care package in place. Local authority A contacts local authority B to set up a protocol in which local authority A agrees to pay for Miss Example 8's care for a transitional period of 3 months from the date of her move. Local authority A agree to pay for the care package they have assessed Miss Example 8 as needing but at local authority B's prices and they remain responsible for the financial assessment and for calculating Miss Example 8's contribution towards the cost of the care, during the transitional period.

Local authority B reviews the care package after 1 month, and as Miss Example 8 is receiving a lot of support from her family, decide to reduce the care package after duly taking account of the unpaid carer's wishes. Local authority B notify local authority A of the change in the package and local authority A pays the reduced amount until the end of the transitional period, at which stage local authority B assumes full responsibility for the care package and financial assessment.

Direct payments

70. In setting up agreements or transitional arrangements for the provision of accommodation and/or services in another area, the local authorities concerned should take account of Direct Payments and ensure there is not a gap in provision of payments, services and support. The protocols at Annexes D, E and F include a section on Direct Payments.

Homeless people

71. Where a homeless person is in need of urgent social work services, the local authority of the moment should provide these services while any dispute about ordinary residence is conducted. Decisions on where the responsibility for the funding of such services rests, based on ordinary residence, should be decided subsequently. The test of ordinary residence is not the same as that of local connection used in the homelessness legislation. Local connection for these purposes is defined in section 27 of the Housing (Scotland) Act 1987 - further information can be found in the Code of Guidance on Homelessness:

<http://www.scotland.gov.uk/Publications/2005/05/31133334/33366>

Responsibility for healthcare within the NHS

72. The framework for establishing responsibility for an individual's care within the NHS is set out in Health Department Letter 2013.06 issued in March 2013:

http://www.sehd.scot.nhs.uk/mels/CEL2013_06.pdf

Enquiries and feedback

73. This guidance aims to clarify the legislation and guidance and sets out a number of case studies for illustration. There will of course be many situations not covered specifically in the guidance. The application of the overarching principles above and the provisions in the 1968 Act and associated regulations will provide the basis for councils to reach an equitable agreement which meets the needs of the individual. However, we are happy to answer enquiries and receive feed-back on the guidance and to consider on-going requests for any amendments necessary to strengthen or clarify it.

Please contact:

careforolderpeople@scotland.gsi.gov.uk

Integration and Reshaping Care Division
Directorate for Health and Social Care Integration
Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Glossary of terms

Arrangements

Where a local authority enters into a contract with a care provider for the purpose of providing an individual with accommodation and/or services under the relevant legislation listed in section 86 of the 1968 Act. Anything less than contracting, such as assisting, is not arranging.

“Care provider” in this context means a person who is providing a care service (as defined in section 47 of the Public Services Reform (Scotland) Act 2010) which is registered under section 59 of the 2010 Act. The care provider may or may not be another local authority, depending on the circumstances.

Local authorities may wish to consider using the protocols provided at Annexes D-F for this purpose.

Assistance

Assistance includes the provision of information, help and advice to an individual who is considering moving out of area.

Responsible authority

It should be noted that definitions of ‘responsible authority’ are specific to their legislative purpose. For the purpose of this guidance, this term refers to the authority that has a duty or power to provide the individual with accommodation and/or services under: the Social Work (Scotland) Act 1968, Part II of the Children Scotland Act 1995, sections 25 to 27 of the Mental Health (Care and Treatment) (Scotland) Act 2003, or the Children’s Hearings (Scotland) Act 2011. The responsible authority may or may not be the local authority of ordinary residence. Responsibility ceases where an individual decides to move to another area of their own accord.

Self-arranger

Where an individual (or in cases where the individual lacks capacity, their proxy decision-maker) arranges care of their own accord, rather than a local authority arranging this.

Determining the ordinary residence of individuals who lack capacity: the English approach

R v Waltham Forest London Borough Council, ex Parte Vale (1985) Times 25 February

In determining the ordinary residence of individuals who lack capacity, the approach in England differs in that it encourages a broader view than that in Scotland. In England, one of the alternative tests in the case of *Vale* is applied.

Vale 1

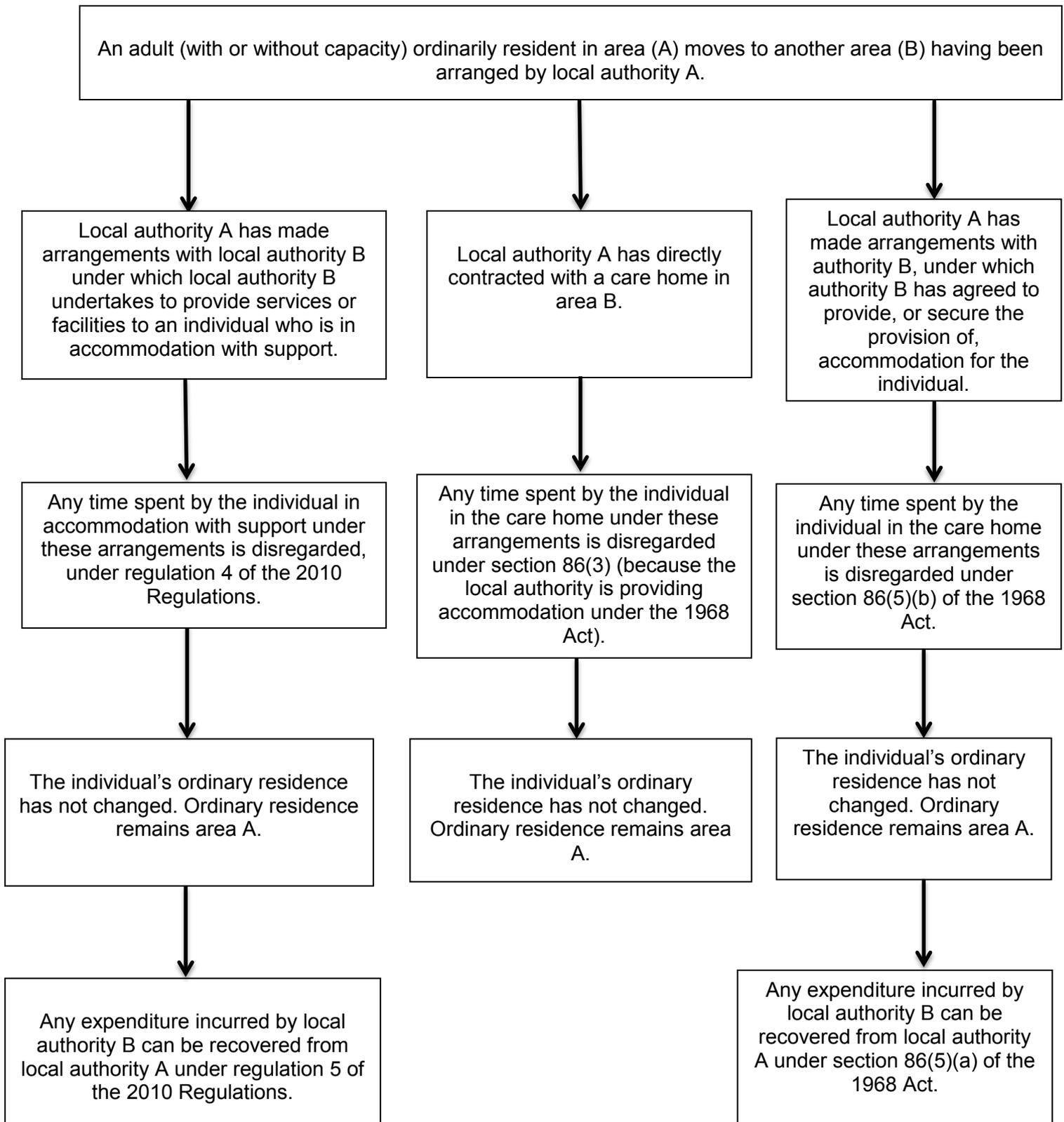
In this case, Taylor J set out that where a person's learning disabilities were so severe as to render them totally dependent on a parent or guardian then 'the concept of her having an independent ordinary residence of her own which she has adopted voluntarily and for which she has a settled purpose does not arise'. The judge rejected the possibility of the young person having an ordinary residence in a place that she had left or in a place where she may go in the future. This *Vale* test should only be applied in cases with similar material facts to those in *Vale*. Otherwise, the alternative test, *Vale 2*, should be applied.

Vale 2

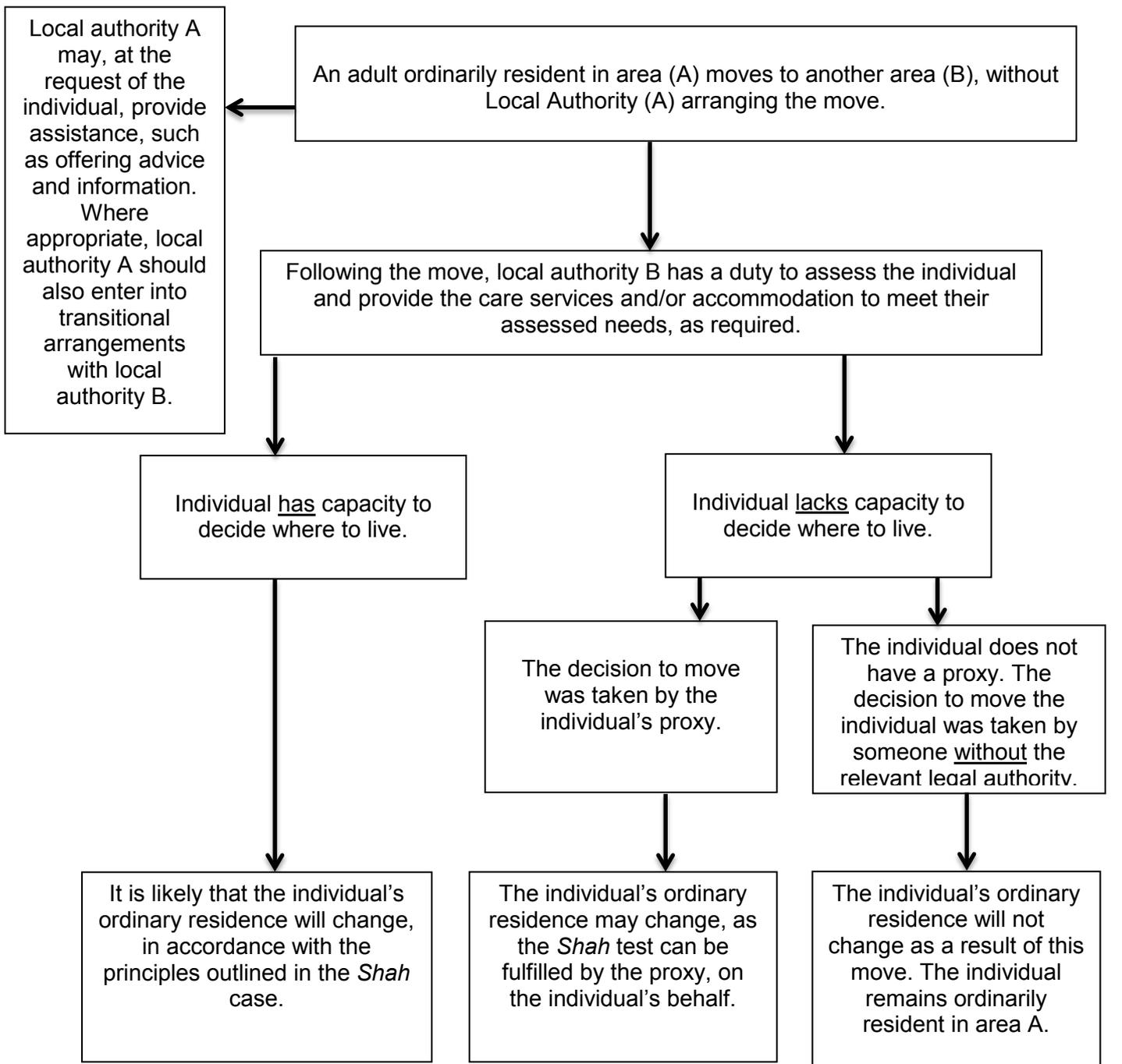
The alternative approach involves considering a person's ordinary residence as if they had capacity. All the facts of the person's case should be considered, including physical presence in a particular place and the nature and purpose of that presence as outlined in *Shah*, but without requiring the person themselves to have adopted the residence voluntarily.

Vale 2 has been developed through the case law, in relation to when and how the test applies for the purpose of determining ordinary residence in cases where the person whose ordinary residence requires to be determined lacks capacity. Most recently, the case of *R (on the application of Cornwall Council) v The Secretary of State for Health* has been heard by the Supreme Court. This is further to the decision of the Appeal Court in this case which held that the test for ordinary residence, as set out in *Shah*, should be adapted in cases where an individual lacks capacity, so to adopt factors similar to those applied for the purpose of establishing *habitual residence* including, for example, a person's physical presence and social and family ties to a place.

This guidance will be reviewed and, if necessary, amended following the decision of the Supreme Court in *Cornwall*.

Determining ordinary residence – arrangements made by a local authority

**Determining ordinary residence – individuals moving of their own accord
(self-arranger)**



Where the individual is determined to be ordinarily resident in area A, any expenditure incurred by local authority B can be recovered from local authority A, in accordance with section 86(1) of the 1968 Act.

PROTOCOL FOR ARRANGEMENTS MADE UNDER SECTION 86(4) OF THE SOCIAL WORK (SCOTLAND) ACT 1968 FOR THE RECOVERY OF EXPENDITURE ON RESIDENTIAL CARE UNDER SECTION 86(5)

This template is not prescriptive and can be adjusted as required to fit the specific circumstances of each case.

CLIENT DETAILS

Title	Last Name	Forename(s)	Date of Birth
Present Address			Reference/Case Number
Date Occupancy Began			
Previous Address			NI Number
Date Occupancy Began			

POWER OF ATTORNEY, GUARDIANSHIP ETC DETAILS

Does the client have the mental capacity to make decisions about their care and where they want to live?		
YES/NO		
Date and details of mental capacity assessment(s) undertaken		
If not, what arrangements are in place eg Power of Welfare Attorney, Guardianship etc (please specify)		
Name and Contact Details for Legal Guardian		
Title	Last name	Forename(s)

Address

Postcode

Tel no

CARE NEEDS AND FINANCIAL ASSESSMENTS

Summary of Care Needs Assessment (please attach a copy of the full assessment)

Reason for placement in residential care in an area other than the area of ordinary residence

Details of financial assessment (attach full assessment if appropriate)

TERMS OF AGREEMENT

This agreement is made under section 86(4) of the Social Work (Scotland) Act 1968 and is between(the provider²⁶) and(the responsible authority).

Which local authority will carry out care reviews and how often?

Will there be any financial adjustment to cover the cost of the care reviews and if so how will these be calculated?²⁷

²⁶ As defined by section 86(4) of the Social Work (Scotland) Act 1968.

²⁷ On the grounds of efficiency it would seem most appropriate for the providing authority to carry out reviews on behalf of the responsible authority. Subject to the terms of this protocol, the provider authority could then recover the associated costs from the responsible authority. It would seem reasonable to calculate any reimbursement on the basis of: Hourly Rate (including on costs) X Time taken to carry out assessment plus travelling costs and time.

<p>Is the client self-funding?</p> <p>Yes/No</p>
<p>If YES</p> <p>a) Which local authority will pay free personal and or nursing care?</p> <p>b) Which local authority will pay the care home fees (over and above any contribution from the client's revenue) when the client's capital falls below the threshold?</p>
<p>If NO</p> <p>Which local authority will pay the care home fees (over and above any contribution from the client's revenue)?</p>
<p>Which local authority will pay for any increase in the cost of care?</p>
<p>Which local authority is responsible for keeping the financial assessment under review?</p>
<p>Any other details to be recorded?</p>

LOCAL AUTHORITY CONTACT DETAILS

<p>Provider (enter council name)</p>	<p>Responsible Authority (enter council name)</p>
<p>Key Worker</p> <p>Name</p>	<p>Key Worker</p> <p>Name</p>

<p>Address</p> <p>Email</p> <p>Phone</p>	<p>Address</p> <p>Email</p> <p>Phone</p>
<p>Lead Officer</p> <p>Name</p> <p>Address</p> <p>Email</p> <p>Phone</p>	<p>Lead Officer</p> <p>Name</p> <p>Address</p> <p>Email</p> <p>Phone</p>
<p>Direct Payment Contact</p> <p>Name</p> <p>Address</p> <p>Email</p> <p>Phone</p>	<p>Direct Payment Contact</p> <p>Name</p> <p>Address</p> <p>Email</p> <p>Phone</p>

DECLARATION

The local authorities named in this protocol agree to abide by the terms of agreement set out above which is effective from(date).

<p>Authorised Signatory for Provider (enter council's name)</p> <p>Signature</p> <p>Name (please print)</p> <p>Position Date</p>	<p>Authorised Signatory for Responsible Authority (enter council's name)</p> <p>Signature</p> <p>Name (please print)</p> <p>Position Date</p>
---	--

PROTOCOL FOR ARRANGEMENTS MADE UNDER SECTION 86(6) OF THE SOCIAL WORK (SCOTLAND) ACT 1968 FOR THE RECOVERY OF EXPENDITURE FOR SERVICES

This template is not prescriptive and can be adjusted as required to fit the specific circumstances of each case.

CLIENT DETAILS

Title	Last name	Forename(s)	Date of Birth
Present address			Reference/Case Number
Date Occupancy began			
Previous Address			NI Number
Date Occupancy began			

REPRESENTATIVE/ POA / GUARDIANSHIP ETC DETAILS

Does the client have the mental capacity to make decisions about their care and where they want to live?		
YES/NO		
Date and details of mental capacity assessment(s) undertaken		
If not, what arrangements are in place e.g. Power of Welfare Attorney, Guardianship etc (please specify)		
Name and Contact Details for Legal Guardian		
Title	Last name	Forename(s)
Address		
Postcode	Tel no	

CARE NEEDS AND FINANCIAL ASSESSMENTS

Summary of Needs Assessment (Please attach a copy of the full assessment to this document)

Reason for move to accommodation with support in an area other than the area of ordinary residence

Details of financial assessment (attach full assessment if appropriate)

TERMS OF AGREEMENT

This agreement is made under section 86(6) of the Social Work (Scotland) Act 1968 and is between(the providing authority²⁹) and(the other authority³⁰).

Which local authority will carry out care reviews and how often?
Will there be any financial adjustment to cover the cost of the care reviews and if so how will these be calculated? ²⁸
Which local authority is responsible for the cost of care including any revised care packages put in place following a review?
Which local authority is responsible for keeping the financial assessment under review and collecting any charges?
Is the client in receipt of Direct Payments?
Yes/No
If Yes – have arrangements been made to ensure these continue where appropriate (give details)?
Any other details to be recorded?

²⁸ On the grounds of efficiency it would seem most appropriate for the providing authority to carry out reviews on behalf of the responsible authority. Subject to the terms of this protocol, the providing authority could then recover the associated costs from the other authority. It would seem reasonable to calculate any reimbursement on the basis of:
Hourly Rate (including on costs) X Time taken to carry out assessment plus travelling costs and time.

²⁹ As defined in section 86(6) of the Social Work (Scotland) Act 1968.

³⁰ As defined in section 86(6) of the Social Work (Scotland) Act 1968.

LOCAL AUTHORITY CONTACT DETAILS

Providing Authority (Name)	Other Authority (Name)
Key Worker Name Address Email Phone	Key Worker Name Address Email Phone
Lead Officer Name Address Email Phone	Lead Officer Name Address Email Phone
Direct Payment Contact Name Address Email Phone	Direct Payment Contact Name Address Email Phone

DECLARATION

The local authorities named in this protocol agree to abide by the terms of this agreement which is effective from(date).

<p>Authorised Signatory for Providing Authority (enter council's name)</p>	<p>Authorised Signatory for Other Authority (enter council's name)</p>
<p>Signature</p>	<p>Signature</p>
<p>Name (please print)</p>	<p>Name (please print)</p>
<p>Position</p>	<p>Position</p>
<p>Date</p>	<p>Date</p>

PROTOCOL FOR TRANSITIONAL FUNDING FOR SERVICES PROVIDED UNDER THE SOCIAL WORK (SCOTLAND) ACT 1968 - VOLUNTARY MOVES

This template is not prescriptive and can be adjusted as required to fit the specific circumstances of each case.

CLIENT DETAILS

Title	Last Name	Forename(s)	Date of Birth
Address client is moving from			Reference/Case Number
Date Occupancy Began			
Address client is moving to			NI Number
Date Occupancy Due to Begin			

POWER OF ATTORNEY, GUARDIANSHIP ETC DETAILS

Does the client have the mental capacity to make decisions about their care and where they want to live? YES/NO
Date and details of mental capacity assessment(s) undertaken.
If not, what arrangements are in place e.g. Power of Welfare Attorney, Guardianship etc (please specify)

Name and Contact Details for Legal Guardian		
Title	Last name	Forename(s)
Address:		
Postcode	Tel no	

CARE NEEDS AND FINANCIAL ASSESSMENTS

Summary of Care Needs Assessment (please attach a copy of the full assessment)
Reason for move (optional).

Details of financial assessment (attach full assessment if appropriate)
Is the client receiving Direct Payments? YES/NO

If yes, what arrangements, if any, have been made for these to continue?

TERMS OF AGREEMENT

This agreement is between(name of the local authority the individual is moving from “old authority”) and..... (name of the local authority the individual is moving to “new authority”).

1. From the date of the move (*enter date*),(name of old authority) agrees to continue to pay for the existing care package for a period of 3 calendar months/or such other period as may be agreed and specified here.
2. The amount paid by the old authority will cover the cost of providing the care package in place at the time of the move in the new area – but not any additional costs arising from a care review carried out during the transitional period which will be funded by the new authority (or specify alternative payment arrangements as agreed by both authorities).
3. At the end of the agreed transition period set out above..... (name of the “new authority”) agrees to take on responsibility for providing care services and for covering the cost of the care (over and above any charges levied on the individual).
4. Please set out here the details of any arrangements for charging the client for care during the transitional period. Maintaining charges at a consistent level throughout the transitional period may prove to be the most straightforward option, given the range of factors that could have an impact on this; e.g. old council’s charging policies are different from new council’s policies; variations in the cost of care between new and old authorities; variations arising for care review etc). The client should be made aware of charging arrangements during the transitional period.

Any other details to be recorded?

LOCAL AUTHORITY CONTACT DETAILS

Old Authority (enter council's name)	New Authority (enter council's name)
Key Worker Name Address Email Phone	Key Worker Name Address Email Phone
Lead Officer Name Address Email Phone	Lead Officer Name Address Email Phone

Direct Payment Contact	Direct Payment Contact
Name Address Email Phone	Name Address Email Phone

DECLARATION

The local authorities named in this protocol agree to abide by the terms of agreement set out above which is effective from(date).

Authorised Signatory for Old Authority (enter council's name)	Authorised Signatory for New Authority (enter council's name)
Signature	Signature
Name (please print)	Name (please print)
Position	Position
Date	Date



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