



**Policy**

**THE CARE ACT 2014:  
ASSESSMENT, ELIGIBILITY, AND CARE AND SUPPORT  
PLANNING**

**Statutory Basis for Policy**

The Care Act 2014

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## **CARE ACT 2014: ASSESSMENT, ELIGIBILITY AND CARE AND SUPPORT PLANNING**

### **1. INTRODUCTION & BACKGROUND**

The Care Act 2014 replaces numerous previous laws and builds on recent reviews and reforms to provide a single, coherent approach to adult social care in England. The aims of the Act include:

- a clearer and fairer approach to care and support;
- an approach that focuses on the physical, mental and emotional wellbeing of both the person needing care and their carer;
- the prevention and delay of the need for care and support;
- giving people control over their care; and
- collaboration and integration between local authorities and other public authorities, including health and housing to work seamlessly to meet care and support needs.

To achieve these aims, the Care Act outlines a number of changes in law and/or in practice that will affect all local authorities. The Act is divided into three main parts. Part One of the Act details the reform of adult social care legislation, and describes the journey through the reformed system for both the person receiving care and support and their carer. Part Two of the Act seeks to enhance the quality of care, by increasing transparency and putting people and their carers in control of their care and support. Part Three establishes Health Education England and the Health Research Authority.

This policy statement refers to Stockport Metropolitan Borough Council's statutory obligations regarding the sections of the Care Act that refer to the new requirement for; assessment, eligibility and support planning.

### **2. STATUTORY BASIS FOR THE POLICY**

#### **ASSESSMENT**

The Care Act was published as a Bill in the House of Lords in May 2013, and received Royal Assent on the 14th May 2014.

The Care Act consolidates existing social care legislation into a single statute.

**Sections 9 and 11** of the Care Act create a single legal duty that requires local authorities to carry out a needs assessment, in order to determine whether an adult has needs for care and support. The duty to assess replaces the existing legal duties; requirements of the assessment process have been updated, to include a focus on outcomes on the basis of best practice and existing policy.

The aim of the assessment is to identify what needs a person may have and what outcomes they are looking to achieve to maintain or improve their wellbeing. The local authority must involve the person, their carer and/or family within the assessment process. The outcome of the assessment will provide a full picture of the individual's needs, so that the local authority can provide an appropriate response at the right time, to meet the level of the needs.

An assessment must always be appropriate and proportionate, but can be presented in different formats and carried out in various ways, including but not limited to:

- A face-to-face assessment between the person and an appropriate, trained assessor
- A supported self-assessment
- An online or phone assessment
- A joint assessment, where relevant agencies work together to avoid the person undergoing multiple assessment
- A combined assessment, where an adults assessment is combined with a carers and/or child's assessment to capture interrelated needs

Where there are concerns about a person's capacity to make a specific decision, an assessment of capacity should be carried out under the Mental Capacity Act. Those who may lack capacity will need extra support to identify and communicate their needs and subsequent decisions.

Local authorities must ensure that an expert is involved in the assessment of adults who are deafblind, including where a deafblind person is carrying out a supported self-assessment jointly with the authority.

Where it appears that a person may be eligible for NHS Continuing Healthcare (CHC), local authorities must notify the relevant Clinical Commissioning Group (CCG). Individuals may require care and support provided by their local authority and/or services arranged by CCGs. Local authorities and CCGs must ensure that assessment of eligibility for care and support and CHC respectively take place in a timely and consistent manner.

The Care Act provides local authorities with the powers to meet urgent needs where they have not completed an assessment. Authorities may meet urgent need to care and support regardless of the person's ordinary residence. In such circumstances, the local authority should provide immediate response and meet the individual's care and support needs.

### **YOUNG CARERS ASSESSMENT**

The local authority has a duty to provide a needs assessment to any children providing care and support. Identification of a young carer should result in a needs assessment for the adult requiring care and support, and where appropriate the local authority must consider whether the child or young carer should be referred for a young carer's assessment or a

needs assessment under the Children Act 1989, or a young carer's assessment under **section 63 of the Care Act**.

### **CARERS ASSESSMENT**

**Section 10** of the Care Act, creates a single duty for local authorities to undertake a carers assessment, on the basis of the appearance of a need for support. This duty is new in law and practice and under a lower threshold for assessment than the current law. **Section 10** removes the existing requirement that a carer must be providing "a substantial amount of care on a regular basis". **Section 20**, introduces a new legal obligation on the local authority to meet a carers need for support.

An adult with possible care and support needs or a carer may choose to refuse to have an assessment. In such circumstances, local authorities are not required to carry out an assessment. However where the local authority identifies the adult lacks mental capacity, carrying out a needs assessment would be in the adult's best interests, the local authority is required to do so.

### **ASSESSMENT REGULATIONS**

**Section 12** of the Care Act, also applicable to carers, allows for regulations to specify further details about the assessment process, including; requiring the assessment to be appropriate and proportionate, specialist assessments, self-assessments and considering the needs of the whole family. Regulations may also specify when a local authority should refer a person for assessment by the NHS, where there are continuing NHS healthcare needs.

Assessment regulations are new in law but not new in policy, and replace existing directions in relation to assessment.

### **ELIGIBILITY**

After an assessment, the local authority must determine whether the person has eligible needs for care and support. **Section 13** sets out the new eligibility criteria; including the national minimum level of eligibility for which local authorities must meet a person's care and support. The duty to determine eligible needs replaces the existing requirement to do so, following the assessment, and is thus new in law and practice.

The eligibility threshold for adults with care and support needs is set out in the Care and Support (Eligibility Criteria) Regulations 2014. The national minimum threshold for eligibility is now consistent across England; and replaces existing local thresholds and current statutory guidance. The threshold is based on identifying how a person's needs affect their ability to achieve relevant outcomes, and how this impacts on their wellbeing.

In considering whether an adult with care and support needs has eligible needs, local authorities must consider whether:

- The adult's needs arise from or are related to a physical or mental impairment or illness
- As a result of the adult's needs the adult is unable to achieve two or more of the specified outcomes (Please read in conjunction with the Care Act Statutory Guidance for Implementation; assessment and eligibility)
- As a consequence of being unable to achieve these outcomes there will, or there will likely be, a significant impact on the adult's wellbeing

An adult's needs are only eligible when they meet all three of the above conditions.

**Section 13** requires local authorities to determine whether a person has eligible needs after they have carried out a needs assessment or a carer's assessment. The national eligibility threshold for carers is also set out in the Care and Support (Eligibility Criteria) Regulations 2014. The threshold is based on the impact a carer's needs for support has on their wellbeing. In considering whether a carer has eligible needs, local authorities must consider whether:

- The needs arise as a consequence of providing necessary care for an adult
- The effect of the carer's needs is that any of the circumstances specified in the Eligibility Regulations apply to the carer
- As a consequence of that fact there is, or there is likely to be, a significant impact on the carer's wellbeing

A carer's needs are only eligible when they meet all three of the above conditions.

The assessment and eligibility process provides a framework to identify any level of need for care and support so that local authorities can consider how to provide a proportionate response at the right time, based on the individual's needs. Prevention and early intervention are placed at the centre of the care and support system; even if a person has needs that are not eligible at that time, the local authority must provide information and advice, other preventative services or support available within the community.

### **CARE AND SUPPORT PLANNING**

**Sections 24 and 25** details new legal responsibilities for local authorities to provide care and support plans and carers' support plans; the required detail of the plans reflects existing best practice in care planning. Care and support plans should put people in control of their care, with the support they need to enhance their wellbeing and improve connections to family, friends and the community.

Local authorities must ensure the care and support plan process should be person-centred and person-led, in order to meet the needs and outcomes of the person intended, in ways that work best for them as an individual or part of a family. Local authorities should also

have regard to how needs may be met beyond the provision, or arrangement, of services by the authority.

Local authorities must include the requirements of the Mental Capacity Act (MCA) 2005 if the person lacks capacity, when developing a care and support plan.

In line with the least restrictive principles in the MCA, local authorities and others drawing up plans must minimise planned restrictions and restrains on the person as much as possible. However, if the degree and intensity of restrictions and restrains are so significant that they amount to a deprivation of liberty, this must be authorised under the Deprivation of Liberty Safeguards under the MCA.

If, after an assessment, a person does not have needs that the local authority should meet, the local authority must still advise people on what needs they do have, and how to meet those needs or prevent further needs from developing.

## **PERSONAL BUDGET**

**Section 26** of the Care Act defines the new legal duty for local authorities to provide a personal budget for people with care and support needs, and requirements to do so reflect both practice and agreed policy priorities.

The personal budget is a mechanism that, in conjunction with the care and support plan, or support plan, enables the person, or their advocate, to exercise greater choice and take control over how their care and support needs are met. The personal budget is an important tool that gives the person clear information regarding the money that has been allocated to meet their needs identified in the assessment and recorded in the plan. An indicative amount should be shared with the person, and anybody else involved, at the start of care and support planning, with the final amount of the personal budget confirmed through this process

There are three main ways in which a personal budget can be deployed:

- As a managed account held by the local authority with support provided in line with the persons wishes
- As a managed account held by a third party with support provided in line with the persons wishes
- As a direct payment; the legislative context for direct payments is set out in the Care Act, section 117(2C), of the Mental Health Act 1983 (the 1983 Act) and the Care and Support (Direct Payments) regulations 2014

A person may also choose a 'mixed package' that included elements of some, or all three approaches above.

Local authorities must ensure the process used to establish the personal budget is transparent; it must clearly state how their budget was calculated and the method used is robust to give people confidence the personal budget allocated is correct and therefore

sufficient to meet their care and support needs. The allocation of a clear upfront indicative (or 'ballpark') allocation at the start of the planning process is essential to enable people to develop the plan and make appropriate choices over how their needs are met.

The personal budget is an important part of every plan, unless the person is receiving intermediate care or reablement support to meet their needs. The Care and Support (Personal Budget Exclusion of Costs) Regulation 2014 outline the provision of intermediate care and reablement services, for which the local authority cannot or chooses not to make a charge.

### **CARERS' PERSONAL BUDGET**

Carers, may receive a personal budget in their own right, which will be a statement showing the costs of meeting their needs, as part of their support plan.

Where a service is provided directly to the adult needing care even though it is to meet the carer's needs, then that adult would be liable to pay any charge, and must agree to do so.

**Section 14** of the Act makes clear that where the needs are met by providing care and support direct to the adult needing care, the charge may not be imposed on the carer.

Where a local authority is meeting the needs of a carer by providing a service directly to a carer, it has the power to charge them.

### **REVIEW OF THE CARE AND SUPPORT PLAN**

**Section 27** places a new legal duty on local authorities to keep care and support plans and carers' support plans under review, and to carry out an assessment where they feel are satisfied the persons circumstances have changed. The adult can also make a reasonable request to have a review.

**Section 27** of the Act is a new legal duty, that reflects existing practice and case law in relation to the local authorities ongoing responsibility.

### **INDEPENDENT ADVOCACY SUPPORT**

**Sections 67-68** place a duty on local authorities, in certain specified circumstances, to arrange an independent advocate to be available to facilitate the involvement of an adult or carer who is the subject of an assessment, care or support planning, or review. This is a new duty, in law and in practice.

Local authorities must consider whether the adult would experience substantial difficulty in any of the following areas; understanding the information provided; retaining the information; using or weighing up the information as part of the process of being involved; and communicating the person's views, wishes or feelings.

Where a person has substantial difficulty in any of the above, four areas, they would need assistance, and the local authority must find someone appropriate and independent to support and represent the person.

### **3. POLICY STATEMENT**

#### **ASSESSMENT**

Stockport Metropolitan Borough Council will carry out an assessment, in order to determine whether an adult has needs for care and support. The assessment will always be appropriate and proportionate and will be carried out by a trained assessor.

Where appropriate, Stockport Metropolitan Borough Council will consider whether a child or young carer should be referred for a young carer's assessment or a needs assessment.

Stockport Metropolitan Borough Council will undertake a carers assessment, on the basis of the appearance of a need for support.

Stockport Metropolitan Borough Council will make provisions where there are concerns about a person's capacity and will provide extra support to identify and communicate their needs and subsequent decisions throughout the assessment process.

#### **ELIGIBILITY**

After an assessment, Stockport Metropolitan Borough Council will determine whether a person has eligible needs for care and support by applying the national minimum eligibility criteria.

After a carers' assessment, Stockport Metropolitan Borough Council will determine whether a carer is eligible for support in their own right, adhering to the national eligibility threshold for carers.

Stockport Metropolitan Borough Council will ensure prevention and early intervention is placed at the centre of the care and support system. If a person has needs that are not eligible at the time, Stockport Metropolitan Borough Council will provide information and advice, other preventative services or signpost to support available within the community.

#### **CARE AND SUPPORT PLANNING**

Stockport Metropolitan Borough Council will provide care and support plans and carers' support plans, and will ensure the planning process is person-centred and person-led; involving the individual and/or their family throughout the process.

Stockport Metropolitan Borough Council will include the requirements of the Mental Capacity Act 2005 if the person lacks capacity, when developing a care and support plan.

Stockport Metropolitan Borough Council, regardless of needs that can be met, will still advise people on; what needs they do have, and how to meet those needs, or how to prevent further needs from developing.

Stockport Metropolitan Borough Council will keep care and support plans under review, and will carry out an assessment if a person's circumstances change.

### **PERSONAL BUDGET**

Stockport Metropolitan Borough Council will provide a personal budget for people with care and support needs.

Stockport Metropolitan Borough Council will ensure the process used to establish the personal budget is transparent, outlining the calculated costs and the method used.

Stockport Metropolitan Borough Council will provide a carers' personal budget as part of their support plan with a statement showing the costs of meeting their needs.

### **INDEPENDENT ADVOCACY**

Stockport Metropolitan Borough Council, under specific circumstances, will arrange an independent advocate for an adult or carer under an assessment, care or support planning, or review.