

Assessments under the Care Act



Introduction

The assessment and eligibility process is one of the most important elements of the care and support system.

Under the Care Act, local authorities must ensure that any adult who appears to require care and support, including carers with support needs, has their needs assessed.

This is irrespective of their likely eligibility for state-funded care.

Introduction

The whole point of the assessment is to work out if the person has needs for care and support and to see if the Local Authority is under a duty to meet these needs.

But before we look at HOW they make this decision, lets have a look at some of the things the Local Authority has to do when they undertake an assessment of a persons needs.

Introduction

Advocates can support a person to

- ask for an assessment
- understand what is likely to happen during the assessment
- prepare for an assessment
- choose what type of assessment they have
- complete a self assessment
- identify if they need the assessor to make reasonable adjustments
- participate in an assessment
- understand decisions following the assessment

Introduction

The local authority is under a legal duty to:

- carry out an assessment for anyone who appears to require care and support
- focus the assessment on the person's needs and how they impact on their wellbeing
- include what outcomes the person wants to achieve
- consider other things besides care services that can contribute to the desired outcomes (e.g. preventative services, community support)
- use the new national minimum threshold to judge eligibility for publicly funded care and support

Assessments - for everyone

Local authorities must undertake an assessment for anyone who appears to have any level of needs for care and support AND any carer i.e. if the person appears to have needs for care and support they will be entitled to an assessment.

This is regardless of a person's financial situation. It is important to remember that people who self fund can still ask the local authority to help arrange care and support and EVERYONE has rights to access information and advice. This is one of the reasons why assessments are available to everyone - including self-funders.

Assessments - appropriate

Assessments should be appropriate and proportionate.

This means the assessment process must be flexible and should be adapted to best fit with the person's needs, wishes and goals. Assessments will not be the same for all people, and depending on the circumstances, it could range from an initial contact which helps a person with lower needs to access support in their local community, to a more intensive, ongoing process which requires the input of a number of professionals over a longer period of time.

Louiza has a learning disability and struggles to concentrate for periods of longer than 20 minutes. With her advocate, she requested the assessment was completed over a number of meetings - each lasting no more than 20 minutes. This ensured that the assessment was appropriate and proportionate and she was able to fully participate.

Assessments - carer blinkered

The assessment process is a means of helping the person to understand their needs, how they can be met, and how they can achieve their outcomes. This might not necessarily be through enabling access to care services, but could also involve networks of support, universal services, or the person's own strengths.

However the assessment should not exclude needs that are being met informally (or formally) through current arrangements. For instance if the person has needs for support to use the toilet in the middle of the night and their partner currently helps them with this, the assessment must still include the persons needs for help during the night to use the bathroom. Just because they do not need the local authority to help meet these needs, they are needs nonetheless.

Assessments - carer blinkered

This so called 'carer blinkered' aspect of assessment is a new requirement in the guidance. It aims to ensure that the entirety of a person's needs is identified during assessment so that, if the carer feels unable or unwilling to carry out some or all of their caring in the future, the person's needs have already been assessed and the local authority can take steps to meet them without further assessment.

As the person's advocate you should support the person to identify all of their needs - even the ones they are being supported with.

Assessments - rights to information

It is, of course, a basic requirement that people should be informed that they are being assessed and information must be shared about what they might expect from the assessment process – its format, timescales, rights to complain, and the ways in which they can be involved.

This should always happen in advance, not just to ensure the person understands the process but because they may need to ask for adjustments to make the assessment accessible and fair.

There is also a right to refuse assessment in certain situations.

Refusing an Assessment

A person with possible care and support needs or a carer may refuse to have an assessment. This could be because, for instance, they do not feel that they **need care** or they may not **want** local authority support. If someone refuses an assessment and has capacity, they are generally entitled to choose to do so.

The local authority must carry out an assessment at a later time if requested by a person who initially refuses assessment. If the local authority later establishes that the person's needs or circumstances have changed, the guidance states that "... *the local authority must consider whether it is required to offer an assessment, unless the person continues to refuse*"

Refusing an Assessment

Where the local authority has identified that an individual lacks the capacity to refuse an assessment and that carrying out an assessment would be in their best interests, the local authority is required to do so. Similarly, if the local authority believes that an adult is experiencing, or is at risk of experiencing, any abuse or neglect they must begin an assessment, regardless of refusal.

Where a person lacks the capacity to e.g. refuse an assessment, request an assessment, or express their needs, good practice would include appointing an advocate. The guidance states *“The local authority must in these situations carry out supported decision making, supporting the adult to be as involved as possible in the assessment, and must carry out a capacity assessment. The requirements of the Mental Capacity Act and access to an Independent Mental Capacity Advocate apply for all those who may lack capacity”*.

Different assessments

We will now look at

- **a needs assessment for the adult (or young person in transition)**
 - **a carer's assessment**

Assessments - for carer's

Where an individual provides care, or intends to provide care, the local authority must consider assessment if the carer appears to have any level of **need for support**. The important thing here is 'any level' of need for support - it does not need to be classed as 'substantial' or even 'regular' care (to be defined as a carer).

Assessments - for carer's

In the definition of a carer in section 10 (3) of the Care Act, someone is not considered a carer where care is provided as part of a contract or if they are a volunteer. However, the local authority has the option to view a person as a carer if they feel it is appropriate, even if they provide care on a contractual or voluntary basis, or if part of the care they provide is contractual or voluntary.

Assessments - for carer's

The exploration of **sustainability** of the caring role (including practical and emotional support the carer provides) must consider whether the carer is currently able – and will continue to be able - and is willing to continue to care for the person.

The guidance tells us that *“Where appropriate these views may be sought in a separate conversation independent from the adult’s needs assessment”*(6.18). This is because such a conversation may be sensitive and difficult to manage with both the adult and their carer in the room.

It is important for advocates to think of the dynamic of the situation and talk to the carer about requesting separate meetings especially if they may feel uncomfortable speaking openly about their needs.

Assessments - young carers

Young carers are children under 18 with caring responsibilities. As part of the whole family approach, if there is a disabled adult being cared for, then the local council has a duty to consider whether there are any children involved in providing that care, and if so, what the impact is on that child.

The local council have a duty to assess 'on the appearance of need' (i.e. without a 'request' having to be made). They also have a more general duty to 'take reasonable steps' to identify young carers in their area.

Assessments - young carers

The local authority must involve the child with caring responsibilities, their parents and any other person the young carer requests in the assessment process. The assessment itself must look at whether or not the young carer wishes to continue caring, and whether it is appropriate for them to continue caring. When doing this they have to take into account any education, training, work or recreational activities the young carer is or wishes to participate in.

Assessment - child's needs assessment

Where it appears to a local authority that a child is likely to have needs for care and support after becoming 18, the authority must, if it is satisfied that it would be of significant benefit to the child to do so and assess:

- whether the child has needs for care and support and, if so, what those needs are, and
- whether the child is likely to have needs for care and support after becoming 18 and, if so, what those needs are likely to be.

Assessment - child's needs assessment

The local authority must gain consent from the child (if the child has capacity or is competent to consent to a child's needs assessment being carried out). If the child lacks capacity or is not competent to consent the authority must be satisfied that carrying out a child's needs assessment would be in the child's best interests.

If however the child is experiencing or is at risk of abuse or neglect, consent is not required.

Assessment - child's needs assessment

A local authority, in carrying out a child's needs assessment, must involve the child, their parents and/or any carer(s) and any person whom the child or a parent or carer of the child requests the local authority to involve.

Once the assessment has been completed the local authority must give the child:

- an indication as to whether any of the needs for care and support are likely to meet the eligibility criteria (and, if so, which ones are likely to do so), and
- advice and information about what can be done to meet or reduce the needs which it thinks the child is likely to have after becoming 18 AND what can be done to prevent or delay the development by the child of needs for care and support in the future.

Where the child is not competent or lacks capacity to understand this information the local authority is required to give this information to the child's parents.

**Lets look at what is
involved in the
assessment**

What happens in the assessment?

There are three parts to the assessments (or three questions that must be answered)



Needs

Does the adult's needs arise from or are related to a physical or mental impairment or illness?

Outcomes

As a result of the adult's needs is the adult unable to achieve two or more of the specified outcomes?

Wellbeing

As a consequence of being unable to achieve these outcomes there is, or there is likely to be, a significant impact on the adult's wellbeing.

Assessing needs



The first part of the assessment is establishing whether the adult's needs arise from, or are related to a physical or mental impairment or illness and are not caused by other circumstantial factors.

The authority should base their judgement on the assessment of the adult - a formal diagnosis of the condition should not be required.

Assessing needs



Outcomes

The second condition that authorities must consider is whether the adult is 'unable' to achieve 2 or more of the following outcomes: *(for more information see next two pages)*

- Managing and maintaining nutrition
- Maintaining personal hygiene
- Managing toilet needs
- Being appropriately clothed
- Being able to make use of the adult's home safely
- Maintaining a habitable home environment
- Developing and maintaining family or other personal relationship
- Accessing and engaging in work, training, education or volunteering
- Making use of necessary facilities or services in the local community, including public transport, and recreational facilities or services
- Carrying out any caring responsibilities the adult has for a child

Managing and maintaining nutrition Local authorities should consider whether the adult has access to food and drink and that the adult is able to prepare and consume the food and drink.

Maintaining personal hygiene This might include the adult's ability to wash themselves, manage their personal hygiene and launder their clothes

Managing toilet needs Local authorities should consider the adult's ability to access and use a toilet and manage their toilet needs.

Being appropriately clothed Local authorities should consider the adult's ability to dress themselves and to be appropriately dressed, for instance in relation to the weather.

Being able to make use of the home safely Local authorities should consider the adult's ability to move around the home safely, which could for example include getting up steps, using kitchen facilities or accessing the bathroom.

Maintaining a habitable home environment This includes how the adult's home is clean and safe - including amenities, such as water, electricity and gas

Developing and maintaining family or other relationships Local authorities should consider whether the adult is lonely or isolated, either because their needs prevent them from maintaining current or from developing new relationships

Accessing & engaging in work, training, education or volunteering This should include considering whether the adult has opportunity to contribute to society through work, training, education or volunteering, as per their wishes

Making use of facilities or services in the community This could include the adult's ability to get around in the community safely and how they use facilities such as public transport, shops or recreational facilities.

Carrying out any caring responsibilities for a child Local authorities should consider any parenting or other caring responsibilities the person has.

'Unable to achieve'

Regulations tell us that being 'unable' to achieve 2 or more of the outcomes not only means when the person is unable to achieve the outcome but also where the adult is unable to achieve the outcome without assistance, for example, some adults may be physically able to wash but need reminding or prompting.

It also includes where the adult is able to achieve the outcome without assistance but:

- doing so causes the adult significant pain, distress or anxiety. For example, an older person with severe arthritis may be able to prepare a meal, but doing so will leave them in severe pain and unable to eat the meal
- doing so endangers or might endanger the health or safety of the adult, or others
- it takes significantly longer than would normally be expected. For example, an adult with a physical disability is able to dress themselves in the morning, but it takes them a long time to do this, leaves them exhausted and prevents them from achieving other outcomes

Assessing needs



The third condition that must be met is that local authorities must consider whether the adult's needs and their inability to achieve the outcomes above cause or risk causing a significant impact on their wellbeing.

In doing so, local authorities should consider whether:

- the adult's inability to achieve the outcomes above impacts on at least one of the areas of wellbeing in a significant way
- the effect of the impact on a number of the areas of wellbeing mean that there is a significant impact on the adult's overall wellbeing

Note that the term 'significant' is not defined by the regulations, and must therefore be understood to have its everyday meaning.

Assessment - for carers

Carers can be eligible for support in their own right regardless of whether the person for whom they care has eligible needs. Carers will be eligible for support if:



Needs

they have needs due to providing necessary care for an adult

Outcomes

as a result of those needs they are unable to achieve one or more specified outcomes or their health is (or is at risk of) deteriorating

Wellbeing

as a consequence there is a significant impact on their wellbeing.

Assessing needs - for carers



Local authorities must consider whether the carer's need for support arises because they are providing care to an adult.

Carers can be eligible for support whether or not the adult for whom they care has eligible needs.

The carer must be providing necessary care. If the carer is providing care and support for needs which the adult is capable of meeting themselves, the carer may not be providing necessary support. In such cases, local authorities should provide information and advice to the adult and carer about how the adult can use their own strengths or services available in the community to meet their needs.

Assessing needs - for carers



Outcomes

The second condition that authorities must consider is whether the adult is 'unable' to meet any of the following outcomes (*for more information see next two pages*)

To be eligible, a carer must be unable to achieve any of the following outcomes:

- carrying out any caring responsibilities the carer has for a child
- providing care to other persons for whom the carer provides care
- maintaining a habitable home environment
- managing and maintaining nutrition
- developing and maintaining family or other significant personal relationships
- engaging in work, training, education or volunteering
- making use of necessary facilities or services in the local community
- engaging in recreational activities

Carrying out any caring responsibilities the carer has for a child

Local authorities should consider any parenting or other caring responsibilities the carer has for a child in addition to their caring role for the adult. For example, the carer might be a grandparent with caring responsibilities for their grandchildren while the grandchildren's parents are at work.

Providing care to other people Local authorities should consider any additional caring responsibilities the carer may have for other adults. For example, a carer may also have caring responsibilities for a parent in addition to caring for the adult with care and support needs

Maintaining a habitable home environment Local authorities should consider whether the condition of the carer's home is safe and an appropriate environment to live in and whether it presents a significant risk to their wellbeing. A habitable home should be safe and have essential amenities.

Managing and maintaining nutrition Local authorities should consider whether the carer has the time to do essential shopping and to prepare meals for themselves and their family

Developing and maintaining family or other relationships Local authorities should consider whether the carer is in a position where their caring role prevents them from maintaining key relationships with family and friends or from developing new relationships.

Engaging in work, training, education or volunteering Local authorities should consider whether the carer can continue in their job, and contribute to society, apply themselves in education, volunteer to support civil society or have the opportunity to get a job, if they are not in employment.

Making use of necessary facilities or services in the local community Local authorities should consider whether the carer has an opportunity to make use of the local community's services and facilities and for example consider whether the carer has time to use recreational facilities such as gyms or swimming pools.

Engaging in recreational activities Local authorities should consider whether the carer has leisure time, which might for example be some free time to read or engage in a hobby.

Assessing needs - for carers



The third condition that must be met is that local authorities must consider whether the carer's needs and their inability to achieve the outcomes above present a significant impact on the carer's wellbeing.

In doing so, local authorities should consider whether:

- the carer's needs and inability to achieve the outcomes impact on an area of the carer's wellbeing in a significant way
- the impact on a number of the areas of wellbeing is such that they have a significant impact on an adult's overall wellbeing

Following the assessment

The point of the assessment is to decide whether the person has 'eligible' needs that will be met by the local authority.

After the assessment the person must be given a copy of the assessment. A copy must also be shared with anyone else the individual requests the local authority to share a copy with (such as the advocate!)

What happens next depends on whether the person has eligible needs or not.

Following the assessment - ineligible needs

If the local authority has completed the needs or carer's assessment but is not required to meet those needs and decides not to, it must give the person concerned

- ▶ written reasons for not meeting needs,
- ▶ advice and information about what can be done to meet or reduce the needs;
- ▶ advice and information about what can be done to prevent/delay development of needs in the future.

If this is the case then the advocate can remain involved:

- To help the person understand the decision
- To challenge the decision if the person (or the advocate) feels the process or decision was not in line with legislative frameworks.

Following the assessment - ineligible needs

Remember that a local authority can still decide to meet needs - even if the person has not reached the eligibility requirement.

A local authority has a discretionary power to still meet need and may choose to do this when it is likely that the person's needs are going to increase without support. The local authority may see providing some care and support now as a way of preventing future needs.

As an advocate you can request this as appropriate.

Following the assessment - eligible needs

If the local authority is required to meet needs or decides to do so it must:

- ▶ agree with the adult which of their needs they would like the local authority to meet
- ▶ prepare a care and support plan or, or support plan,
- ▶ tell the person which (if any) of the needs that it is going to meet, may be met by direct payments, and
- ▶ help the person with deciding how to have the needs met.

The advocate would stay involved and offer support to the person in working out how they would like their needs met - this would take place at the planning stage.

Checklist for the advocacy role

Before the assessment

- Support the person to
 - understand what will happen in the assessment
 - make decisions about the type of assessment.
 - identify any reasonable adjustments
- Go through the 'outcomes' and support the person to identify which ones they are 'unable to achieve'
- Explore how their needs impact on wellbeing

During the assessment

- Ensure any adjustments are arranged
- Agree with the person beforehand how they want you to support them
- Ensure any questions and information are put in a way that is understandable
- Check the person has communicated everything they want to

After the assessment

- Check a copy of the assessment is provided
- Support the person to understand the outcome/decision
- Explore what next (do they want to challenge any aspect of the assessment or are they moving on to the planning stage)

Please return to your
e-learning for the
next section of
learning

