

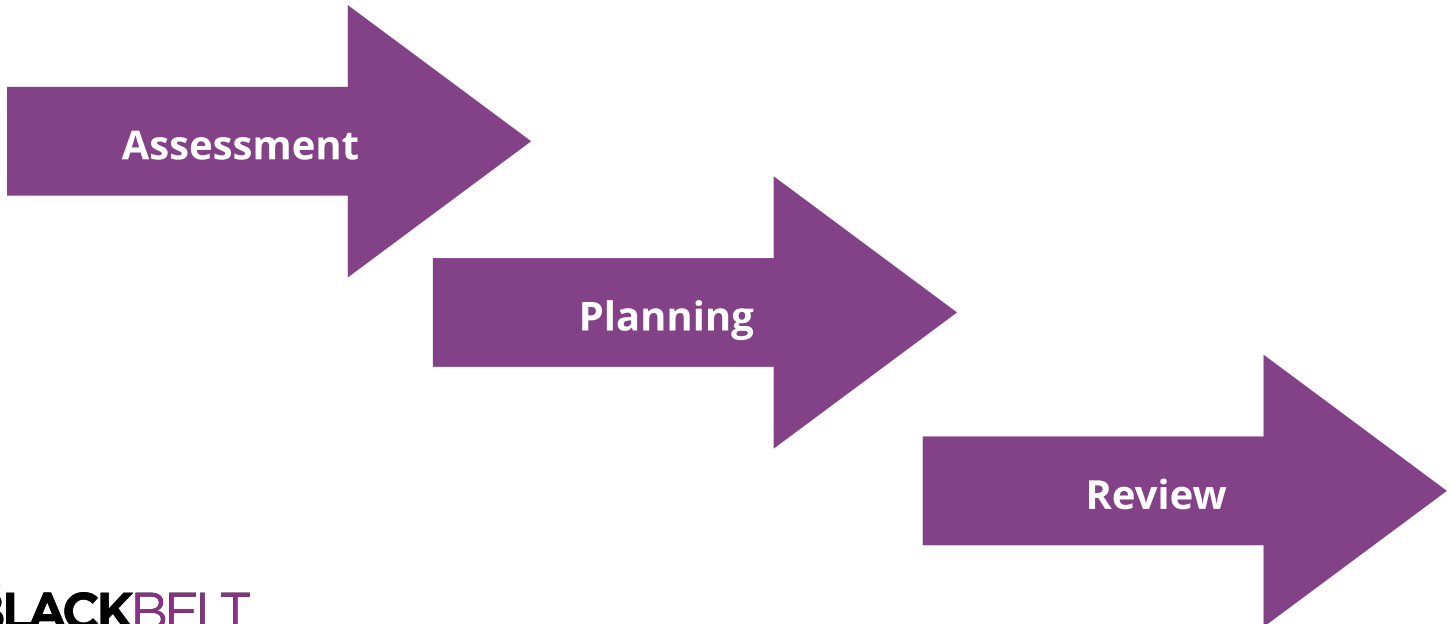


# The Care Act 2014

# Introduction

The Care Act provides a clear framework for assessing, meeting and reviewing the care and support needs of adults (or young people approaching adulthood who are likely to have adult support needs), It also sets out the process to do this for carers who have support needs.

There are three steps within this which we will explore in this information book.



# Assessment

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.

The local authority therefore has 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

# 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"

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.

# The Assessment

The point of the assessment is to establish if the person has ELIGIBLE care and support needs (or support needs if they are a carer).

The Local Authority can only reach this decision after assessing the person. As part of the assessment the local authority must involve the person being assessed, any carer(s) and any person whom the person being assessed asks the authority to involve or, where they lack capacity to ask the authority to do that, any person who appears to the authority to be interested in the welfare of the person being assessed.

# The Assessment

The assessment itself must be appropriate and proportionate – this means it is flexible and adaptable to fit with the person's needs and is proportionate to the severity of the need and the complexity of the situation. For example the assessment might be carried out on the phone or online where needs are easily recognisable. Questions which should be considered by the local authority when determining what an appropriate and proportionate assessment should look like

- How severe/extensive are needs?
- Do needs fluctuate?
- How complex are the circumstances?
- How significant are the impacts of these needs?
- What are the strengths of the person and any carers?
- What are their desired outcomes/preferences?
- Does the person have capacity?
- Does the organisation have historical information that can inform the assessment? Does the person have any difficult engaging in the assessment?

# The Assessment

There are three parts to the assessment:



Step 1

The adult's needs arise from or are related to a physical or mental impairment or illness



Step 2

As a result of the adult's needs, the adult is unable to achieve two or more of the outcomes set out in the regulations



Step 3

As a consequence there is, or there is likely to be, a significant impact on the adult's wellbeing

# Step 1 - Needs Assessment



Step 1



The adult's needs arise from or are related to a physical or mental impairment or illness

The first condition that local authorities must be satisfied about is that the adult's needs for care and support are due to a physical or mental impairment or illness and that they are not caused by other circumstantial factors.

Local authorities must consider at this stage if the adult has a condition as a result of either physical, mental, sensory, learning or cognitive disabilities or illnesses, substance misuse or brain injury.

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



# Step 2 - Needs Assessment



Step 2

As a result of the adult's needs, the adult is unable to achieve two or more of the outcomes set out in the regulations

The second condition that authorities must consider is whether the adult is “unable” to achieve two or more of the outcomes set out in the regulations. Authorities must also be aware that the regulations provide that “being unable” to achieve an outcome includes any of the following circumstances, where the adult:

- is unable to achieve the outcome without assistance.
- is able to achieve the outcome without assistance but doing so causes the adult significant pain, distress or anxiety
- is able to achieve the outcome without assistance, but doing so endangers or is likely to endanger the health or safety of the adult, or of others
- is able to achieve the outcome but takes significantly longer than would normally be expected. prevents them from achieving other outcomes.

# Step 2 - Needs Assessment

The Eligibility Regulations set out a range of outcomes. Local authorities must consider whether the adult is unable to achieve two or more of these outcomes when making the eligibility determination.

- managing and maintaining nutrition. Local authorities should consider whether the adult has access to food and drink to maintain nutrition, and that the adult is able to prepare and consume the food and drink
- maintaining personal hygiene. Local authorities should, for example, consider the adult's ability to wash themselves 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 to maintain their health
- 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.

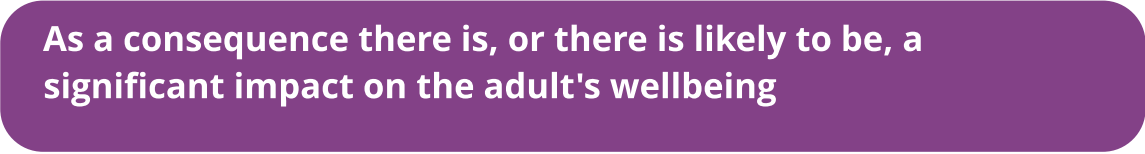
# Step 2 - Needs Assessment

- maintaining a habitable home environment. Local authorities should consider whether the condition of the adult's home is sufficiently clean and maintained to be safe.
- developing and maintaining family or other personal relationships.
- accessing and engaging in work, training, education or volunteering. Local authorities should consider whether the adult has an opportunity to apply themselves and contribute to society through work, training, education or volunteering, subject to their own wishes in this regard.
- making use of necessary facilities or services in the local community including public transport and recreational facilities or services. Local authorities should consider the adult's ability to get around in the community safely and consider their ability to use such facilities as public transport, shops or recreational facilities when considering the impact on their wellbeing.
- carrying out any caring responsibilities the adult has for a child. .

# Step 3 - Needs Assessment



Step 3



As a consequence there is, or there is likely to be, a significant impact on the adult's wellbeing

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.

# Recap - eligible needs

To have eligible needs the local authority will need to assess 'yes' to ALL three of the following steps:

Step 1

The adult's needs arise from or are related to a physical or mental impairment or illness

Step 2

As a result of the adult's needs, the adult is unable to achieve two or more of the outcomes set out in the regulations

Step 3

As a consequence there is, or there is likely to be, a significant impact on the adult's wellbeing

# Following the assessment

After the local authority has completed the assessment they must give a copy of the assessment to the person and anyone else the individual requests the local authority to share a copy with.

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

- 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 in the person's case may be met by direct payments, and
- help the person with deciding how to have the needs met.

# Care planning

A person with eligible care and support needs will have a care and support plan which outlines how these needs will be met: carers will be entitled to have a support plan.

The plan describes what eligible needs the person has, and which needs the local authority will meet, taking into consideration any needs that are being met by a carer. In addition, it must include a tailored package of information and advice on how to delay and/or prevent the needs the local authority is not meeting.

Everybody will have a personal budget as part of their plan that identifies the cost of their care and support and the amount that the local authority will pay towards it, regardless of their care setting.

# Care planning

Local authorities must ensure that sufficient time is taken to enable the plan is appropriate to meet the needs of the person, and is proportionate to the needs to be met. The content of the plan must be finalised with the person and any other people that the person requests and be compiled in a format that makes sense to them. The local authority is under an ongoing duty to keep the person's plan under review, to ensure that the needs continue to be met.

If a local authority thinks a person may lack capacity to be involved in making a decision or a plan, even after they have offered them all practicable support, a suitably qualified professional needs to carry out a capacity assessment in relation to the specific decision to be made. Even if lack of capacity is established, it is still important that the person is involved as far as possible in making decisions.



# What does good care planning look like?

The most important feature of good care planning is to make sure **the person is fully involved**

Good plans, that are most likely to work, are those which are owned by the individual they are written for. This means that the person knows what is in their plan, understands what the plan proposes and has had every opportunity to influence its content.

## **The plan is comprehensive**

When developing the plan, there are certain elements that must be incorporated:

- the needs identified by the assessment
- the outcomes the individual is looking to achieve
- the person's own capabilities, assets and strengths and the potential for improving their skills, as well as the role of any support from family or friends

# What does good care planning look like?

- how the needs will be met
- if any of the needs can be met through a direct payment ( and the details including payment and the amount and frequency of the payments).

It is important that these aspects are not viewed as a fixed list.

People can influence additional aspects to plans that are important to them i.e. outcomes not necessarily linked to needs the local authority has a duty to meet, etc. Advocates should check that these elements have been considered and included where appropriate.

# What does good care planning look like?

## **Takes a holistic approach**

Consideration of how the needs are to be met should take a holistic approach that covers aspects such as the person's wishes and aspirations in their daily and community life, rather than a narrow view purely designed to meet assessed eligible unmet need.

In considering the person's needs and how they may be met, the local authority must take into consideration any needs that are being met by a carer. The person may have assessed eligible needs which are being met by a carer at the time of the plan and the carer remains willing and able to continue caring. In these circumstances the local authority is not required to meet any of the assessed eligible needs, but the carer should be involved in the planning process. These aspects should be recorded in both the care plan and care and support plan.

# What does good care planning look like?

The local authority should record where they will not be meeting the eligible needs, so that the authority is able to respond to any changes in circumstances (for instance, a breakdown in the caring relationship) more effectively.

Local authorities should have regard to how universal services and community-based and/or unpaid support could contribute to the factors in the plan. The Local Authority should take steps to ensure people who may benefit from a type of preventative support receive information and advice about why it is important, what it might help with and how to access it.

# What does good care planning look like?

## **The plan is 'owned by the person'**

It should be possible for the person to prepare their plan jointly with the local authority in a format that makes sense to them, rather than this being dictated by the local authority. There should also be no restriction or limit on the type of information that the plan contains, as long as this is relevant.

As the support plan belongs to the person it is about, it is essential that the support plan makes sense to them and is in a format that is understood and could include:

- a voice recording
- the use of pictures and photographs
- a video recording of the person
- a workbook
- a computer presentation such as Power Point

# What does good care planning look like?

## Challenging Decisions

There may be situations where the amount of money allocated for the personal budget does not seem to meet all of the person's wellbeing needs or is not enough. For instance:

- the local authority believes that it may be more appropriate to meet the needs of the person via a local authority provided service, rather than making a direct payment
- the direct payment may cost more than if the local authority arranged the same support while achieving the same outcomes for the person.

The Care Act says that the budget must be what the local authority believes it would cost them to procure the services needed to fulfil those duties. The Care Act requires the local authority to fund for sufficiency and meet the cost of 'reasonable preferences'. It also makes it clear that the authority is the decision maker and that it will not be possible always to achieve consensus but recognises that it is not always possible to meet every person's wish. The person may then wish to make a challenge by way of a complaint, or a legal process, and a report from the advocate is the first step in resolving the issue.

# After the plan is agreed

Reviewing plans regularly is an essential element of the planning process. Without a system of regular reviews, plans can become quickly out of date meaning that people do not obtain the care and support they require to meet their needs.

The Act specifies that plans must be kept under review by the local authority who should establish systems that allow the proportionate monitoring of both care and support plans and support plans to ensure that needs are continuing to be met.

# After the plan is agreed

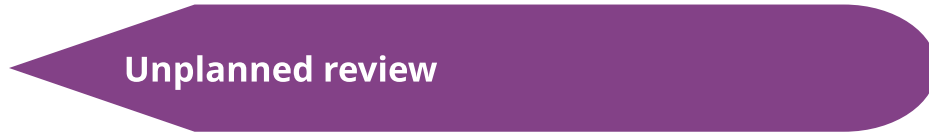
The review should be a positive opportunity to take stock and consider if the plan is enabling the person to meet their needs and achieve their aspirations. The process should not be overly-complex or bureaucratic, and should cover these broad elements:

- Have the person's circumstances and/or needs changed?
- What is working in the plan, what is not working, and what might need to change?
- Have the outcomes identified in the plan been achieved or not?
- Does the person have new outcomes they want to meet?
- Could improvements be made to achieve better outcomes?
- Is the person's personal budget enabling them to meet their needs and
- Is the current method of managing it still the best one e.g. should direct payments be considered?
- Is the personal budget still meeting the sufficiency test?
- Are there any changes in the person's informal and community support networks which might impact negatively or positively on the plan?
- Has there been any changes to the person's needs or circumstances which might mean they are at risk of abuse or neglect?



# Types of review

There are several different routes to reviewing a support plan:



# Types of review

## Planned review

A planned review takes place where the date is set with the person during the support planning process. It provides a regular opportunity to ensure the plan is fit for purpose and delivering the right level of support for the person's needs.

Planned reviews of the support plan should take place no later than 12 months after sign-off. It is NOT an annual as it can take place whenever is appropriate (but no longer than 12 months). For instance if a change in circumstances is expected in 8 months time (a family carer is moving out of the home and no longer able to provide support) then the planned review should take place at that time.

Similarly, if a person's health is deteriorating or their condition progressive, the local authority may agree with the person to carry out reviews often.

# Types of review

## Unplanned review

A review can be requested where the person with the support plan, or their carer, family member, advocate or other interested party such as a service provider – has a concern and feels that a review of the care and support plan should be requested.

Advocates working with people can make such a request if they feel it is needed – but only after discussion with the person and after seeking their instructions, if they have capacity. Where the person lacks the capacity to make this decision, the independent advocate can request an unplanned review on their behalf.

# Types of review

## Unplanned review

A review should also be conducted if circumstances have changed in a way that may affect the efficacy, appropriateness or content of the plan; for example if there is:

- A carer who is no longer able to provide the same level of care and support
- Evidence of deterioration of the person's physical or mental wellbeing
- A safeguarding alert

Where a decision is made not to conduct a review following a request, the local authority should set out the reasons for not accepting the request in a format accessible to the person, along with details of how to pursue the matter if the person remains unsatisfied.

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