

CARE ACT 2014



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The Legislation



- The Care Act is an historic and significant piece of legislation that modernises the framework of care and support law, bringing in:
 - New duties for local authorities
 - New rights for service users and carers
- The Act places more emphasis than ever before on prevention – shifting from a system which manages crises to one which focuses on people’s strengths and capabilities and supports them to live independently for as long as possible
- It aims to make care and support clearer and fairer and to put people’s wellbeing at the centre of decisions, and embed and extend personalisation
- Local authorities have new responsibilities towards all local people, including self funders
- There are significant changes to the way that people will access the care and support system
- The Care Act 2014 introduces a range of duties for local authorities, as well as implementing the funding reforms laid out in the Dilnot report

Underpinning Principles (Section 1)



- Care Act places a Duty to promote the Well-being of individuals (Adults and Carers)
- The Duty applies to Local authorities and their staff / members when exercising 'any function under part 1 of the Act The(i.e. Sections 1-80)
- When discharging an obligation under the Act the LA must have regard to:
 - the individuals views, wishes, feelings and beliefs
 - the need to prevent / delay the development of need for Care and Support
 - the need to make decisions that are not based on stereotyping individuals;
 - the importance of individuals participating as fully as possible in relevant decisions
 - the importance of balancing between the individual's wellbeing and that of friend or relatives involved as Carers
 - the need to protect people from abuse and neglect
 - the need to ensure that restrictions on individual rights / freedoms be kept to the minimum necessary

Prevention (Section 2)



Local Authorities will under a general Duty to provide a range of preventative services that they 'consider' will:

- (a) Contribute towards preventing or delaying the development of by adults in its area of needs for care and support
- (b) Contribute towards preventing or delaying the development by Carers in it's area of needs for support
- (c) Reduce the need for Care and Support of adults in it's area
- (d) Reduce the need for Care and Support in its area

Integration with the NHS (Section 3)



Section 3 places a duty on local authorities to promote Integration with the health provision where it would:

- (a) Promote the well-being of adults with needs & Carers in it's area; or
- (b) Contribute to the prevention of the development of needs in adults/ carers;
- or
- (c) Improve the quality of care for adults / Carers, provided

A component of this duty includes the establishment of the Better Care Fund, to facilitate hospital discharge, prevent unnecessary admissions and promote Integrated packages of care.

Information (Section 4)



Local Authorities have an enhanced duty to provide adults in need / Carers with information about care and support arrangements, including;

- how care systems operate
- Care and support choices they have
- how to access support and
- how to raise safeguarding concerns

The duty includes how to access independent financial advice.

Duty to promote high quality providers (Section 5)



The provision Includes:

- (a) 'Market oversight' arrangements that will involve the Care Quality Commission - amongst others (Sub sec 53-57 Care Act 2014)
- (b) Temporary Intervention if a provider fails (sub sec 48-52)
- (c) Duty to promote an effective and efficient local market 'with a view to ensuring' a variety of providers and high quality services to choose from

Cooperation (Sections 6-8)



- Section 6 -provides a general duty to cooperate.
- Section 7 enables Social Services to request assistance and this must be provided - unless it would be ‘incompatible with its duties, or have an adverse effect on the exercise of its functions. (in such a case the body must provide reasons)
- Section 8 - contains an illustrative list of what may be provided to an adult in need of a Care - namely:
 - (a) accommodation in a Care home or premises of some other type
 - (b) Care and support at home or in the community
 - (c) Counselling, advocacy and other types of Social Work
 - (d) Goods and facilities
 - (e) information and advice

Assessment of adults in need (Section 9)



- The duty within the Care Act 2014 to assess adults in need is closely aligned to the existing duty (sec 47 NHS and Community Care Act)
- The duty is triggered by the appearance of need.
- The assessment must have specific regard to the wellbeing criteria (ie s1(2) and must involve the adult and carer.

Carers Assessments (Section 10)



The new Duty is triggered by the appearance of need and is no longer dependent on upon the Carer providing or intending to provide regular or substantial care or on the Carer making a request.

The act also contains specific provision for Carers of disabled Children in transition and young Carers in transition into adulthood.

The assessments must ascertain:

- whether the Carer is able / willing to provide and continue to provide the care
- the impact on the Carers wellbeing
- the outcome the Carer wishes in the day to day life
- whether the Carer works or wish to work and or participate in education, training or recreation.

Eligibility Criteria (Section 13)



Where an assessment identifies that an individual has needs for care / support than the local authority must decide if these needs meet the eligibility criteria.

- Eligibility (for adults and Carers) now placed on a statutory footing

(1) The person is unable to carry out basic activity;

(2) The consequence is a significant risk to that persons wellbeing.

(The threshold is closer to the current Moderate than substantial banding)

The criteria for Carers measure (broadly) if the Carer is unable to undertake certain key tasks / roles, including employment, recreation, education and or, their health is at significant risk.

(The criteria is considered to be more generous than those previously in place)

Cap and Costs (Sections 15-16)



- The cap on Care costs has been set at 72k (Dilnot recommended 35k)
- 12k of care home fees will be deemed for 'daily living costs' (accommodation, food etc)
- 2016 change to the capital limits from 23,750k to 118,000k if a persons home is included in the calculation 27k if not

This means that someone with savings of 117,000k who seeks LA assistance will have to contribute 20,000k per annum from the capital at the same time lose their DLA / Attendance allowance care component.

Duty / Power to provide care and Support for adults / Carers (Sections 18-20)



- Where an Individual's needs(Adult / Carer) meet the eligibility criteria then there will be a duty to ensure their care and support needs are addressed.
- They must be an ordinary resident in the LA area.
- If their assets are above the financial limit, that they ask the LA to meet their needs.

The Governments impact assessment identified:

- 180,000-230,000 new care users
- Reviews to increase by between 440,000-530,000 in 2016-17 - increasing local authority costs by over £2bn per annum.

NHS Interface (Section 22)



The current boundary between Local authorities and the NHS (NHS continuing care boundary (defined by the *Couglan judgement*) remain unchanged.

Care and Support plans (Section 26)



The duty to prepare care and support plans for those who have been assessed as meeting eligibility is sustained within the Care Act. It does however include the following:

- Adults must have personal budgets
- Preparation of a support plan must involve; the adult, any Carer the adult has, and any person that appears to the authority to have an interest in the adults welfare.
- For Carers; preparation must include the Carer, the adult needing care, if the Carer asks and any other person whom the Carer asks.

Direct Payments (Sections 31-33)



The most significant change is that Direct Payments are now available to people in residential care placements. This change will come into force in April 2016.

Continuity of Care (Sections 37-38)



- Where a Local Authority (1st local authority) is providing care and support for an adult and another LA (2nd authority) is notified that the adult will be moving into their area (and is satisfied that the intent is genuine) then it must, among other things, undertake an assessment of the adult's needs, and those of any Carers they may have.
- If the assessments have not been completed by the time the adult actually moves, then the second LA must meet the needs identified by the first local authority, until the assessment is complete.

Safeguarding

(Sections 42-45)



The Act places on a statutory footing some of the Safeguarding obligations that were present in the guidance (principally the 'No Secrets Guidance')

Sec 42 places a duty to make enquires if adults with care and support needs:

- is experiencing, or is at risk of abuse or neglect; and
- is unable to protect him or herself against abuse or neglect.

There are statutory obligations to have a Safeguarding Board and to undertake investigations and to require individuals to provide information etc.

Independent Advocacy

(Section 67)



There is a duty on the LA under Sec 67 to arrange independent advocacy if the authority considers the individual would experience 'substantial difficulty' in participating in amongst other things their assessment and or the preparation of their care and support plan.

Statutory appeals process (Section 72)



Guidance is currently being drawn up regarding the appeals process, however the new process is anticipated to include:

- Be flexible, local, proportionate system avoiding unnecessary bureaucracy
- Include element of independence from the Local Authority
- Seek to avoid duplication with existing arrangements for complaints and redress.

Human Rights Protection (Section 73)



The Care Act extends the current Human rights Act 1998. Sec 73 provides that where care is arranged by a LA or paid for, directly or indirectly in whole or in part and that the care is provided by a registered care provider to an adult or a Carer either in their own home; than the provider is deemed to be a public authority for the purposes of the 1998 Act.

s117 Mental Health Act 1983 (Section 74)



After Care services are not defined by the 1983 Act. The care act inserts a new subSection (5) into the 1983 Act to limit services to those:

(a) Arising from or related to the Mental disorder and

(b) Reducing the risk of deterioration of the persons mental condition(i.e that they may require re-admission)

The Care Act confirms that ordinary residence is determined by where the person was based immediately prior to being detained and gives powers to the secretary of state power to resolve ordinary residence disputes. It also inserts a new s117 that provides for regulations to introduce a limited 'choice of accommodation' for persons subject to s117.

Implementation of the Act in Plymouth



- We have project plans in place for:
 - Assessments
 - Person Centred Care and Care Plans
 - Transitions
 - Ordinary Residence & Continuity of Care
 - Communications
 - Finance
 - Commissioning:
 - Wellbeing & Prevention
 - Information and Advice
 - Workforce Development
 - Informatics

Care and Support Needs New Policy



- This policy sets out the offer to Plymouth Citizens for Care and Support Needs.
- It includes:

1. Wellbeing and Prevention	9. Reviews
2. Information and Advice	10. Transitions
3. Assessment	11. Portable Accounts
4. Eligibility	12. Continuing Healthcare
5. Delegating Statutory Responsibilities	13. Safeguarding
6. Financial Assessment and Charges	14. Confidentiality
7. Support Planning and Personal Budgets	15. Policy Review
8. Carers and Personal Budgets	

Financially Assessing Carers



- Cabinet approval on 10th February not to financially assess Carers with eligible needs who might have a Personal Budget
- Rationale:
 - It could impact negatively on the Council should carers decide to withdraw from their caring role
 - We believe that the personal budgets carers might required for their unmet needs will be relatively low one off costs
 - Back office processes would be resource hungry for potentially little return in terms of income
 - This will be reviewed during 15/16 when we have a clearer understanding of the numbers of Carers receiving a Personal Budget

Deferred Payments New Policy



This policy includes the following:

- PCC's Deferred Payments Policy Statements
 - Eligibility Criteria
 - Administration Fees and Interest Charges
 - Independent Financial Advice
 - Financial Arrangements
 - Types of Security
 - Deferred Payments Agreements
 - Termination of Deferred Payment Agreement
 - Review and Appeals Procedure

Deferred Payments Independent Financial Advice



- Advice Plymouth (consortia delivers a universal advice and information service in Plymouth. The service holds a nationally recognised quality standard (Advice Quality Standard – AQS).
- PCC Co-operative Commission has mapped providers offering information and advice, and identified a number of organisations which will be supported to ensure their service offer is clear on the Plymouth Online Directory.
- Work is on-going nationally to identify how quality standards can be implemented for information and advice providers which do not have the AQS.
- Advice Plymouth offers financial advice.
- Co-operative Commissioning has mapped providers of financial information and advice, and will be supporting those not already registered with SOLLA (Society of Later Life Advisors – accreditation programme recommended by ADASS as a standard). Providers will be supported to register on the Plymouth Online Directory.
- In addition to encouraging providers to become SOLLA accredited, Co-operative Commissioning is looking at extending the quality standards by discussing additional requirements.
- **NB.** The public will be signposted to POD but individual providers of information and advice will not be recommended.

Deferred Payments Administration Charges



- The provision of deferred payments must be cost neutral
- Under the Act we can apply administration charges
- We are applying an admin fee of £500 for setting up a deferred payments, These have been modelled on a cost neutral basis taking into account the time and tasks required to set up an agreement. We are not outliers across the region with these costs
- We are applying a fee of £100 a year to maintain the deferred payment activity each year, this cost is a guide and will change for each person where they actual charges are more or less than this. Again this fee has been modelled on a cost neutral basis

Deferred Payments Interest Charges



- Plymouth will set its interest rate in line with the gilt rate - This currently sits at 2.65%
- Setting it at this level ensures that the Councils not making a profit, but it does allow for some costs of ruining the scheme to be covered and the cost of borrowing money, if required to fund the scheme
- A person will be advised to seek independent financial advice

Length of time for a Deferred Payments



- A deferral of payment can last until death
- people will choose to use a deferred payment agreement as a bridging loan to give them time and flexibility to sell their home when they choose to do so
- This is entirely up to the individual to decide

Deferred Payments Valuation of Property



- Initially we will use Zoopla as a means to value property.
- Once take up trends of deferred payments is known then we will review how we undertake our valuations
- We will periodically revalue a person's home to ensure that the property is not dropping into negative equity
- If a person can provide their own valuation if they wish
- At the point a person has deferred 70% of the value their circumstances will be reviewed
- The Care Act guidance sets out the equity limit of a person's property which will be the maximum anyone is allowed to defer.
- Where a property is joined owned the council will not enter into a deferred payment agreement unless all owners give their consent to a charge being placed on the property

Care Act Part 2 Consultation



- This has now been issued
- Closing date is 28th March 2015
- We do not expect the final guidance and regulations until early summer
- By October 2015 we will be required to have our processes in place to assess any potential self-funders and for those with eligible needs set up their Care Account ready to start from 1st April 2016