



FACTSHEET 2

The Care Act – who is entitled to public care and support?

“For far too long people's needs assessments have been driven by the service on offer or that can be provided in a particular area... such an approach fails to recognise the richness and complexity of people's lives and fails to support or promote truly person-centred care”
(Care Quality Commission)

This factsheet describes how the Care Act and supporting guidance provide for adults' entitlements to public care and support.

Why do entitlements matter?

Legal entitlements or duties make clear what local authorities must do, and what people can expect, so that everyone knows where they stand. It is important that the law explains when people will be provided with care and support by the local authority, to ensure that this happens fairly and consistently.

Why do we need to change the law?

At the moment, people have different entitlements for different types of care and support. These are spread across a number of Acts of Parliament, some over 60 years old. The law is confusing and complex.

We want to design a simpler, modern law for 21st Century care and support.

- We want to ensure that the law focuses on the *needs* of people. The existing law creates responsibilities to provide particular *services*. That leads to an approach to assessment and support planning that focuses more on services and organisations – the people that provide the care, not the people who receive it. We want to change this, so that the person is always at the centre.
- The existing law is multi-layered and very complicated. We want to clarify it so that

people can better understand how the system works, and how decisions about them are made

- To make the law fair and consistent, we want to remove anomalies that treat particular groups of people differently. We want there to be one route for determining entitlement, which works for all groups of people in all circumstances. We do not want people to be dealt with differently based on the type of service they need or where they receive it.

All of this requires some significant changes to the current law.

What does the Act do?

The Act creates a single, consistent route to establishing an entitlement to public care and support for all adults with needs for care and support. It also creates the first ever entitlement to support for carers, on a similar basis (see also **factsheet 8**).

The Act is also clear about the steps that must be followed to work out this entitlement, to help people understand the process. It follows the person's 'journey' in the care and support system. It begins with an assessment of their needs and a decision about whether their needs are eligible, including a financial assessment where necessary. This will determine whether people need to pay for their own care, and in the future will include the new capped costs payment system (see **factsheet 6**). After this process of assessment

is finished, the decision can then be made about whether the adult is entitled to care and support arranged by the local authority.

When must the local authority meet a person's care and support needs?

The Act sets out a new legal duty for an adult's "eligible needs" to be met by the local authority, subject to their financial circumstances. Their eligible needs are those that are determined after the assessment (see **factsheet 3**).

The Act says clearly that a person will be entitled to have their needs met when:

- the adult has "eligible" needs;
- the adult is "ordinarily resident" in the local area (which means their established home is there)and;
- any of five situations apply to them.

These are the five situations:

- the type of care and support they need is provided free of charge;
- the person cannot afford to pay the full cost of their care and support;
- the person asks the local authority to meet their needs;
- the person does not have mental capacity, and has no one else to arrange care for them; or
- when the cap on care costs comes into force, their total care and support costs have exceeded the cap.

What happens if the local authority must meet their needs?

The local authority must help the person to make decisions about how they want their needs to met, and prepare a care and support plan (see **factsheet 4**).

Under the Act, there is more flexibility to focus on what the person needs and what they want to achieve, and to design a package of care and support that suits them. "Meeting needs" allows for different approaches, so that they can get the right level and type of care and support when they need it.

A person will still be able to receive the same types of care and support as now. If their needs can be best met in a care home, that is what should be arranged.

What and when will people have to pay for their care?

Some types of care and support are provided free of charge but often the local authority will charge a cost. Depending on a person's finances, a local authority may ask an individual to contribute towards the costs of their care (up to and including the full amount).

In cases where the costs of care would reduce a person's income below a set level, a local authority will pay some of the costs to make sure that the person is left with this minimum level of income.

This ensures people will still receive the care they need in cases where they have only modest resources.

In any other cases, the adult can still ask the local authority, regardless of their finances, to arrange their care and support for them. It ensures that people who are uncertain about the system or lack confidence to arrange their care do not go without. However, they will still need to pay for their care and support if they have adequate financial resources.

If people are due to pay charges for their care and support, they may be entitled to a "deferred payment agreement", through which they delay charges, and repay the local authority at a later date.

How do I comment on the proposals?

We have published guidance for local authorities that sets out how they should carry out their responsibilities under the Care Act. This guidance is open for discussion and we want to receive your comments to make it right.

More information, including how to comment, is available at:

www.careandsupportregs.dh.gov.uk