

## **The Care Act – Outline of Duties and Responsibilities**

### **1. General responsibilities and universal services**

Under the Care Act, local authorities will take on new functions.

- It makes clear that local authorities must arrange services that help **prevent** or delay people deteriorating
- Local authorities will need to provide **comprehensive information and advice** about care and support services in their local area. This will help people to understand how care and support services work locally, the care and funding options available, and how people can access care and support services.
- Requires local authorities to help **develop a market** that delivers a wide range of sustainable high-quality care and support services that will be available to their communities.

When buying and arranging services, local authorities must consider how they might affect an individual's wellbeing. This makes it clear that local authorities should think about whether their approaches to buying and arranging services undermine the wellbeing of people receiving those services. Local authorities should also work with local providers, to help each other understand what services are likely to be needed in the future, and what new types of support should be developed. To do this, authorities should engage with local people about their needs and wishes. Local authorities should publish information on how they plan to do this.

A wider range of good quality services will give people more control and help them to make more personalised choices over their care. They should therefore get better care that works for them.

### **2. Entitlements to care and support**

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.

### **3. Assessment & Eligibility**

At the moment, each local authority sets its own **eligibility threshold** based on guidance. The Care Act sets out a new the national minimum threshold for eligibility, which will be consistent across England.

#### **4. Care & Support Planning**

The Act gives local authorities a new legal responsibility to provide a **care and support plan** (or a support plan in the case of a carer).

For the first time, the Act provides people with a legal entitlement to a **personal budget**, which is an important part of the care and support plan. This adds to a person's right to ask for a direct payment to meet some or all of their needs.

Even when an assessment says that someone does not have needs that the local authority should meet, the local authority **must advise people** about what needs they do have, and how to meet them or prevent further needs from developing.

It must also provide an **independent advocate** to help the person take part in the planning and review process, if that person would otherwise have substantial difficulty in doing so.

The local authority also has a legal responsibility to **review the plan** to make sure that the adult's needs and outcomes continue to be met over time.

#### **5. Charging and Financial Assessments**

The new law for adult care and support sets out a **clearer approach to charging and financial assessment**.

Not all types of care and support involve a cost for the person. Whilst the Act gives local authorities the power to **charge** for care and support, they may not charge for services which the regulations say must always be free.

The Act also expands an existing **deferred payment scheme** to make this available universally across England

#### **6. Safeguarding**

The Act requires local authorities to set up a **Safeguarding Adults Board (SAB)** in their area, giving these boards a clear basis in law for the first time. The act also outlines the conditions for the SAB.

The Act also requires local authorities to make **enquires**, or ask others to make enquiries, when they think an adult with care and support needs may be at risk of abuse or neglect in their area and to find out what, if any, action may be needed.

This applies whether or not the authority is actually providing any care and support services to that adult.

The Act says that SABs must arrange a **Safeguarding Adults Review** in some circumstances.

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The local authority will arrange for an **independent advocate** to represent and support a person who is the subject of a Safeguarding Enquiry or a Safeguarding Adult Review, if they need help to understand and take part in the enquiry or review and to express their views, wishes, or feelings.

The Act is clear that if an SAB **requests information** from an organisation or individual who is likely to have information which is relevant to SAB's functions, they must share what they know with the SAB.

The Act does not give local authorities any **new powers to enter** a person's property.

### **7. Carers**

The Bill gives local authorities a responsibility to assess a carer's needs for support. This replaces the existing law, which says that the carer must be providing "a substantial amount of care on a regular basis" in order to qualify for an assessment. This will mean more carers are able to have an **assessment**, comparable to the right of the people they care for.

The local authority and the carer will agree a **support plan**, which sets out how the carer's needs will be met.

In most cases local authorities do not **charge** for providing support to carers, in recognition of the valuable contribution that carers make to their local community. However, this is something that the local authority can decide.

Carers should receive a **personal budget**. Carers have a right to request that the local authority meets some or all of such needs by giving them a direct payment, which will give them control over how their support is provided.

### **8. Continuity between areas**

The Act describes a **process** to be followed so that local authorities know when someone wants to move areas, and what must happen to make sure that their needs are met when they arrive in the new area.

If on the day of the move the local authority has not carried out the assessments, then the "**continuity duty**" is triggered. This requires the second authority to meet any of the needs that were being met by the previous (first) authority, from the day that the person arrives in the new area.

The continuity duty continues until the second authority has carried out its own assessment and put in place all necessary care and support on the basis of that assessment.

## **9. Market Oversight & Provider Failure**

### Managing provider failure locally

The Act imposes clear legal responsibilities on local authorities where a care **provider fails**. The Act makes it clear that local authorities have a temporary duty to ensure that the needs of people continue to be met if a provider fails, no matter what type of care they are receiving.

Local authorities will have a responsibility towards all people receiving care. This is regardless of whether they pay for their care themselves or whether the local authority pays for it.

In these circumstances, the local authority must ensure that the person does not experience a gap in the care they need as a result of the provider failing.

This duty applies temporarily, until the local authority is satisfied that the person's needs will be met by the new provider.

### Market oversight

The Act establishes that the **Care Quality Commission (CQC)** will take on a new responsibility for assessing the financial sustainability of certain “hard-to-replace” care providers.

To assess financial sustainability, the Act gives the CQC the power to request information from any provider in the regime.

The CQC will share this information with relevant local authorities where it believes a provider is about to fail, to help minimise the negative effects of the provider failing, and to ensure a smooth process that provides continuing care to individuals.

## **10. Transition**

The Act says that if a child, young carer or an adult caring for a child is likely to have needs when they, or the child they care for, turns 18, the local authority must **assess** them if it considers there is “significant benefit” to the individual in doing so. This is regardless of whether the child or individual currently receives any services.

When either a child or a young carer approaches their 18th birthday, they may ask for an assessment. A parent or carer may also ask for an assessment as the child they are caring for approaches 18.

The Act does not say that the child or young person has to be a certain age to be able to ask for an assessment. It says that local authorities must consider, in all cases, whether there would be a “**significant benefit**” to the individual in doing an assessment.

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The Act gives local authorities a **legal responsibility to cooperate**, and to ensure that all the correct people work together to get the transition right.

### **11. Integration Cooperation & Partnerships**

The Act requires:

- local authorities to carry out their care and support responsibilities with the aim of promoting greater **integration** with NHS and other health-related services
- local authorities and their relevant partners must cooperate generally in performing their **functions related to care and support**
- local authorities and their partners must cooperate where this is needed in the case of **specific individuals** who have care and support needs.

### **12. Key Themes**

There are several key themes that run through the Act and underpin the proposed changes. These include:

- More choice and control over care and support
- Clarifies what they can expect from the care system
- Promotion of independence and wellbeing
- Preventing or delaying care and support needs from becoming more serious
- Role of market shaping to ensure a good range of services and providers
- Promoting co-operation and integration across health & social care
- Equal rights for carers

### **13. Outline of Changes**

The Act includes fundamental changes and reform to how social care is funded. The key proposals include:

- Duty to provide comprehensive advice and information to allow people to make the right decisions about their care and support
- A new national eligibility framework and entitlements
- New rights for carers, including right to an assessment and right to get support if meet eligibility criteria
- Puts personal budgets on a statutory footing for the first time
- A duty on councils to consider the physical, mental and emotional wellbeing of individuals
- A new duty to provide preventative services to maintain people's health

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- Streamlined and more effective working across adults and children's services during transition
- Gives Safeguarding Adult Boards a legal basis for the first time
- Requirement to integrate services with health and any health related services such as housing
- An up to date and accessible Market Position Statement
- Clearer approach to charging and financial assessments
- Transparent and visible quality management for the whole market
- Powers for chief inspector of social care to hold poor-performing providers to account