

Introduction to the Care Act 2014 – England

The Care Act 2014 came into force on 1 April 2015. The Act is accompanied by new regulations and statutory (legal) guidance, which replaced the system for providing support and services for disabled adults aged 18 or over and their carers. The Act also includes new rights for families with a child who may need support to prepare for the transition to adult services, and also young carers who are approaching adulthood.

The aim is to get a full picture of the person and what needs and goals they may have. The local authority will then consider whether any of the needs identified are eligible for support.

The detail on how local authorities implement the Act and regulations is in the *Care and support statutory guidance*, but local authorities should also make available information about the process. Contact your local authority or visit their website for further information.

Changes to funding for care and eligibility will come into force later in April 2016.

New duties on local authorities

Local authorities have new legal duties when they make any decisions in a carer's assessment. New duties also apply when they plan for a young person's transition to adult services, and for a disabled adult's care and support needs. Under the Act the local authority must:

'promote the wellbeing of disabled adults and their carers'

This means they must consider a person's:

- personal dignity and respect
- physical and mental health and emotional well-being
- protection from abuse and neglect
- control by the individual over day-to-day life (including over their care and support, and the way support is provided to the individual)
- participation in work, education, training or recreation
- social and economic wellbeing
- domestic, family, and personal relationships
- suitability of living accommodation
- contribution to society.

They must also:

- provide or arrange services that will contribute towards preventing, delaying or reducing a person's needs for

care and support

- liaise and coordinate services with the local Clinical Commissioning Groups (CCGs) and NHS
- establish and maintain an information and advice service relating to care and support for adults and carers.

What about current rights for families?

The general rights of parents and disabled children under 18 remain the same:

- access to services and support under the Children Act 1989 still applies
- services under Section 2 of the Chronically Sick and Disabled Persons Act (CSDPA) 1970 also still applies, but only for children. Following the introduction of the Care Act, Section 2 of the CSDPA no longer applies to disabled adults aged 18 or over
- the Children and Families Act 2014 requires the local authority to carry out a parent carer needs assessment if they believe that a parent carer may need support, or they receive a request from a parent carer and they are satisfied that the disabled child and family are eligible for support under the Children Act 1989. Read more about rights under the Children and Families Act at www.cafamily.org.uk/the-sen-process.
- Non parent carers (for example grandparents) continue to have rights to assessments under the Carers (Recognition and Services) Act 1995 and the Carers Equal Opportunities Act. 2004

More information on rights for children under 18 is in our guide *Getting social care services when your child has additional needs*. Call our freephone helpline for a copy or download it from our website.



Need advice?
Call our freephone helpline
0808 808 3555
helpline@cafamily.org.uk
Open Monday to Friday, 9.30am–5pm



New rights for parent carers if a child is moving from child to adult services

The Care Act includes important legal duties on local authorities about what must happen when a child makes the transition from children's to adult services, before they reach the age of 18. Additionally, the Act places a legal responsibility on local authorities to cooperate, and to ensure that all the correct people work together to get the transition right.

Regardless of whether a child is in receipt of support or services from the local authority, a child's needs assessment must be completed if it appears that it would be of 'significant benefit' to the child, and if it is likely that they will have eligible needs for care and support when they reach the age of 18.

The consideration of 'significant benefit' is not related to the level of a young person or carer's needs, but rather to the timing of the transition assessment. This requires the local authority to consider a young person or carer's circumstances, and whether it is an appropriate time for the young person or carer to have an assessment to help with preparing for adulthood. Statutory guidance lists the following factors which may be considered:

- the stage they have reached at school and any upcoming exams
- whether the young person or carer wishes to enter further/higher education or training
- whether the young person or carer wishes to get a job when they become a young adult
- whether the young person is planning to move out of their parental home into their own accommodation
- whether the carer of a young person wishes to remain in or return to employment when the young person leaves full time education
- the time it may take to carry out an assessment
- the time it may take to plan and put in place the adult care and support
- any relevant family circumstances
- any planned medical treatment.

A child's carer's assessment must also be carried out for the parent carer. The assessments must identify what support the child and carer might need when the child reaches the age of 18. In doing so the same wellbeing principals referred to earlier should apply.

The Care Act gives the local authority the power (this means they can choose to do something but are not required to by a legal duty) to meet a carer's needs before the child reaches the age of 18.

As mentioned earlier this duty also applies to young people who are not receiving children's services but who are likely to have care and support needs as an adult. This includes young people with degenerative conditions, or

young people receiving Children and Adolescent Mental Health Services (CAMHS). Young people in this situation may require care and support as adults even if they did not receive children's services from the local authority.

When can I ask for this?

Both a parent or carer and the disabled child can ask for an assessment as the disabled child approaches 18. The guidance suggests that these assessments should take place when it is easier to understand what the needs of the child and carer will be beyond the age of 18. For children with Education, Health and Care (EHC) plans, it is likely that the assessments will take place during the transition process, from Year 9 onwards.

What if they refuse my request?

If the local authority thinks there doesn't appear to be any significant benefit by undergoing an assessment and turns down the request on that basis then it must provide reasons for this in writing 'in a timely manner' and also provide information and advice on what can be done to prevent or delay the development of needs for support.

Parents, carers or the young person can also ask for this again if refused. However, local authorities are advised not to leave these assessments too late. Guidance warns of the risk of rushed assessments leading to rushed decisions. Inappropriate services put in place at the point of transition to adult services could prove harmful to the young person.

You can also challenge decisions using the existing local authorities complaints procedure.

What happens to services in the meantime?

The new Act makes clear that services arranged before a child's 18th birthday to meet their assessed needs can continue after their 18th birthday until adult services are in place.

For more information on transition, see our factsheet *Preparing for adulthood*. Call our freephone helpline for a free copy or download it from website.





New rights for sibling carers if a child is moving from child to adult services

Young carers who provide support to their disabled sibling under the age of 18 can access support under the Children and Families Act 2014. This gives young carers (and parent carers) similar rights to assessments as carers under the Care Act.

However, young carers who are approaching the age of 18 and are providing care and support to their disabled sibling may be eligible for help in their own right under the Care Act. This is regardless of the age of their sibling. When a young carer approaches their 18th birthday they can ask for an assessment of their needs to find out what support can be put in place to help them achieve their aspirations, for example to go to college or work.

The local authority are able to take each individual's circumstances into account when deciding whether to assess them. There is no blanket rule that means everyone has to be assessed at the same age or the same time. The process should recognise that the best time to plan the move to adult services will be different for each person.

Transition assessments for young carers (and adult carers) must consider whether they:

- are able to care now and after the child in question turns 18
- are willing to care now and will continue to after 18
- works or wishes to do so
- are, or wishes to participate in education, training or recreation.

Carer's assessments

The Care Act provides much greater rights for carers of adults aged 18 and over. For the first time, the needs of a disabled adult's carer will be treated in the same way as the needs of the disabled adult themselves.

Parent carers can ask for a carer's assessment if they 'appear' to have needs for support. This is a low threshold and will entitle most carers to an assessment. The assessment must be person-centred. It must take into account:

- a carer's wellbeing
- the outcomes they would like to achieve
- whether they are able and willing to provide care and support to the disabled adult, and
- whether they would like to access work, education or training.

Will this mean I can receive services?

The local authority is under a duty to meet all a carer's 'eligible' needs. A carer's needs are eligible if they are not able to meet one or more outcomes set out in new

eligibility criteria, and this is having a significant impact upon their wellbeing. These outcomes include:

- carrying out caring responsibilities for a child
- maintaining nutrition
- developing family relationships
- making use of necessary services in the local community (for example, public transport, leisure)
- accessing and engaging in work, training, education or volunteering and engaging in recreational facilities.

The local authority will also carry out a financial assessment to see if a carer needs to contribute towards the costs of the support they receive.

Rights of disabled adults (aged 18 or over)

The Care Act says that:

'where it appears to a local authority that an adult may have needs for care and support, the authority must assess (a) whether the adult does have needs for care and support and if they do what those needs are.'

If the disabled adult has been assessed as having needs for care and support from the local authority, they must then:

- prepare a care and support plan for the adult
- tell the adult which of their needs may be met via direct payments
- provide help and advice to the adult about decisions on how to meet these needs.

New eligibility threshold for services

A key change in the way decisions are made about the provision of services is the introduction of new national minimum threshold for eligibility. This is to help the local authority decide if services will be necessary. A person will have eligible needs if:

- they have care and support needs as a result of a physical or mental condition
- because of those needs, they cannot achieve two of the outcomes specified. These include the ability to carry out basic care activities, maintaining personal relationships and accessing work or education
- there is a significant impact on their wellbeing.

The aim of the eligibility threshold is to make the rights of carers and disabled people more uniform and less like a postcode lottery. Despite the introduction of the threshold, local authorities will still have the option of meeting needs that fall below the minimum threshold, which means in some areas it may be easier to access services.



More detail about the assessment process and the threshold should be available on your local authority website. Disability Rights UK also have a factsheet *Eligibility criteria under the Care Act 2014* with more information.

Care and support plans

After an assessment, the local authority should draw up a care and support plan. This should help the disabled person and their carers identify how their needs can be met. The plan may include a personal budget or direct payments to meet some or all of their needs. For more information about personal budgets and direct payments see our factsheet *Personal budgets in England*.

To help with the plan the local authority must appoint an advocate, but only if there isn't anyone who can support the disabled person. A parent can still play the advocacy role if they're able and willing to do so.

Charging disabled adults for services

The rules around charging for services will remain the same until April 2016 when charging reforms will be introduced. In the meantime the local authority may charge for services depending on the disabled adult's finances. People will only be asked to pay what they can afford. To decide what a person can afford to pay, a local authority will carry out a financial assessment. They will then calculate how much the person can afford to pay towards their care and support costs.

Each local authority must publish their charging policy. It will be based on national guidance *Fairer charging policies guidance for non-residential social services* and the *Charging for Residential Accommodation Guide (CRAG)*.

For information about charges for children's services see our parent guide *Getting social care services when your child has additional needs*. Disability Rights UK also has more information on charging.

**Got a question about the changes?
Call the Contact a Family freephone
helpline: 0808 808 3555
helpline@cafamily.org.uk
www.cafamily.org.uk**

Incorporating The Lady Hoare Trust
Registered Office: 209-211 City Road, London, EC1V 1JN
Registered Charity Number: 284912 Company Limited by guarantee
Registered in England and Wales Number: 1633333
Charity registered in Scotland Number: SC039169
VAT Registration Number: GB 749 3846 82

© Contact a Family, February 2016

Protection from abuse and neglect

Safeguarding boards already exist to protect children but for the first time local authorities must now set up safeguarding adult boards (SAB) to discuss local safeguarding issues. While safeguarding is everyone's responsibility the aim is to ensure that vulnerable adults are safe from abuse and neglect. The boards will be made up of key services such as the police and the NHS.

Contact your local authority for further information about your local SAB and how any concerns you have can be raised and dealt with.

Complaints and challenging decisions

The current process for dealing with complaints and challenges still applies. Each local authority is required by law to publicise its complaints procedure setting out timescales and what to do if you're unhappy with the outcome at each stage.

Further information

- Care Act factsheets (Department of Health)
- Care Act resource page including the regulations (Disability Rights UK)
- Frequently asked questions (Carers UK)
- Care Act 2014 statutory guidance for implementation.

Other useful booklets from Contact a Family

We have a series of free guides for parents, including:

- *Personal Independence Payment and other benefits at 16*
- *Growing up, sex and relationships*
- *Understanding your child's behaviour*
- *Aids, equipment and adaptations*
- *Siblings*

i A full list of our guides is at the link below. All our guides are free to parents who call our helpline, and are free to download.

 www.cafamily.org.uk/publicationslist

