

## **The Care Act**

### **What is the Care Act?**

The Care Act 2014 came into effect in April 2015 and replaced most previous laws regarding both carers and people being cared for.

### **The Care Act outlines:**

- the way in which local authorities should carry out carers' assessments and needs assessments (for the looked after person)
- how local authorities should determine who is eligible for support
- how local authorities should charge for both residential care and community care
- if they should charge for carer support and
- the local authority obligations.

### **Who is it for?**

The Care Act is mainly for adults in need of care and support, and their adult carers. There are some provisions for the transition of children in need of care and support as they move to adult services, parent carers of children in need of care and support, and some younger carers. However the main provisions for these groups are in the [Children and Families Act 2014](#).

### **What are my rights as a carer?**

Under the Care Act, you are entitled to a [carer's assessment](#) where you appear to have needs for support. You will be entitled to this support if you meet the national eligibility criteria.

The person you care for is entitled to a ['needs assessment'](#) if they appear to have needs for care and support.

Local authorities are allowed to arrange for other organisations such as charities or private companies to carry out assessments.

### **What are the eligibility criteria for this support and care in the community?**

The Care Act 2014 sets out national eligibility criteria for both carers and the person being cared for. These criteria set a national minimum threshold to be met, and if a carer or the person being cared for meets this threshold, they will have eligible needs that the local authority must then meet.

Local authorities also have the option of meeting needs that fall below the national minimum threshold.

## **What are the 'wellbeing' principles?**

The Care Act places a general duty on local authorities to promote an individual's 'wellbeing'. This means that they should always have a person's wellbeing in mind when making decisions about them or planning services.

### **Wellbeing can relate to:**

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

The wellbeing principles are also part of the eligibility criteria. Local authorities have to consider the impact of your role as a carer on your wellbeing proactively.

Similarly, they have to consider the impact of a disabled person's needs on their wellbeing. If the impact is significant then the eligibility criteria are likely to be met.

## **What are the capital limits for receiving services?**

In most cases, for the local authority to contribute towards the cost of care for the looked after person, that person must not have above the "capital limit" in savings and certain investments.

The lower capital limit for both residential care and community care is £14,250. The upper capital limit for both residential care and for community care is £23,250. (2022-23). If a person has more than £23,250 and wishes to have services they will be known as a person who will need to self-fund that care.

## **Does the local authority have to provide any help to self-funders?**

Since the Care Act came into force, self-funders have been able to ask the local authority to arrange services, but not residential care, on their behalf. One advantage of this is that the local authority may be able to get cheaper rates than self-funders arranging care themselves. The local authority can charge an arrangement fee for this.

Local authorities have a responsibility to provide information and advice to self-funders if required.

### **Do I have to pay for the services provided to me as a carer?**

Most local authorities don't charge carers for services, including services which give them a break from caring. They recognise that charging carers for services is not in the interest of carers, the disabled person or the local authority.

However, local authorities do still have a power to charge for any services provided to carers. What this means is that local authorities are allowed to charge carers for any services provided, but can choose not to. If the local authority does charge carers for any services provided, then they have to follow the same guidance they follow when charging the person being cared for.

It's important to note that if a service is provided to the cared for person, in order to benefit the carer, the carer cannot be charged for this.

Instead, the cared for person may be charged, as it will be a service provided to them. For example, if the cared for person spends some time in residential care, in order to give the carer a break, the residential care would be a service provided directly to the cared for person, and therefore the cared for person may be charged.

### **I provide care for my disabled child. Can I have a separate assessment for my child?**

Yes. The Children and Families Act 2014 gives you a standalone right to an assessment as the parent of a disabled child.

### **I'm a carer for my child and they are turning 18 soon. What will happen to their care?**

The Care Act 2014 places a duty on local authorities to carry out a Child's Needs Assessment (CNA) for young people where there is 'likely to be a need for care and support' after they reach 18 (even if this will not amount to them having eligible needs).

The CNA should look at what adult community care services a young person might qualify for when they turn 18 and should include a predicted personal budget, so that the young person can plan and make informed decisions about their future.

Young people or their carers can request a CNA at any time before a young person turns 18 and it should occur at a time when it is of 'significant benefit' to a young person's preparation for adulthood.

The Care Act also ensures that if the local authority has not carried out a CNA for the young person with the disability or special educational needs, they must continue to provide the community care services to the young adult. This would happen until either a decision has been made that they do not qualify for services under the Care Act or the care they have been assessed as needing is actually in place.

### **I provide care for a child under 18, but I am not their parent. Can I ask for an assessment?**

Neither the Care Act nor the Children and Families Act provide a new right to a standalone carer's assessment for non-parent carers of disabled children under 18.

However, non-parent carers can request a carer's assessment under the law that existed before the Care Act and the Children and Families Act. This means that non-parent carers will need to be "providing or intend to provide substantial and regular care" in order to have a legal right to request a carer's assessment.

### **One of our children has caring responsibilities. What rights do they have under the Care Act?**

Children and young people aged under 18 who are providing care do have the right to be assessed for care and support. The Children and Families Act 2014, instead of the Care Act, gives carers under the age of 18 the right to an assessment on the appearance of need; they do not have to request one.

The Care Act gives young people the right to an assessment as they approach 18 years of age, and this is called a Young Carer's Assessment.

Where a disabled adult is being cared for, a local authority must consider whether there are any children involved in providing that care, and if so, what the impact is on that child, according to the stipulations of the Care Act.

### **If I disagree with a decision social services have made, what are my options to challenge it?**

If you are not happy with the way you have been treated, or with the outcome of any of the assessments, you can complain to social services. All social services departments should have a complaints procedure that you can follow – ask the social services department for a copy.

If after following the complaints process, you are not happy with the outcome, you may be able to take a complaint to the Local Government Ombudsman. Your social services department should be able to give you more details.