

Policy Position Paper

Social care assessment and eligibility (England)

March 2016

Older people must have a right to full consideration of their individual care and support needs. A transparent national system must ensure that no one is left without the support needed to have a good quality of life and provide the clarity needed to help people plan for the future.

Key issues

The Care Act 2014 has introduced a new national system for assessing eligibility for local authority funded care and support.

The new national eligibility framework is based on the support that people need to achieve a number of outcomes that contribute to overall wellbeing. However inability to achieve one outcome does not trigger eligibility, there must be an inability to achieve two or more. This is cause for concern as most of the outcomes are essential to enable a person to live with dignity. They include, for example, managing and maintaining nutrition, maintaining personal hygiene, and managing toilet needs. Inability to achieve just one of these outcomes could easily result in loss of independence. Care needs must also have a significant impact on the person's wellbeing. 'Significant' in this context is not defined so local authorities may interpret the term in different ways, potentially resulting in considerable local variation.

The new system is an improvement on its predecessor in that it does not just consider risks to the person's current level of independence but considers how the person's situation could be improved – so outcomes include developing, as well as maintaining, family and other personal relationships. Assessment also looks at how people can be supported to remain independent by developing their own capabilities and social networks. This is welcome but must not lead to increased pressure on family carers or to needs going unrecognised because the person is assumed to have such support. Guidance under the Act is helpful in this respect in that it recognises that needs must be assessed regardless of the presence of a carer, with the carers' input being recognised as contributing to meeting those needs.

The Care Act sets out (for the first time in legislation as opposed to guidance) requirements for how the process of assessment and subsequent care planning should be carried out. The purpose of assessment is not limited to determining eligibility for local authority support; it is also seen as a service for people who, by choice, or because they do not meet eligibility criteria or qualify for support due to

means testing, fund their own care and support. Following assessment these 'self funders' will be entitled to information and advice (including help to access financial advice) on how to meet their care and support needs. People who are unable to participate in the process of assessment without support and do not have a suitable person to provide such support have a new right to advocacy. These are new duties for local authorities, and will need to be funded as such.

All of these innovations are welcome improvements. However the new process is being implemented at a time of dramatic cuts to local authority funding, so there must be concerns about whether local authorities are complying with these requirements, particularly those such as provision of advice, information and advocacy that require additional resources. There is no monitoring to ensure that local authorities comply with the legislation, so it is essential that service users have the support needed to be able to challenge practices that are not compliant.

The Care Act for the first time enables local authorities to delegate the statutory functions of assessment and eligibility to other agencies. This means that another agency can not only gather the information needed for the local authority to decide whether someone is eligible for support, they can themselves make that decision. Age UK has raised concerns about whether this could dilute local authority responsibilities for meeting eligible needs, or make it harder to hold local authorities to account for carrying out these responsibilities.

Policy proposals

- People who need local authority support to achieve an essential outcome should be entitled to that support regardless of whether or not they have more than one essential need.
- Consideration of how the capabilities of a person and their families or communities can contribute to meeting care and support needs is welcome. However the existence of such resources should not become a basis for assuming that the person does not have needs.
- The entitlement to advocacy for people who would be unable to participate assessment or subsequent decisions about their care should be properly funded.
- New local authority duties to provide information and advice to people who do not qualify for local authority support must be properly funded.
- There must be mechanisms to enable service users to challenge local authority practices that appear to be non-compliant with legislation.
- The Care Act includes powers to transfer responsibility for assessment to independent agencies, however the ultimate duty to meet an individual's needs must remain unequivocally with the local authority.

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