

The Care Act 2014

This factsheet is designed to explain some of the key changes made by the Care Act 2014 to the provision of social care and how this might affect you.

The Care Act 2014 updates the law on social care and brings it altogether under one piece of legislation.

The Care Act introduces some key changes to the rules about who qualifies for support and how the Local Authority can charge for care. It gives people the right to have a say about their care needs, a right to a review when they feel it is necessary, or to challenge decisions made about their care. It also gives people the right to advocacy support if they need help.

Importantly, the Care Act also strengthens the rights and recognition of carers in the social care system. For the first time, carers are able to request an assessment in their own right and to receive support and services. These are by far the strongest rights for carers yet.

The Care Act is not just important for people who are already receiving care from the Local Authority but also for those who may need it in the future, including those who fund their own care.

Needs assessment

From 1 April 2015 you have a right to a free needs assessment from the Local Authority if you appear to have a need for care and support.

The needs assessment will look at how you are managing everyday activities and household tasks, known as **care outcomes**. It is how the Local Authority decides whether you can get support from them and it is your opportunity to discuss with a professional what support might be best for you.

The Local Authority has a duty to help you with your **eligible needs** as set out in your needs assessment.

You should not be refused the assessment because of your financial situation or because the council thinks your needs are not high enough to qualify for support from them.

The assessment should put the individual at the heart of the process and encourage you to think and explain what you want to be able to achieve. You can have someone with you to support you at the assessment.

Eligibility for social care

The Care Act changes the rules about who qualifies for social care and support.

You now qualify if you answer “yes” to **all three** of these questions:

1. Is your need for support because of a physical or mental impairment, or an illness?
2. Are you unable to achieve **two or more** of the care outcomes? (i.e. wash yourself and clean your clothes, dress yourself, move around your home safely, prepare and eat food without help...)
3. Could this have a significant impact on your wellbeing?

It is not enough to show that you have difficulties; but you also have to show that this has an impact on your daily life and wellbeing. This extra step will require you to be able to fully explain yourself at the needs assessment and why it may be important to have someone there with you.

Importantly, Local Authorities must provide **independent advocacy** to facilitate the individual’s involvement in the assessment, planning and review processes where an individual would experience substantial difficulty in understanding, retaining or using information given.

Carers' assessments

If you care for a friend or family member, the Care Act means that you now have a legal right to a free carer's assessment, and to support if your needs assessment shows that you qualify for help. The rules under the Care Act relate to adult carers only, i.e. people over 18 who are caring for another adult. This is because young carers (aged under 18) and adults who care for disabled children can be assessed and supported under the relevant children's law.

You can have a carer's assessment regardless of whether or not the person you care for is getting support from the local council.

You will be eligible for support if you answer yes to all these questions:

1. Do you need support because you are caring for another adult (and would they be unable to cope without your care)?
2. Is your physical or mental health suffering? Or are there other outcomes (i.e. taking care of any children, keeping the home clean and safe, doing the shopping and preparing meals, having contact with others, or doing things you enjoy) that you are unable to achieve?
3. Could this have a significant impact on your wellbeing?

Support could include providing services to the person you care for, or by providing you with support directly. For example, practical help with the housework or gardening, emotional support from other carers, or support to improve wellbeing, such as a gym or leisure membership.

You cannot be charged for services that will be provided to the person you care for. They will be charged for this if they can afford it. If services are provided to you directly, you will undergo a financial assessment to determine whether, and to what extent, you should be charged.

Personal budgets

A personal budget is a statement of the amount of money needed to meet your eligible social care needs.

If you live in a care home then the personal budget will be the amount of money the Local Authority will expect to pay for care home fees to meet your needs. If you receive care at home it will be the cost of providing the care required to meet your assessed needs.

Once you have a personal budget, you can ask the Local Authority to pay you this sum of money as a direct payment which can be used to purchase your own care. This gives you more control over how your support will be provided.

It is important that you obtain details of your personal budget even if you will be funding the care yourself, as this will be used to calculate how much you have contributed towards your care (see below). If you are funding your own care then the budget will be called an **independent personal budget**.

Paying for social care / care cap

Social care and support remains unchanged under the Care Act and is not a free service. People have always had to pay something towards the cost of their care and support, but it is means tested and there is a financial assessment that has to be undertaken. There are complicated rules about what should and should not be taken into account, for example, there are some circumstances when the value of your home should not be included in the financial assessment for care home fees. We can provide advice and support for anyone who is being financially assessed.

What the Care Act does do, is change the limits on income and capital that are set before an individual will qualify for financial assistance. The implementation of these new limits has been postponed until **2020** and is still under review. It is expected that individuals with savings less than £17,000 will not have to use these on their care costs, but may still have to contribute some of their income (currently this is set at £14,250).

In addition the Care Act was supposed to introduce a cap on how much money people need to pay towards their own care in their lifetime. These reforms have also been delayed until 2020, at which time a cap of around £72,000 is expected for people of state pension age or over. This will be monitored using a **care account**.

Individuals should have a needs assessment to get a care account. You should also be given a **personal budget**. Then, the total amount of money you spend on meeting your eligible needs will be tallied up and when the cost of care hits this limit, the Local Authority should take over paying for all the care costs (this excludes top ups or daily living costs).

The cap only applies to your eligible needs, so requesting a needs assessment and getting a personal budget is essential. If your needs are not high enough then nothing you spend on your care will count towards the care cap, and if you pay for services over and above what the Local Authority thinks you need, then this extra amount will not be counted towards the cap.

If and when the cap is introduced it will not be retrospective so anything you are or have contributed to care will not be counted.

Legal representation

It is extremely important to ensure that any assessment of needs that is undertaken is evidence based and that the views of the applicant or their carers are accurately recorded and considered. The assessment process is complex and knowledge of the Care Act 2014 is essential.

Legal representation will ensure that the Local Authority takes full account of your needs in the assessment process and that all appropriate representations are made with reference to the Care Act.

Moore Blatch is able to provide full support and assistance to individuals or their carers who are entitled to an assessment of their social care needs, such that individuals will not be exposed to undue risk or poor quality care.

If you think you or a family member might be eligible for a needs assessment or a carer's assessment then visit our community care pages at www.mooreblatch.com for more information. We can have an initial chat with you entirely free of charge.

Alternatively, for more information about the Care Act, please contact us on **023 8071 8000** or email paula.barnes@mooreblatch.com

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