



Physical
health &
wellbeing



Support for life

The Care Act – your rights and the law

The Care Act came into force in April 2015 and was the first overhaul of social care in England for more than 60 years. It was designed to bring changes to improve the lives of people who need care and their carers. It includes a minimum eligibility threshold; a set of criteria which determine when local authorities will have to help those who need support. The needs of the individual are at the centre of the Act and are the main driver for care and support.

The “wellbeing” principle

The Care Act requires local authorities to carry out their work in a way that promotes your wellbeing. Wellbeing is a broad concept and the areas it relates to are set out in figure 1. The wellbeing principle is also part of the eligibility criteria; the local authority also needs to consider the impact of your disability needs or your role as a carer on your general wellbeing.

Eligibility

Eligibility for support will be determined based on a number of criteria. Whether you are a carer or the person needing care, you will have eligible needs if you reach the minimum threshold that's determined by the Care Act.

Two eligibility assessments

A “needs assessment” for the person needing care

A “carers assessment” for the carer

You can request an assessment directly from your local adult social care services department. The local authority must give you information and advice to help you understand the process and procedures in your local area.

Person-centred care

The Care Act puts you in control of your care and the funding and care you receive should support your wellbeing and improve your connections to your family, friends and community. If you are eligible for support the adult social care department should work closely with you to create the care and support plan that meets your eligible needs.

Payment support

The care plan will include a personal budget that contains clear information regarding the costs of your care and support and the amount that the local authority will make available (this is determined by a financial assessment). It may be you are not eligible for any financial support, however the local authority are still obligated to provide you with information and advice. You should be offered the choice during the process of how your personal budget will be arranged, regardless of where it is held.

Personal budget management options

A managed account held by the local authority

A managed account by a care provider

A direct payment

Self-funding

You are a “self-funder”, if you are not eligible for funding, because you are assessed to have sufficient financial assets to pay for the full cost of care, whether this is for domiciliary care at home or residential care in a care home.

There are some minor changes for “self-funders” in the Care Act with regard to deferred payments or an arrangement fee for local authority help with arranging your care.

Deferred payments

If there is enough capital value in your home to pay for your care, but if there are reasons why you'd prefer not to sell your home, the local authority now has a legal duty to consider entering a deferred payment agreement with you. You will sign a legal agreement with the local authority stating that the money will be repaid when you sell your home, which can be when you choose to sell your home or until after your death. The council can charge interest to a maximum of 2.25% on the money owed while they help to pay for your care. Find out from your council whether they charge interest.

Fee

If you need your local authority to set up care arrangements for you, they may charge you an arranging fee for this service. However, if someone is not able to set up their own care arrangements due to lack of mental capacity or not having anyone to assist them, the local authority cannot charge a fee.



Independent advocates

As the individual is at the centre of the Care Act, an independent advocate may be appointed to give someone who has substantial difficulty in making or understanding decisions in relation to their care, or who has no-one appropriate available to support and represent their wishes.

If you care for someone in this category, they will probably not be entitled to an advocate unless your requirements for the care for that person are not in their best interests. If that is the case the local authority may decide to appoint an independent advocate.

The independent advocate must assist the individual with obtaining care and support and has a duty to promote their well-being.

Carer support

The Care Act has recognised the rights of carers. If you care for a person you can request a “carer’s assessment” from your local adult social services department. This will look at how caring affects your life and work and your physical, mental and emotional wellbeing will be taken into account.

If you meet the eligibility criteria the local authority will work with you to create a support plan to meet your needs. If supporting you involves providing care to the person you are looking after, the local authority will need to carry out a “needs assessment” for them. You may be eligible to receive a personal budget, which will be part of your support plan.

For more information see our “Caring For Yourself As A Carer” fact sheet.

Safeguarding

The Care Act includes safeguarding legislation to prevent the abuse or

neglect of adults. Local authorities have a safeguarding duty and must carry out an investigation if they have reasonable cause to suspect that an adult in their area:

- is experiencing or at risk of abuse or neglect
- has needs for care and support (whether or not the local authority is meeting any of those needs)
- as a result of those needs is unable to protect themselves against the risk, or experience of, abuse or neglect

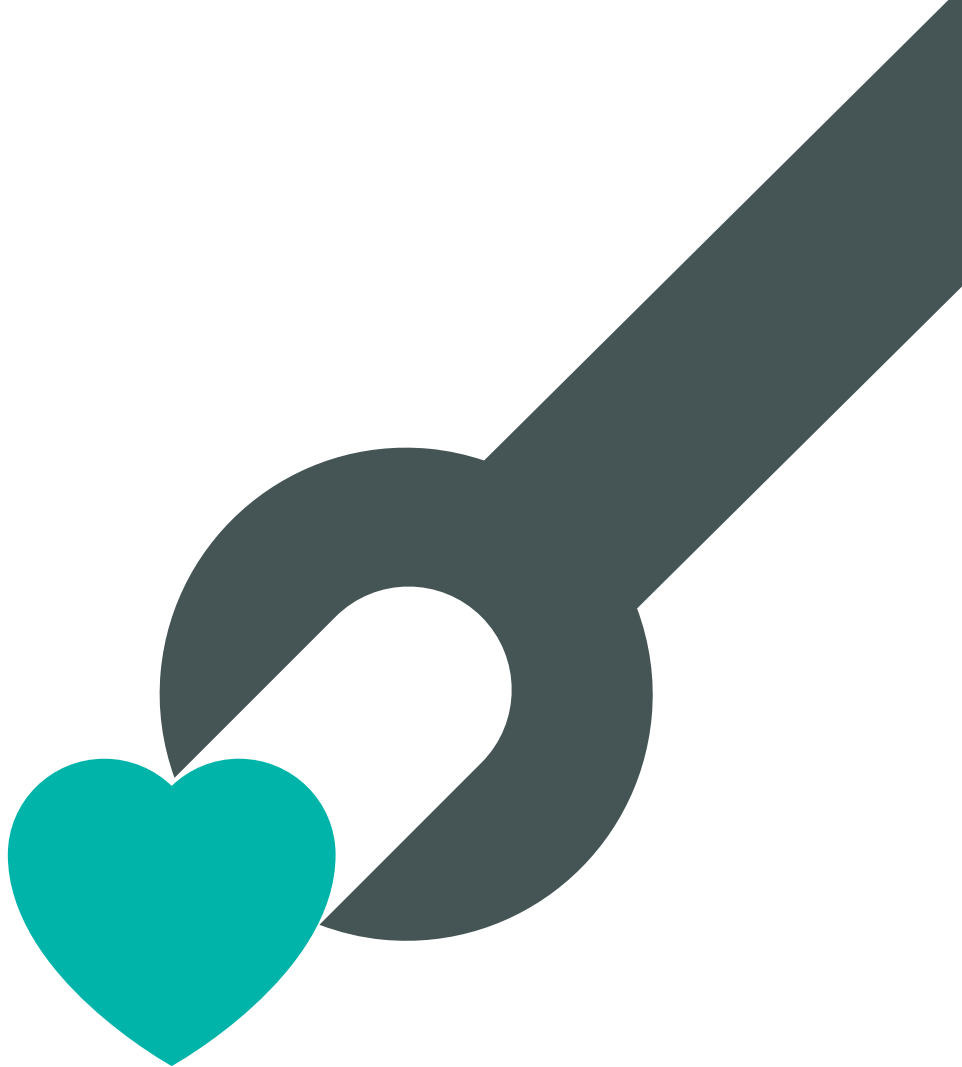
This applies to both people who require care and carers. The investigation may lead to extra support or a change in the way services are provided. The police may become involved if a crime has been committed.

As part of the Care Act the local authority also needs to set up a Safeguarding Adult Board, which includes other agencies such as the police and NHS. The board will carry out reviews when there is a suspicion of serious neglect or abuse or if someone has died as a result of neglect or abuse.

Wellbeing areas

- Personal dignity
- Physical and mental health
- Emotional wellbeing
- Protection from abuse and neglect
- Control by the individual over day-to-day life
- Participation in work, education, training or recreation
- Social and economic wellbeing
- Domestic, family and personal
- Suitability of living accommodation
- Individual’s contribution to society





Further sources of help

- **The Care Act**
www.gov.uk/government/uploads/system/uploads/attachment_data/file/365345/Making_Sure_the_Care_Act_Works_EASY_READ.pdf
- **Changes March 2016**
www.gov.uk/government/publications/care-act-2014-part-1-factsheets/care-and-support-statutory-guidance-changes-in-march-2016
- **Carers UK**
www.carersuk.org/help-and-advice/practical-support/getting-care-and-support/care-act-faq
- **Age UK**
www.ageuk.org.uk/home-and-care/the-care-act/

www.ben.org.uk

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Free, confidential helpline:
08081 311 333

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