

The Care Act 2014
Overview and Key Principles
by
Rhys Hadden

The Care Act 2014

- Aims to be a single comprehensive statute covering all aspects of care and support for adults
- Accompanied by extensive statutory guidance and 17 sets of regulations (to date)
- Person-centred approach
- Transparent and fair decisions about what care and support a person can expect
- Implementation 1st April 2015
- Cap on care costs & appeals 1st April 2016

Terminology

- ***Adult*** : throughout the Act, the word 'adult' is generally qualified as being an adult 'in need' of care and support. That is an adult who has 'a physical or mental impairment or illness'
- ***Carer*** : a carer is someone 18 or over who provides or intends to provide care for someone but is not contracted to provide the care or providing the care as formal 'voluntary work'
- ***Individual*** : either an adult 'in need' or a carer.

Structure of the Care Act 2014

- **General responsibilities of local authorities, including the 'wellbeing principle' (sections 1-7)**
- **Examples of how local authorities can meet care needs (both adults and carers) (section 8)**
- **Assessing of needs and defining eligible need (sections 9 to 12)**
- **National eligibility criteria (sections 13)**
- **Charging and assessing financial resources and the cap on care costs (sections 14 to 17)**
- **Duties and powers to meet needs for care and support and certain exceptions relating to immigration, NHS and housing (sections 18 to 23)**

Structure of the Care Act 2014 (cont.)

- Care and support plans, personal budgets, care accounts and preference for particular accommodation (sections 24 to 30)
- Direct payments and deferred payment agreements (sections 31 to 36)
- Continuity of care and support when an adult moves (sections 37 to 38)
- Establishing where a person lives (ordinary residence) (sections 39 to 41)
- Safeguarding adults at risk of abuse or neglect (sections 42 to 47)
- Provider failure (sections 48 to 52)
- Market oversight (sections 53 to 57)

Structure of the Care Act 2014 (cont.)

- Transition for children to adult services (sections 58 to 66)
- Independent advocacy support (sections 67 to 68)
- Enforcement of debts – recovery of charges and transfer of assets (sections 69 to 70)
- Appeals of decisions by local authorities under Part 1 (sections 72)
- Discharge of hospital patients with care and support needs (section 74)
- After-care under the Mental Health Act 1983 (section 75)
- Prisoners and persons in approved premises (section 76)
- Local registers of sight-impaired adults and disabled adults (section 77)
- Delegation of local authority functions (section 79)

Target Duties of Local Authorities

- Promoting individual well-being (s.1)
- Prevent, delay and reduce needs for care and support of adults and carers (s.2)
- Promoting integration of care and support with health and health-related services (s.3)
- Providing information and advice (s.4)
- Promoting diversity and quality in provision of services (s.5)
- Co-operating generally (s.6)
- Co-operating in specific cases (s.7)

Well-being definition (s.1)

- S. 1(2)“Well-being”, in relation to an individual, means that individual’s well-being so far as relating to any of the following:
 - a) *personal dignity (including treatment of the individual with respect);*
 - b) *physical and mental health and emotional well-being;*
 - c) *protection from abuse and neglect;*
 - d) *control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);*
 - e) *participation in work, education, training or recreation;*
 - f) *social and economic well-being;*
 - g) *domestic, family and personal relationships;*
 - h) *suitability of living accommodation;*

Approach to well-being

- **Broad definition**
- **No hierarchy in different aspects of well-being**
- **From the perspective of the person**
- **Holistic view in the context of skills, ambitions and priorities**
- **Focus on supporting people to live as independently as possible for as long as possible**
- **Principle to be considered when also undertaking broader, strategic functions which affect wider population (e.g. planning)**

Promoting well-being

- No set approach
- Conceptual shift from 'provision of services' (e.g. residential and domiciliary care) to 'meeting needs' (ss.8 and 18-20)
- Recognition that everyone's needs are different and personal
- Some aspects of well-being may be more relevant to a person than others
- Concept of well-being applies equally to those who do not have eligible needs but come into contact with the system (e.g. via an assessment)

Factors that must be taken into account (s. 1(3))

- a) The individual is best-placed to judge their own well-being;**
- b) The individual's views, wishes, feelings and beliefs;**
- c) Preventing or delaying the development of needs for care and support or needs for support or reducing the needs of either kind that already exist;**
- a) Ensure decisions about the individual are made having regard to all the individual's circumstances;**

Factors that must be taken into account (s. 1(3))

- e) The individual participating as fully as possible in decisions relating to the exercise of the function concerned and being provided with the information and support necessary to enable this;
- f) Achieving a balance between the individual's well-being and that of any friends or relatives who are involved in caring for the individual;
- g) Need to protect people from abuse and neglect;
- h) Need to ensure that any restriction on the individual's rights or freedom of action is kept to the minimum necessary for purpose for which that function is being exercised.

Independent Living

- **Not expressly mentioned in the Act**
- **Para 1.9 of guidance:**

The wellbeing principle is intended to cover the key components of independent living, as expressed in the UN Convention on the Rights of People with Disabilities (in particular, Article 19 of the Convention). Supporting people to live as independently as possible, for as long as possible, is a guiding principle of the Care Act. The language used in the Act is intended to be clearer, and focus on the outcomes that truly matter to people, rather than using the relatively abstract term “independent living”.

Preventing, reducing or delaying needs (s.2)

- **Section 2(1): A local authority must provide or arrange for the provision of services, facilities or resources, or take other steps, which it considers will –**
 - a) contribute towards preventing or delaying the development by adults in its area of needs for care and support;**
 - b) contribute towards preventing or delaying the development by carers in its area of needs for support;**
 - c) reduce the needs for care and support of adults in its area;**
 - d) reduce the needs for support of carers in its area.**

- **S. 2(2) In performing that duty, a local authority must have regard to –**
 - a) **the importance of identifying services, facilities and resources already available in the authority's area and the extent to which the authority could involve or make use of them in performing that duty;**
 - b) **the importance of identifying adults in the authority's area with needs for care and support which are not being met (by the authority or otherwise);**
 - c) **the importance of identifying carers in the authority's area with needs for support which are not being met (by the authority or otherwise).**

What is a preventative measure?

- The term “prevention” or “preventative” measures can cover many different types of support, services, facilities or other resources.
- No single definition for what constitutes preventative activity. This can range from wide-scale whole-population measures aimed at promoting health, to more targeted, individual interventions aimed at improving skills or functioning for one person or a particular group or lessening the impact of caring on a carer’s health and wellbeing.
- Local authorities should consider the range of options available, and how those different approaches could support the needs of their local communities.

Other duties to prevent needs

- **Develop 'clear local approach to prevention'**
- **Identify unmet needs**
- **Develop strategies to improve preventative services**
- **Co-operate and share information with local partners**

Questions

Needs

- **Conceptual shift from 'provision of services' to 'meeting needs' - personalised approach**
- **Eligible needs**
- **Ineligible needs that will be met**
- **Unmet needs**
- **No current needs**