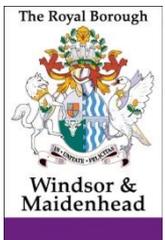


Care Act overview

26 February 2015

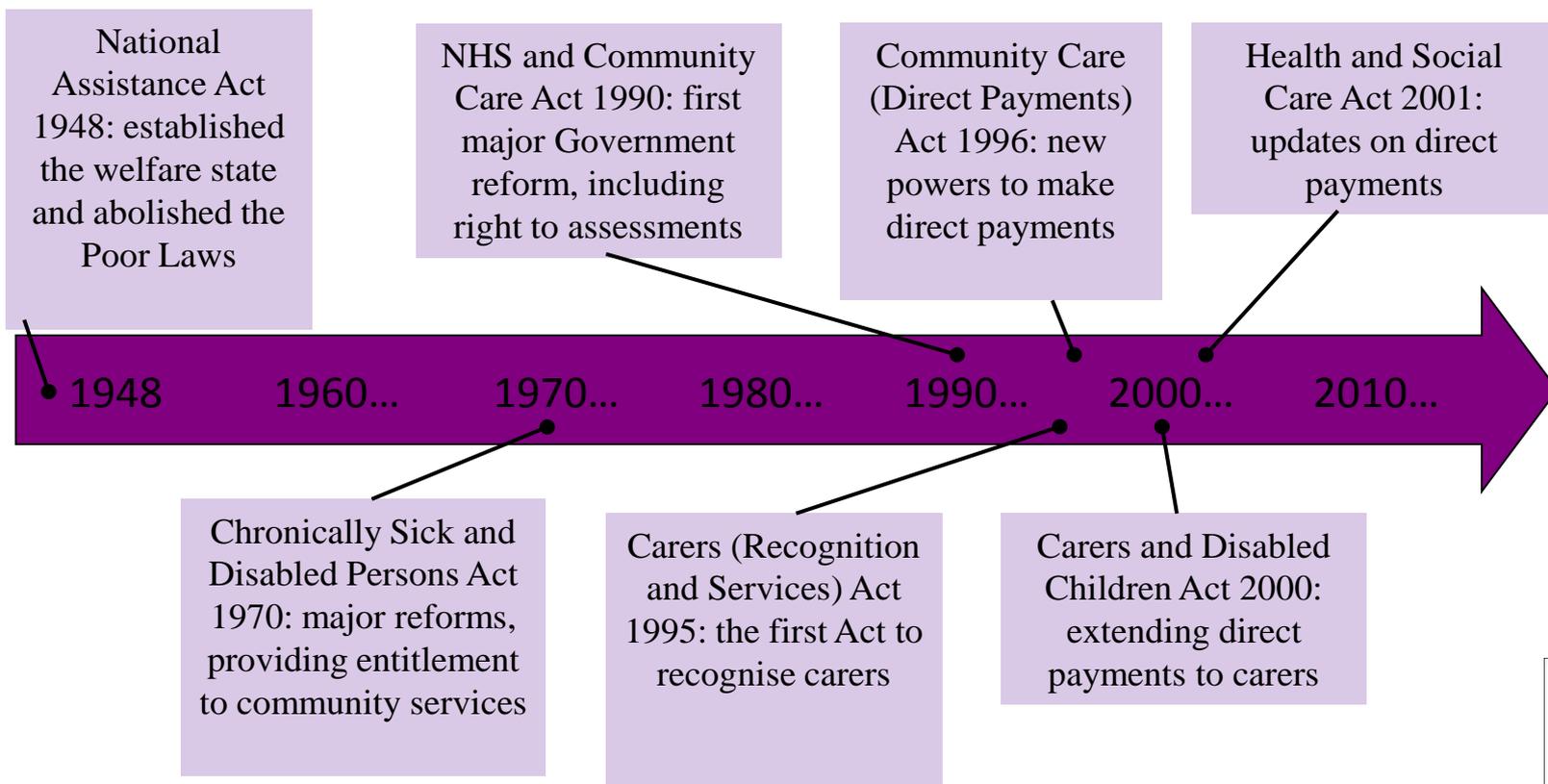
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A brief history of care and support law

Around 30 Acts of Parliament over more than 60 years:



Care Act Overview

From April 2015, care and support is changing for the better. The Care Act will help make the care and support system more consistent across the country.

What does the act do?

- Consolidates the last 60 years of adult social care legislation using more up-to-date language
- Places a new legal duty on Councils to do things they should have been doing for some time (in line with White Papers and best practice e.g. Personal Budgets)
- Introduces some genuinely new legislation

What does the Care Act do?

- The Act is built around people and makes care and support **clearer** and **fairer**.
- **Phase 1 – April 2015 – Care and Support reforms**
Focuses on assessments, a new eligibility criteria, carers and deferred payments as well as information and advice, delivering preventative services.
- **Phase 2 – April 2016 – Funding reform**
Focusses on introducing a cap on care costs so that individuals don't have to spend over £72,000 on the cost of their care.

What does the Care Act do? Phase 1

- Creates a new focus on **preventing** and **delaying** needs for care and support, rather than only intervening at crisis point
- Provision of **Information** and **advice** to help people understand the care and support system, access services and plan for the future
- Ensures that people's **well-being**, and the outcomes which matter to them, will be at the heart of every decision that is made
- Single **duty for assessment** of people who may need services & takes a historic step for **carers**, putting them on the same footing as those they care for

What does the Care Act do? Phase 1

- Provides for a **single national threshold for eligibility** to care and support
- Entitlement to a **care and support plan**, and requirement that local authority must help the person decide how to meet their needs.
- Right to a **personal budget** as part of the care and support plan which are on a legislative footing for the first time, which people will be able to receive as direct payments if they wish.
- Will ensure that people do not have to sell their homes in their lifetime to pay for residential care, by providing for a new **universal deferred payments scheme**;

What does the Care Act do? Phase 1

- Promoting **diversity and quality in the market** of providers so that there are high quality services to meet people's choices;
- Gives **new guarantees to ensure continuity of care** when people move between areas, to remove the fear that people will be left without the care they need;
- Includes new protections to ensure that no one goes without care if their providers fails, regardless of who pays for their care;
- Has new provisions to ensure that young adults are not left without care and support during their **transition** to the adult care and support system.

What's staying the same/small changes, what's different and what's new for frontline practice? (1)

Section	Topic
1	Promoting individual wellbeing
2	Preventing needs for care and support
3	Promoting integration with health
4	Providing information and advice
5	Promoting diversity and quality in provision of services
6	Co-operating generally
7	Co-operating in specific cases
8	How to meet needs
9, 11-12	Assessing needs
13	Eligibility criteria
10, 63	Carers' and young carers' assessments
14, 17	Charging and assessing finances (parts from April 2016/17)
15-16, 28-29	Cap on care costs (from April 2016/17)
22	Exception for provision of health services
18-19; 23	Duties and powers to meet needs
24-27, 30	Next steps after assessments
31-33	Direct payments
34-36	Deferred payments

What's staying the same/small changes, what's different and what's new for frontline practice? (2)

Section	Topic
37-38	Continuity of care
39-41	Ordinary Residence
42-47	Safeguarding
48-52	Provider failure
53-57	Market oversight
58-66	Transition for children to adult care and support
67-68	Independent advocacy
69-70	Enforcement of debts
72	Appeals (from April 2016/17)
74	Hospital discharge
75	After-care under the Mental Health Act
76	Prisons
77	Registers of sight-impaired and disabled adults
71, 73, 78-79	Miscellaneous

Cross-cutting	Topic
-	Mental capacity
-	Self-funders

Key Legislation and Guidance - not changing

- Mental Capacity Act 2005
- Mental Health Act 1983
- Children and Families Act 2014 (SEND code of practice)
- National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (November 2012) (Revised).
- Human Rights Act 1998

General responsibilities and universal services

The wellbeing principle

- The wellbeing principle underpins the entire legal framework, and influences the way all functions are carried out in relation to individuals.
- How to define wellbeing – and how it relates to other areas in the Act.
- Duties and powers to “meet needs” replace previous entitlements to services.

Preventing, reducing and delaying needs

- Universal duty: applies equally to those not receiving services and their carers.
- Primary, Secondary and Tertiary prevention.
- Strategic approaches and working with partners and voluntary services.
- Regulations cover charging for prevention: limits and specific free provision.

General responsibilities and universal services

Information and advice

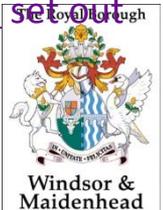
- Universal duty, but tailored information and advice for specific groups will be vital.
- Sets out how to provide information and advice, and to whom.
- Role of financial information and advice and how to help people benefit.

Market shaping and commissioning

- Commissioning focused on outcomes and promoting wellbeing.
- Promoting choice to drive quality and sustainability.
- Importance of workforce development and pay.

Managing provider failure

- Local authorities' responsibilities to meet needs in cases of provider failure. Emphasis on contingency planning and early warning. Regulations set out when there is a “business failure” to trigger local authority duty.
- New CQC oversight regime of financial health of “difficult to replace” providers. Regulations set out criteria for which providers are in regime.



First contact and identifying needs

Assessment and eligibility

- Duty to assess on appearance of need – for people who use care and carers.
- Must involve the person, and focus on their desired outcomes alongside needs.
- Must be proportionate to the person’s needs, goals and circumstances.
- Consider how to prevent or delay needs, and whether other types of support available locally may also benefit, alongside the assessment.
- Regulations set out requirements around assessment, including training/expertise.
- New **national minimum eligibility threshold** ensures more consistency, designed to maintain existing levels of access. Local authorities can meet other needs.
- Regulations set out eligibility criteria, based on “significant impact on wellbeing”.

Independent advocacy

- Duty to provide an independent advocate where someone has substantial difficulty being involved in the process and there is no one to act on their behalf.
- Regulations define “substantial difficulty” in involvement, requirements for an advocate, and what their role looks like.

Charging and financial assessment

Charging for care and support

- Charging framework clarified for 2015/16 but largely unchanged. Questions on small changes to 12-week disregard of property after entering a care home; and treatment of investment bonds/pre-paid funeral plans.
- Includes right to choice of accommodation and ability to make top-up payments. Question extension to other types of accommodation (e.g. extra care housing).
- Regulations set out process of financial assessment (including monies to be disregarded), limitations on power to charge and choice of accommodation.

Deferred payment agreements

- A person can 'defer' paying the costs of their care and support, so they do not have to sell their home at a point of crisis. New duty to offer to certain people.
- Amount that can be deferred usually based on loan-to-value ratio of home.
- Power to charge interest to offset risk and make cost-neutral.
- Questions on interest rate; extending scheme to extra care housing and supported living; and allowing people to keep some rental income.
- Regulations set out the criteria for DPAs, and other conditions.

Care and support planning

Care and support planning

- Duty to prepare a care and support plan for all those whose needs are being met, including carers. Must involve people in the planning process.
- Legal framework for combining or integrating plans for different people where appropriate.

Personal budgets

- Sets out what it will cost the local authority to meet the person's needs.
- Must be included with each plan.
- Process for calculating budget must be transparent.
- Can be combined with other public money, e.g. personal health budgets.
- Regulations specify that intermediate care and reablement are not included in a personal budget.

Care and support planning

Direct payments

- Right to request the amount identified in a personal budget as a cash payment, which people can use to purchase their own care and support.
- Direct payments must have proper oversight and be reviewed regularly, without being too burdensome.
- Questions on having first review after 6 months instead of 12; and easing restriction on paying family members to manage.
- Regulations set out situations where a local authority must not, or may not, offer a direct payment; and other conditions.

Reviews

- Review must be ongoing to ensure needs continue to be met over time.
- Planning and sharing timescales for regular reviews, and responding to a request for a review.
- Proportionality and timeliness of reviews.

Adult safeguarding

Safeguarding

- Definitions of “abuse” and “neglect”.
- The local authority role: new duty to carry out **enquiries** where risk of abuse or neglect. May require independent advocate.
- Requirement for all areas to establish a **Safeguarding Adults Board (SAB)**: to coordinate activity of partners to protect adults from abuse and neglect.
- Multi-agency working: roles, responsibilities and information-sharing.
- LA, NHS and police as core members of SAB: local discretion for others?
- SABs to carry out **safeguarding adults reviews** into cases of concern, to ensure lessons are learned.
- New ability for SABs to require information sharing from other partners to support reviews or other functions,

Integration and partnership working

Integration, cooperation and partnerships

- Promoting integration with NHS and other services (including housing).
- Requirement to work collaboratively and cooperate with other public authorities, both generally and in specific cases.
- Working with the NHS and managing the legal boundary with local authority responsibilities. Regulations set out details and the process for dispute resolution.
- Managing delayed transfers of care out of hospitals. Largely replicates existing scheme, but discretionary not mandatory. Regulations set out processes to follow.
- Working with housing to integrate provision and ensure focus on suitability of living accommodation. Considers how housing supports core responsibilities in the other parts of the guidance.
- Working with employment and welfare services – also often highly relevant to care and support and JobCentre Plus is “relevant partner” for cooperation.



Integration and partnership working

Transition to adult care and support

- Duty to assess young people and their carers in advance of transition from children's to adult services, where likely to need care and support as an adult.
- How to determine where there is "significant benefit" for timing of assessment.
- Regulations set out process for providing services to adult carers of children.

Prisons and approved premises

- Each local authority responsible for prisoners in custodial settings in its area.
- Principle of equivalence with those in the community, however complicated in some areas, e.g. aids & adaptations. Some rights do not apply.

Delegation of local authority functions

- New power for authorities to delegate certain functions to another organisation.
- Local authorities retain ultimate responsibility for how functions are carried out, so people always have redress. Good contract management and avoiding conflicts of interest essential.

Moving between areas

Ordinary residence

- Local authority responsible for meeting the eligible needs of all those ordinarily resident in their area (who may be living elsewhere some or all of the time).
- Example scenarios to help decisions and aid dispute resolution between areas.
- Regulations set out the types of accommodation where ordinary residence applies in relation to “out of area” placements and the process for dispute resolution.

Continuity of care

- When someone moves area, current local authority must share the care and support plan and other information relating to the person and their carer.
- Information before the move, assessment and arranging to meet the needs on the day of arrival, based on the previous care and support plan.
- Regulations set out the requirements on the day of the move.

Cross-border placements

- New power ability to arrange care home placements across the UK.

Other areas

Sight registers

- Local authorities must keep a register of adults who are severely sight impaired and sight impaired in their area. Regulations define who should be treated as sight-impaired or severely sight-impaired.
- Local authorities may also maintain registers of other people with disabilities.

Transition to the new legal framework

- Transition in 2015/16: passporting people currently in the system under the new legal framework in the Care Act.
- No automatic need for re-assessment or new eligibility determination; will depend on previous local policies
- Preparing for 2016/17: steps to take in 15/16 to prepare for funding reform: understanding likely demand, awareness-raising, capacity-building, and early assessments

What does the Care Act do? Phase 2 – Funding Reform proposals

- Phase 2 proposals are currently being consulted on by the Department of Health:

<https://www.gov.uk/government/consultations/care-act-2014-cap-on-care-costs-and-appeals>

- Reforms the funding system for care and support, by introducing a **cap on the care costs** that people will incur in their lifetime
- New appeals system
- Won't know the outcome of the consultation until October – still uncertain

What does this mean?

The new care and support system from April 2016...

You may need care and support if you have a condition such as dementia, or other problems that affect your quality of life or ability to carry out daily activities.

If you have a care and support need, you should contact your local authority, which can provide...

...an assessment of the care and support you need, what services are right for you and whether you are eligible for state support

...info & advice on the services available to help you stay well

...reablement, rehabilitation & other free services

...advice on local services and how much they cost

Every year your local authority will review your care needs and your financial situation. From April 2016 they also keep a record of how much eligible care you have needed in total.

You pay what you can afford towards the cost of your care but from April 2015 you will be able to defer the payment of residential care fees so that you don't have to sell your home in your lifetime to pay for care.

Your local authority helps with costs you can't afford if you have less than £27k of wealth. From April 2016, if you have less than £118k you could receive some financial help with residential care costs.

Care costs after April 2016 are capped at £72k, which is the limit on what you will have to spend on eligible care over your lifetime. Once you have reached the cap your local authority will pay the reasonable costs to meet your eligible care needs for the rest of your life. If you receive financial support then you could spend less than this amount.

You will still be responsible for some care-related expenses...

If you are in residential care, you will pay a contribution towards your general living expenses, just like you would if you were living in your own home. This contribution is expected to be around £230 per week in 2016. However, the LA will pay if you can't afford – this will be looked at during financial assessment.

You are responsible for the cost of any additional services that you choose to have beyond what the local authority would provide, such as having a second bedroom in a care home, or help with lower level care needs.

Any Questions / comments?

Questions can be sent to:

careact.info@rbwm.gov.uk