Care Act (part one)
The Care Act is built around people - it:

• Ensures that people’s **well-being** and the **outcomes which matter to them**, will be at the heart of every decision that is made.

• Puts **carers** on the same footing as those they care for.

• Creates a new focus on **preventing and delaying needs for care and support**, rather than only intervening at crisis point.

• Puts **personal budgets** on a legislative footing for the first time, which people will be able to receive as **direct payments** if they wish.
What does the Care Act do?

The Act is **built around people**, it:

- ensures that people’s **well-being**, and the outcomes which matter to them, will be at the heart of every decision that is made;
- puts **carers** on the same footing as those they care for;
- creates a new focus on **preventing and delaying needs for care and support**, rather than only intervening at crisis point, and building on the strengths in the community;
- embeds rights to choice, through care plans and **personal budgets**, and ensuring a range of high quality services are available locally.

The Act makes care and support **clearer and fairer**, it:

- extends financial support to those who need it most, and protects everyone from catastrophic care costs though a **cap on the care costs** that people will incur.
- will ensure that people do not have to sell their homes in their lifetime to pay for residential care, by providing for a new **deferred payments** scheme;
- provides for a **single national threshold for eligibility** to care and support;
- supports people with **information, advice and advocacy** to understand their rights and responsibilities, access care when they need it, and plan for their future needs;
- 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 provider fails**, regardless of who pays for their care.
# The guidance: chapter by chapter

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Areas with related draft regulations
General responsibilities and universal services

1. 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.

2. 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.
Prevention, integration and cooperation

- **Whole-person approach to prevention**, including consideration of person’s *strengths, informal and community networks*, as well as needs and risks
- Recognition of the *value of community, voluntary and other available resources* in the local area
- Work in *partnership with other professionals in social care, health, housing and employment and others* to maximise independence, wellbeing and resilience, ensuring responses are appropriate and sensitive to the needs and desired outcomes of the individual.
General responsibilities and universal services

3. 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.

4. Market shaping and commissioning
   • Commissioning focused on outcomes and promoting wellbeing.
   • Promoting choice to drive quality and sustainability.
   • Importance of workforce development and pay.

5. 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.
Information and Advice

• Duty on Local Authorities to provide **clear, accessible** information and advice on care and support in the local area.

• Provides clarity on role of social workers to identify people with **more complex needs** early on and in helping to access appropriate support.
First contact and identifying needs

6. 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”.

7. 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

8. 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.

9. 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.
Assessment, review and care planning

• Sets out clear role for social workers and OTs to carry out assessments.

• Unique role of social workers in complex assessments which require co-ordination across statutory and community services.

• Provide support to assessors where the individual may lack capacity.

• Support people to develop their care plans and enable them to engage confidently in the process.

• Understand where additional community resources can contribute to the plan, e.g. building wellbeing and emotional connections.
Care and support planning

10. 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.

11. 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

12. 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.

13. 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

14. 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,
Adult Safeguarding

• Expectation that social workers will be required to **supervise safeguarding enquiries**, including more **complex cases**, e.g. suspected abuse or neglect within the family.

• Lead worker (with OT or appropriately qualified social care professional), in cases where **DOL safeguards** may be needed.
15. 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

16. 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.

17. 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.

18. 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.
Transition to adults’ services

- Social workers as most appropriate professionals to carry out transition assessments for young people with complex needs, who are transitioning to adult services.

- Assessments must be carried out early enough to ensure the right care and support is in place on moving to adult services.

Consultation questions:
- Is the guidance clear enough that the term ‘significant benefit’ is about the timing of the assessment? Is the guidance specific enough that significant benefit is not open to misinterpretation and that people who are assessed are assessed at the right time for them? (Q57)
- Are the descriptions in the guidance of people’s rights to transition assessments and continuity of care beyond 18 sufficiently clear? (Q58)
Repositioning of social work in adult social care

Promote social workers as the lead professional responsible for personalised, integrated care and support - especially:

• **Prevention** – promoting independence and resilience
• **Information and advice** for those with more complex needs
• **Assessment or review** of an individual or carer with complex social care needs
• **Supervising safeguarding enquiries**
• **Transition** from children’s to adults’ services

Social workers have the qualifications, knowledge and skills to work:

• with **complexity, risk and conflict**
• **therapeutically** and in the community
• with **capacity**
• to shape the **social care market**