

# Carers Have Rights

## The Care Act 2014

The **Care Act 2014** sets out the duty of local authorities to assess people's needs for care and support, and to determine eligibility for public funding to meet those needs. It includes significant legislation to support carers, including the right to an assessment independently of the person they care for.

### Assessments and eligibility

- Introduces national care and eligibility criteria which all councils must use, ending a 'postcode lottery' on provision for carers and the people they are caring for.
- Gives carers the right to their own assessment, whatever the level of their need for support or their financial resources, or those of the adult that they care for. Previously carers had to provide a 'substantial amount of care on a regular basis' in order to be eligible. If carers have been refused an assessment in the past because they did not meet the eligibility criteria, they are now able to request another assessment.
- Provides a greater clarity about safeguarding responsibilities, and how the local authority and partners work to protect vulnerable people.

### Information, advice and advocacy

- Everyone is entitled to advice and information on care and support services, even if they are self-funding or they have not been assessed as needing specific help.

### Safeguarding

- Sets out a clear **legal** duty for local authorities to lead on safeguarding issues in their area. Adult safeguarding is the process of protecting adults with care and support needs from abuse or neglect. The local authority must set up a Safeguarding Adults Board (SAB) to work with other agencies such as the NHS and the police, to develop a joint safeguarding strategy.

### Wellbeing

- Improves and clarifies a local authority's duty to promote all people's wellbeing (both adults and their carers) when providing support.



## Paying for care

- Following assessment, the local authority may decide a carer needs support but is not entitled to financial help i.e. they pay for their own services – they are ‘self funding’.
- People who are self-funding have a right to ask councils to put services in place for them. These services should be charged at the same rates as the council pays for someone whose care is being funded.
- When someone has been assessed for social care support, they have a right to know the value of their ‘personal budget’. This is a summary of the estimated costs of their support services. It is particularly useful when someone is paying for their own care.
- If a person is awarded a personal budget for their care by the council, they can choose to have this money paid to them directly, as cash; this is known as a Direct Payment. If they would rather have someone else, such as a social worker, manage the money and buy services for their care, this is called a Managed Budget. A person can also choose to have the money paid to a third party provider organisation, who will manage the budget for them, and will source and buy care services with the person’s agreement. This arrangement is known as an Individual Service Fund.
- Deferred Payment Agreements (DPAs) are available from all councils across England. This arrangement enables people to use the value of their own home to pay for care home costs. The council will pay bills, recouping the cost when someone decides to sell their home or after their death. This means people will not have to sell their house during their lifetime in order to pay for care.

**The government has announced that they will introduce changes to the way people pay for social care in England with an altered cap on care costs. This is planned to start from October 2023 but the time-frame may change.**

## The Health and Social Care Act 2022

The Health and Social Care Act has introduced significant reforms to the organisation and delivery of health and care services in England in order to improve collaboration between NHS and local authorities. The act includes:

- A duty on NHS England to consult carers when commissioning services and to consult carers around services relating to patients’ treatment and diagnosis
- The introduction of new powers for the Care Quality Commission to assess local authorities
- The introduction of a new duty for NHS and foundation trusts to involve patients and carers (including young carers) in hospital discharge planning if a patient is likely to need their care and the trust deems it appropriate. This should be done as soon as feasible when any discharge planning starts.



## **The Children and Families Act 2014**

In September 2014, legislation was introduced which affects children and young people with special educational needs and disabilities (SEND) in England.

Local councils must draw up an education, health and care (EHC) plan instead of a statement of SEN, offering a more comprehensive education, health and care plan from birth to age 25. They must also publish a 'local offer' of the services children, young people and their families can expect. Families will be offered the option of a personal budget to pay for the services they need.

## **Flexible working regulations 2014**

Regulations introduced in June 2014 under the Employment Rights Act 1996 give **all** employees a statutory right to ask their employer for flexible working arrangements, provided they have worked for their employer for 26 weeks continuously at the date the application is made. Employers are required to consider the request seriously.

## **Equality Act 2010**

Combines existing and new legislation relating to equality, including age, disability, gender reassignment, race and religious discrimination, setting out a new legal landscape for employers, services and goods providers. The Act also protect against 'discrimination by association', so it is unlawful to harass or directly discriminate against someone who is 'associated with' a person protected by the law due to their age or disability. For example, a carer could have protection against discrimination if their employer treated them less favourably than other employees because they have a disabled child or elderly relative.

## **Mental Health Act 2007**

Amends the Mental Health Act 1983. Key areas include the definition of mental disorder, criteria for detention, 'nearest relative' rules, supervised community treatment (SCT), electroconvulsive therapy (ECT), Mental Health Tribunals and advocacy.

## **Mental Capacity Act 2005**

Empowers and protects vulnerable people who are not able to make their own decisions. Importantly, carers have a legal right to be consulted regarding decisions for someone who may lack capacity. It also enables people to plan ahead in case they are unable to make important decisions for themselves in the future.



If you need further information or would like to discuss any aspect of your caring role, please contact Carers' Resource:

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We can provide this information in another format. Please contact us to discuss your requirements.

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