

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

- Sets out national care and eligibility criteria which all councils must use. If a carer or cared for person meets this threshold, they will have eligible needs that the local authority must then meet
- 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.

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

- Sets out a local authority's duty to promote all people's wellbeing (including people being cared for and their carers) when providing support. This means that they should always have a carer's wellbeing in mind when making decisions about them or planning services.

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 announced that they would introduce changes to the way people pay for social care in England with an altered cap on care costs. This was planned to start from October 2023 but the reforms have been delayed two further years and there is now uncertainty that they will be taken forward as planned.

Carer's Leave Act 2023

From 6th April 2024 this important new carer legislation comes into force. Working carers will have the right to take up to one week's unpaid leave from their job every year if they need it, to provide or arrange care for a dependant who has long term care needs.

- The right to take unpaid Carer Leave will start from a carer's first day in their job
- Carer Leave must be taken at a minimum of half a day at a time and maximum a week of the carer's usual working pattern.
- The employer can ask for notice of leave but they are unlikely to be able to refuse the request.
- The employer is not allowed to require the carer to prove they are a carer.



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, offering comprehensive support 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.

Equality Act 2010

Protects people against discrimination by employers, services and goods providers relating to their 'protected characteristics', including age, disability, sex, gender reassignment, race and religious belief. The Act also protects against 'discrimination by association', making it unlawful to harass or directly discriminate against someone because they are 'associated with' a person with a protected characteristic.

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 dependant.

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. Employers are required to consider the request seriously. The terms of the Flexible Working regulations have been updated in the recent Employment Relations (Flexible Working) Act 2023.

Employment Relations (Flexible Working) Act 2023

From July 2024 when the new legislation will come into force, workers will benefit from new measures in the Act including:

- the right to request flexible working from day one of a new job
- new requirements for employers to consult with the employee before rejecting their flexible working request
- permission to make two statutory requests in any 12-month period
- reduced waiting times from three months to two for decisions to be made (within which an employer administers the statutory request)
- the removal of existing requirements for the employee to explain the business effect of the changes requested.



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 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.

Mental Health Act 2007

Key areas of the act include the definition of mental disorder, criteria for detention and 'nearest relative' rules. Under nearest relative rules the appointed relative may apply for or object to their relative being sectioned or placed under guardianship and may be consulted and/or given certain information about their relative if they are sectioned.

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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