

Carers have rights Legislation which affects carers

Recent legislation heralds major changes to the care system. The **Care Act 2014** represents the most significant reform of care and support in more than 60 years. The majority of the new legislation came into force in April 2015. Some reforms concerning paying for care, including a cap on care costs, have been postponed until at least 2020.

The Care Act 2014:

- brings together into one place most adult social care law, making it simpler and easier to understand.
Replaces key legislation and guidance, including the three Acts of Parliament which specifically related to carers:
 - Carers (Recognition and Services) Act 1995
 - Carers and Disabled Children Act 2000
 - Carers (Equal Opportunities) Act 2004

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 needs 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. They 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 receives social care support, they will have the right to ask for a 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.
- From April 2015, 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 Children and Families Act 2014

In September 2014, legislation was introduced which affects children and young people with special educational needs (SEN) 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 – includes age, disability, gender reassignment, race, religion, discrimination, setting out a new legal landscape for employers, services and goods providers. Notably, outlaws discrimination against carers. For example, carers should not be treated differently because their employer or prospective employer thinks they may have to take time off to care for someone.

Mental Health Act 2007

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

Human Rights Act 1998

Major issues include the right to life and the right to not be subjected to inhuman or degrading treatment, the right to respect for private and family life, and, for example, the right to challenge social services on their provision of care.



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

Harrogate 01423 500555
11 North Park Road, Harrogate, HG1 5PD

Bradford 01274 449660
15 Park View Court, St Paul's Road, Shipley, BD18 3DZ

Ripon 01765 690222
Community House, Sharow View, Allhallowgate, Ripon. HG4 1LE

Skipton 01756 700888
Ronaldsway House, 36 Brook Street, Skipton, BD23 1PP

info@carersresource.org www.carersresource.org

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

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