



advice and support for older age

**Independent
Age**

Factsheet

What does the Care Act mean for me?

Getting social care support under the new law in England

This factsheet concentrates on parts of the Care Act which will most affect people who use social care services, or who may need to use them in the future. This includes people who fund their own care.

Last reviewed: April 2015

Next review date: October 2015

Independent Age provides advice to help people claim benefits, access social care and stay independent at home. Our local volunteers provide friendship visits and calls for lonely older people. To find out how Independent Age can help you, call us FREE on **0800 319 6789** or visit www.independentage.org. Our free wise guides and factsheets can be download from the website and ordered by phone or via our online order form.



Contents

Chapter 1 - What is the Care Act?	Page 3
What to expect from your council when you need social care support	
Chapter 2 – your needs assessment	Page 8
Chapter 3 – planning your support	Page 16
Chapter 4 – so who pays?	Page 19
Chapter 5 – the care cap	Page 27
Chapter 6 – arranging your support	Page 32
Chapter 7 - reviewing your care and having your say	Page 34
Chapter 8 - if you move to a new area	Page 38
Chapter 9 – if you care for someone	Page 40
General responsibilities for local councils	
Chapter 10 – looking after your wellbeing	Page 45
Chapter 11 – information and advice	Page 47
Chapter 12 – working with partner agencies	Page 49
Chapter 13 – keeping residents safe	Page 50
Chapter 14 – getting advice	Page 52

1. What is the Care Act?

The Care Act is a new law to bring all the previous bits of law related to social care together in one place, and to modernise or update the law where necessary.

It tells councils across England what they need to do if someone has social care needs and needs support either in their own home, in other types of housing (shared lives schemes, supported or extra care housing) or in a care home. It also sets out what councils have to do if they are aware that someone is caring for a family member or friend and needs support.

The Care Act applies to England only. There are separate laws about social care in Wales, Scotland and Northern Ireland:

- In Wales, the Social Services and Wellbeing Act (Wales) became law on 1 May 2014, and the areas covered by the Act including assessment of needs, financial assessments, adult safeguarding and complaints will start to take effect from April 2016 (legislation.gov.uk/anaw/2014)
- In Northern Ireland, changes have also been made to the social care system (transformingyourcare.hscni.net/)
- In Scotland, the Public Bodies (Joint working) Act about the integration of health and social care was granted royal assent on 1 April 2014 and the NHS and councils are beginning to work towards this (gov.scot/Topics/Health/Policy/Adult-Health-SocialCare-Integration).

Good to know



Some parts of the Care Act due to be introduced in April 2016 were still subject to public consultation until March 2015.

This could mean some changes to the information included in this factsheet.

Following the results of this consultation being published, this factsheet will be updated to reflect any changes and further detail added.

So what will be different for me under the Care Act?

- If you want (or get) support from your council

The Care Act changes the rules about who qualifies for support from the council, and the rules about charging for care (see chapters 2-4 of this factsheet).

It gives people the right to advocacy support if they need help to have their say about their care needs, and a right to have their care reviewed when they feel this is necessary, or to challenge decisions about their care (chapter 7). It also requires councils to support people with social care needs if they move to a new area (chapter 8).

As well as introducing some new measures, the Care Act puts a number of things that councils have already been doing into law for the first time. Most people who get social care support at the moment are given a personal budget by their council, so that they know how much money is needed to support them and can choose how this is spent. However, if the council did not offer you this, then you had no legal right to request it until now (see chapter 3).

The same applies to deferred payments of care home fees. Before April 2015, councils could decide if they would allow people to defer selling their home to pay their care home fees until after their death. The Care Act means that councils now have a legal duty to offer deferred payments to people under certain conditions (see chapter 4).

- **If you fund your own care**

From April 2016, the Care Act introduces a cap on how much people need to pay towards their own care in their lifetime. When their care needs reach a level where they would qualify for support from the council, the amount of money required to meet those needs should be tallied up in a 'care account' from then on.

To get a care account, individuals must have a needs assessment by their local council (see chapter 2). Once this account hits a certain limit, the council should take over paying all the care costs, except for daily living costs and any 'top-ups' that the person needs to pay, which are explained later in this factsheet (see chapters 4 and 5).

The Care Act also means that you can ask the council to arrange your services for you, even if you pay for them all yourself (chapter 6). **If you care for a friend or family member**

The Care Act brings in new legal rights for carers. Carers now have the same right to an assessment of their needs and to services as someone with social care needs (see chapter 9).

Councils also have general responsibilities towards their residents: to keep them safe, support their general wellbeing, and provide good information and advice about support services available in the area. The Care Act emphasises these responsibilities and sets out how councils need to meet them. It also requires councils to work more

closely with health services to join up services and improve people's experience of health and social care.

See chapters 10-14 for more information about the council's duties in these areas.

When do the changes in England take place?

Some of the changes mentioned in this factsheet have been introduced as of 1 April 2015, others will take effect in April 2016. We have made it clear in this factsheet which of these important changes will not be introduced until April 2016.

What to expect from your council when you need social care support

Even if you are (or will be) funding your own care, you should still discuss your situation with your council. The council can help you identify areas where you might need help and may be able to arrange you care for you. You also need to get in touch with the council if you want to kick-start your care account (see chapter 5).

The Care Act introduces some important changes to the rules that councils must follow when supporting people with social care needs.

2. Your needs assessment

The new law states that as of 1 April 2015, you have a right to a free needs assessment from your council if you appear to have a need for care and support. A needs assessment looks at how you are managing everyday activities such as looking after yourself, household tasks and getting out and about. A needs assessment is your opportunity to discuss with a professional what support might be best for you. It is also how the council decides if you can get support from them.

You should not be refused this assessment because of your financial situation, or because the council thinks that your needs won't be high enough for you to qualify for support from them.

From April 2016: another reason to have a needs assessment...

Even if you don't want the council to support you, it is important that you have a needs assessment. From April 2016, this will allow the council to set you up with a 'care account'.

Your care account will tally up the money spent on meeting the social care needs which the council thinks must be met. The council calls these your eligible needs.

Once your care account reaches a certain amount (the care cap), the council will need to take over most of your care costs. There is more on the care cap later in this factsheet (see chapter 5).

What should happen during your assessment?

The Care Act says that you should be in the driving seat during the needs assessment. You should be encouraged to explain what you think you need and what you want to be able to do or achieve (such as to stay in your own home safely).

During your needs assessment, the social worker must talk to you about whether you are able to achieve certain 'care outcomes'. These include being able to:

- prepare and eat food without help, and get enough to drink
- wash yourself and clean your clothes
- use a toilet and manage all your toilet needs
- dress yourself properly
- move around your home safely
- keep your home clean and safe
- have enough contact with other people
- take part in activities like volunteering, training or learning
- use local services, such as being able to use public transport and get to the shops
- carry out any caring responsibilities you have for a family member.

The social worker should ignore any care that you are being given by a friend or family member when looking at which care outcomes you are able to achieve. Eg, if you get help to dress from a family member, they should still mark this as being one 'care outcome' that you cannot achieve without assistance.

The person carrying out your assessment with you should also consider and discuss with you what impact your care needs are having on your wellbeing, and whether there are suitable support services which can help you achieve what you want (such as equipment to help you get around inside your home so that you don't need to move out). If you do want to move, the council should take into account what your preferred accommodation is.

Support during your assessment

You are able to have a friend or family member with you at the assessment if you want to.

The Care Act states that the council must arrange for you to have an independent advocate with you at the assessment if:

1. you don't have anyone else (like a friend or family member) to support you

and

2. you have 'substantial' difficulty doing any of the following:

- communicating what you want to say
- understanding the information given to you, or remembering it
- weighing up the information you are given in order to make decisions about your support.

An independent advocate is a trained professional who can help you to get your voice heard at the assessment, and make sure that the end result reflects your wishes and rights (see chapter 7 for more about advocacy).

Do you qualify for support?

The Care Act changes the rules about who qualifies for social care support.

In the past, councils were able to decide who was eligible for their support. There was a national framework called 'fair access to care services', which categorised people's care needs at four different levels:

- critical (eg, if you couldn't get washed and dressed without lots of help)
- substantial
- moderate
- low.

Councils could decide at which level people would get support from them. Eg, they could decide to only support people with critical needs, or to support people with critical or substantial needs. This meant that someone might qualify for support from one council, but not from another somewhere else in England.

Thanks to the Care Act, there is now national eligibility criteria which all councils must use. There is one threshold over which people qualify for support from their council, rather than there being four 'bands' of eligibility.

When using this new national criteria, councils cannot just prioritise people's personal care needs (such as needing help with getting washed and dressed), but also have to look at their general wellbeing and any other sorts of help that they might need, such as help with housework or any housing needs they have . Even if the council won't provide

this help (because the person does not have high enough care needs to meet the eligibility criteria), they should support people to identify the help that they need and to plan how they might get it.

So who qualifies for support from the council under the new criteria?

You only qualify for support if your needs assessment shows that the answer to all three of the questions below is 'yes':

- 1.** Is your need for support because of a physical or mental impairment, or an illness?
- 2.** Are you unable to achieve **two or more** of the 'care outcomes' (explained above)? In other words, do you have a lot of care needs?
- 3.** Could this have a significant impact on your wellbeing?



Good to know

You are assessed as unable to achieve the outcomes if:

- you are unable to achieve them with or without support or prompting
- you are unable to achieve them even with support
- you can actually achieve them without support but doing so causes you significant pain or anxiety, puts you or another person's health and safety at risk, or it takes you a lot longer than it would normally take to carry out this kind of task.

What does 'a significant impact on your wellbeing' mean?

It is not enough to show that you have difficulties in some areas of your life, you also need to show that this has a big impact on your daily life and overall wellbeing. This extra step in getting council support means that it is very important that you fully explain your situation during your assessment, so the impact that your care needs have on your life is spelt out. This is one reason that you may want to think about having someone else with you during the assessment – this could be an independent advocate if you need one.

'Wellbeing' covers a lot of different areas, including:

- your personal relationships (eg, whether you have a need for more social contact)
- your physical and mental health
- your safety
- your financial wellbeing (such as whether there are any benefits you could be claiming)
- your housing situation
- the control you have over your daily life.

If your care needs could have a big effect on at least one of the areas of wellbeing mentioned above, then this could be considered a 'significant impact'. Or, if your care needs have a bit of an effect on several of these areas of wellbeing, this could add up to having a significant impact on your wellbeing as a whole.

Using this as a basis, councils have to make their own judgment on whether your care needs are having a

significant impact on your wellbeing and daily life. When they are making this decision they should think about what is most important to you.

An example: Robert

Robert was previously a very sociable person who enjoyed going out a lot, and his personal relationships are very important to him. Because of his care needs, one of the care outcomes that Robert is unable to achieve is getting out and about to see friends and family. Knowing how important his social life is to Robert, the council could consider this as having a significant impact on his wellbeing. This may not be the case for someone who was not so sociable, or was happier to stay at home. The council should look at the person's individual situation and preferences when making this decision.

What happens if you don't qualify for support?

If your needs assessment shows that you do not qualify for support from the council, the council must still provide you with personalised information and advice about where you can go to get any support you need which is below the national eligibility threshold. They should also tell you what you might be able to do to stop your needs from getting worse in the future.

Everyone has to be given a written record of their assessment, explaining which factors were taken into account when the council made the decision about whether they qualified for support.

See our factsheet: Assessment and services in England (0800 319 6789, independentage.org) for more information about the assessment process.



Good to know

The Care Act allows councils to make arrangements with other care providers to carry out some of their duties for them. This new power was introduced on 1 April 2015.

Eg, the council could ask a local care organisation to carry out needs assessments on their behalf. It is still the council which has ultimate responsibility for the assessment process, but you may not be dealing with the council directly.

Chapters 3-9 only apply to you if you have a needs assessment by the council and they find that you qualify for social care support.

3. Planning your support (if you qualify)

If you qualify for support from your council, the Care Act says that the council must make sure that you have a care and support plan. You should be involved in developing this plan, with help from a family member or advocate if you need it.

Good to know



Although councils must discount any help from friends, family members or local voluntary organisations when working out whether you qualify for support, any such help you get is taken into account at the care and support planning stage. The council can then see which of your care and support needs are already being met by someone else, and which the council has to meet.

The care and support plan should include:

- what your needs are (which aren't already being met by a friend or family member) – this includes any emotional needs you have, such as a need to get out or socialise
- what you want to achieve in your day to day life (councils call this your outcomes)
- any free services which could help you, such as reablement support to help get you back on your feet (eg - after a hospital stay) and minor aids and adaptations up to the value of £1,000
- what your personal budget is to meet the rest of your needs (see explanation of personal budgets below)
- how you are going to meet these needs, such as which services you might use and what they will cost

- information and advice about ways to make sure your needs don't get any worse (this could be the details of a relevant local organisation which could support you).



Good to know

If you need to move home to meet your needs, your support plan should take into account your preferred choice of accommodation (eg – care home, shared housing or a sheltered housing scheme).

What is a personal budget?

A personal budget is a statement of the amount of money needed to meet your eligible social care needs. As of 1 April 2015, you now have a legal right to a personal budget from the council. This legal right applies whether or not your care is going to be provided by the council. If you fund all of your care yourself, it will be called an independent personal budget.

It is important that you are told what your personal budget is because from April 2016, this amount will be 'tallied up' in your care account and counts towards the care cap (see chapter 5 for more information). This applies whoever ends up paying the amount needed for your personal budget (you, or the council, or a bit of both).

If you are going to be moving into a care home, your personal budget will be the amount that the council would expect to pay for care home fees to meet your individual needs.

Personal budgets: what the council must do

The council must:

- be clear about how they calculated your personal budget
- make sure that the budget is enough to meet your needs
 - taking into account the local cost for the kind of services you need, and that care may cost more if your needs are complex
- let you know what your budget is in good time, so that you can start planning your support knowing how much money is available.

4. So who pays?

Who pays the amount stated in your personal budget is decided when you have a financial assessment.

The financial assessment is a way of deciding what you can afford to contribute towards your care costs (your personal budget). The council must follow set rules when carrying out this assessment. There are separate rules for when you are planning to move into a care home, which are also set out below.

Counting it up...

From April 2016, any contributions that you or the council make towards your personal budget amount to meet the costs of the care you need will count towards the care cap (see chapter 5). It is the personal budget as a whole that counts.

If you are staying in your own home

From April 2016, if you have less than £17,000* in savings, you will not need to use any of your savings to pay for your care. You may need to put some of your weekly income towards your personal budget. At the moment, people with less than £14,250 in savings do not need to use these savings to pay for care.

If you have more than £17,000* in savings but less than £27,000*, you will need to contribute some of your savings into the pot. This will be on top of any income you need to contribute. How your contribution is worked out must be clearly explained to you in writing so that you know what you are expected to pay. This will work in the same way as

the current system, where you pay £1 towards your care for every £250 you have in savings between the upper and lower limit.

If you have more than £27,000* in savings, you may need to pay the whole amount which the council expects it to cost to meet your eligible needs. At the moment, anyone with savings over £23,250 may have to pay all of their care costs.

As with the current system, the Care Act will protect some of your income through a 'minimum income guarantee'.

When the council carries out your financial assessment, they must make sure that your income does not fall below a certain amount because of what you are paying towards your care. They must also take into account any disability related expenses you might have. This is slightly different for people living in a care home, who will have a 'personal expenses allowance'.

If you are moving into a care home

You will need to have a financial assessment to decide how much you should pay towards your care home fees. There is one key difference between the financial assessment for care home fees and the assessment for getting support at home. This is that the value of your home could be taken into account when the council is deciding how much you should pay towards care home fees.

The 12-week property disregard

As is the case with the current system, the council will not take the value of your property into account when working

out what you need to pay towards your care home fees for the first 12 weeks after you have moved into a care home permanently – as long as your savings are below £27,000 (from April 2016 - currently it is £23,250). This is to give you time to sell the property if you choose to, or if not, to make alternative arrangements (which could include a deferred payments agreement with the council - more information below).

From 1 April 2015, this 12-week property disregard no longer applies for people who had been paying their own care fees, but later need financial help from the council because most of their savings have been used up. The council will expect them to start contributing towards the cost of fees from the sale of their property straight away. This is because, according to the government, they should have had time to sell their property (or make other arrangements such as securing a bridging loan or renting the property out) whilst paying their own care home fees, and would have been able to foresee that their money was running low.

How paying care home fees will work

From April 2016, as with people who are getting support in their own home, you will not have to use your savings to pay for care if you have less than £17,000* in savings and capital (such as a property). However, any income you have, minus a personal expenses allowance, will be put towards the costs.

If you have more than £17,000* in savings and capital but less than £118,000*, you will need to contribute some of

this money towards your fees. This will be on top of the contribution you make through your income. Your contribution from your savings will work in the same way as the current system, where you pay £1 towards your care for every £250 you have in savings between the upper and lower limit. How your total contribution from income and savings is worked out must be clearly explained to you in writing so that you know what you are expected to pay.

If you will be moving into residential care after April 2016 and you have more than £118,000* in savings and capital, you will need to pay all of your care home fees until this amount is reduced to less than £17,000. At the moment, you will pay all of your care home fees if you have more than £23,250 in savings and capital.

However if the savings part of your capital is under £27,000 (from April 2016), you may be eligible for a deferred payment loan from the council.

There are some circumstances where the value of your home is not included in the financial assessment for care home fees - see our factsheet: care home fees paying them in England for more information on charging for care home placements.

***These figures are currently being finalised and will change annually in line with inflation (as is currently the case).**

Top-up fees

If you qualify for funding from the council to pay your care home fees, the council will tell you how much they are

willing to pay for care home placements that meet your assessed needs. This amount will be the figure shown in your personal budget.

The council has to make sure that the amount in your personal budget is enough to get good quality care, taking into account the actual cost of that care locally.

If you want to move to a care home which is more expensive than what the council is willing to pay, top-up fees need to be paid to cover the difference. The only times that the council will cover the difference are when the care home you want to move to is the **only one** in the area which can meet your needs, or when the other available care homes cost **the same as or more** than the care home you choose.

At the moment, you cannot pay your own top-up unless:

- you have been living in the care home for less than 12 weeks (so the value of your property is not yet being taken into account in what you are being charged), and/or:
- you have a deferred payment agreement with the council (see section below).

Otherwise, the top-up needs to be paid by a third party (such as a family member).

From April 2016, the rules about who can pay top up fees will change and these restrictions are likely to be lifted, so more people can pay their own top-up as long as the council is satisfied that they can afford to do so in the long-term.

The Care Act has also put in place new protections for people who are considering paying a top-up, which came into force on 1 April 2015. It says that councils must make sure people have enough information and advice to be able to make an informed decision about whether a top-up is right for them (such as understanding the consequences if you do not keep up with payments). They should also give people a written agreement, to explain:

- how much the top-up payments will be
- how often they will be reviewed
- how (or if) the council will share the costs if the care home puts up its fees in the future.



Good to know

Anyone paying a top-up can ask for a review of the top-up arrangement at any time, and the council should always review the arrangement once a year.

If you or a family member were no longer able to pay a top-up, the council would have to carry out a new needs assessment before deciding what to do. They would not be able to simply move you to a cheaper care home to resolve the need for the top-up fee. First, they would need to consider the impact this would have on your wellbeing, and whether the alternative home would meet all your care needs.

See our factsheet: paying top ups in England for more information about paying top up fees under the current system.

If you don't want to sell your home to pay your care home fees

As of 1 April 2015, you have have a new legal right to defer paying care home costs. This means you do not have to sell your home during your lifetime. You should be told about this during the 12-week property disregard period, if this applies to you.

If you ask for a deferred payment, your local council has to cover the part of the costs of your care and reclaim them when the property is sold whilst you are in the care home or after your death.

You can ask for a deferred payment if:

- your needs assessment shows that you would benefit from moving in to a care home
- you have less than £23,250 in savings (aside from the value of your home)
- there are no dependent relatives living in your home (if there are, the value of your property should be 'disregarded' by the council when working out what you should pay towards your care home fees)
- the council is confident that the loan is secure (and they will get their money back at a later date).

How much can you defer paying?

There is a maximum amount that you can defer paying. This is 90% of the value of your property, minus £14,250 (for 2015/16 - this figure may change every year).

Once you have deferred 70% of the cost of your property, the council should talk to you about whether the deferred payment agreement is still the best way to meet your care

costs, and talk to you about meeting your care costs in the future when the full amount available has been deferred.



Good to know

As well as charging an administration fee, the council can charge interest from the start of the deferred payments to cover their costs. They cannot charge more than the national maximum interest rate, which changes every six months.

Councils must charge the same amount of interest for all deferred payment agreements they have.

See our factsheet: Do I need to sell my property to pay for my care home fees? for more information about deferred payments.

5. The care cap

The Care Act introduces a limit on how much people in England should pay towards meeting their eligible support needs in their lifetime.

At the moment, you will keep paying towards the costs of your care until your savings are below £14,250, when you will just contribute from your income. If you have between £14,250 and £23,250 in savings, you will pay something towards your care. If you have more than £23,250, you will need to pay for all of your care.

From April 2016, a cap of around £72,000 will be introduced on what people are expected to pay towards care. This figure applies for people of state pension age or over. The amount of the 'cap' will go up in line with inflation each year, and this system will be reviewed by the Health Secretary every five years.

If the cap is changed, your total costs so far will be adjusted by the same amount. Eg, if you were 50% of the way towards the cap before it was changed, then you will remain so after the cap has been adjusted.

Remember!



This cap only applies to your eligible care needs - the social care needs which your council says must be met according to the rules about who qualifies for care.

If your needs are not high enough, nothing you spend on care will count towards the care cap. And if you pay for any care on top of what the council thinks you need to meet

your eligible needs (including choosing more expensive care), the extra amount you spend will generally not be counted towards the cap.

How the cap will work

When you have had a needs assessment by the local council and they decide that you qualify for social care support, you will be set up with a care account. The amount that you (and the council) are spending on meeting your eligible care needs will be 'tallied up'. This tally will start from the date when you requested an assessment, if after 1 April 2016.

As mentioned earlier, your personal budget (or independent personal budget if you are paying all the costs) tells you how much money will be counting towards the care cap.

If you are already receiving support from the council, the council will set you up with a care account ready for April 2016. You do not need to hold off contacting the council until after the cap comes in if you need help now.

Good to know



Anything that you spend on care before the cap is introduced in April 2016 will not be counted – the cap is not backdated.

Keeping track

The council must keep a record of the accrued costs and tell you if the amount in your care account reaches the cap.

You should receive a statement once a year to tell you how you are progressing towards the cap.

If you reach the cap amount, the council will be responsible for taking over the full cost of your care (to meet your assessed eligible care needs).

Good to know



Due to the introduction of the Care Act and the potential demand for assessments from people wanting a care account, councils may be more likely to introduce more self assessments (online or on the phone) to speed up the assessment process.

These assessments should use the same paperwork as face-to-face assessments, but you fill it in yourself (with help if required). The council may arrange a face-to-face assessment with you later if they need more information from you. You can ask for a face-to-face assessment if you think this would be best for you.

From October 2015, council's may start providing people who pay for their own care with a needs assessment to work out how much of what they spend on care will count towards the care cap. Care costs before April 2016 will not be counted.

If you already have care arrangements in place and ask for an assessment simply so that your spend will eventually count towards the care cap, the council will assume that you do not want the council to meet your needs at that time. They should make this clear to you when you have

your assessment. However, you can at any time ask the council to meet your eligible needs if the assessment showed that you qualified for council support.

If your needs assessment has taken place in advance, the council must contact you around April 2016 to make sure that the needs assessment and the independent personal budget calculated from it is still accurate. This is so your care account can be set up.

What is not included in the care cap:

- 1.** Support needs not high enough to be met by the council

The care cap only applies to your eligible social care needs as set out in your needs assessment by the council. So if you decide to hire a cleaner and your needs assessment does not say that you need this help, the cost of this will not count towards the care cap.

- 2.** Care costs accumulated before April 2016

- 3.** Choosing more expensive care

If you decide to go for a more expensive care or housing option than what is being offered / recommended by the council, you will need to 'top up' the extra money yourself. The extra money will not count towards the care cap. Only the council's 'standard rate' for that type of care (as stated in your personal budget) will be counted.

This does not apply if you are moving into new accommodation to meet your support needs, and there is only one option of suitable accommodation available in that area. The council has a duty to meet your needs so if the only option is above their standard rate, then they should

increase that standard rate and this should all count towards the care cap.

4. Daily living costs

Costs such as food and lighting will not be counted towards the care cap, as these are general living costs that everyone has regardless of whether they need social care support.

If you go in to a care home, you will be expected to pay around £12,000 a year (£230 a week) towards these daily living costs if you can afford it, over and above the £72,000 cap.

6. Arranging your support

If the council is paying some or all of your personal budget amount

Once your care and support plan is ready, you can decide how you want your care (or move to a care home) to be arranged.

Would you like the council to arrange your care for you? Or would you prefer to get direct payments from the council so you can arrange the care yourself (to give you more choice and control over the services you get)? You might also be able to do a mixture of the two and arrange some services yourself whilst the council or a local support organisation takes charge of other aspects of your care.

See our factsheet: Homecare - using direct payments or a personal budget, for more information about direct payments and how they can be used.

If you are paying for all of your own care

The Care Act states that as of April 2015, you will be able to ask the council to arrange your care for you (or April 2016 if you are moving into a care home). However, they may be able to charge you a fee for arranging the care on your behalf.

If you are moving into a care home, you might get a better price if the council arranges the move for you. Speak to your local council about this.

Reassessing your needs

From April 2016, the council will be able to ask to reassess your social care needs even if you pay for your own care.

This is because the council calculates how much your care should cost to meet your eligible needs. It is this amount which is tallied up in your care account and counts towards the care cap.

The council will need to check every so often that the amount it thinks you should be spending is still right.

If you don't agree to a reassessment, then the council could close your care account, meaning that what you are spending on care will no longer be counting towards the care cap. Your care account would only be reopened once you'd had the reassessment. See chapter 7 for more about reassessments (also called reviews).

7. Reviewing your care and having your say

The Care Act makes it clear how important it is that the person getting care is involved in every decision about their care.

It puts a duty on councils to provide an independent advocate when someone is unable to communicate well or needs some support to understand the issues being discussed during their needs assessment or review of their care, for example. This new duty applies as of 1 April 2015.

Your council only needs to provide an advocate if they do not think that you have anyone else 'appropriate' who can support you well and represent your wishes (such as a friend or family member).

An advocate can help you express your needs and wishes, and weigh up and take decisions about the options available to you. They can help you find services, make sure correct procedures are followed and challenge decisions made by councils or other organisations.

The advocate is there to represent your interests, which they can do by supporting you to speak, or by speaking on your behalf. They do not speak for the council or any other organisation.

Having an advocate might be especially important at times such as:

- agreeing your personal budget (the amount of money the council says is needed to support you), when you first have support needs

- agreeing to any changes to your support plan when you have an annual review of your care.

Reviewing your care

As of 1 April 2015, the Care Act gives you a legal right to have your care and support plan reviewed to make sure it is working for you. You can request a review if you think that your needs have changed, or your financial position has changed and you think this could affect the contributions that you make towards your care. Otherwise, the council must regularly review your support plan anyway (usually at least once a year).

You should be involved and listened to in the review – no changes should be made to the way your needs are met without this being discussed with you.

Good to know



If you were already getting social care support before the Care Act changes came into force, your next review will be the council's opportunity to make sure that your existing support plan is in line with the new legislation.

This shouldn't mean any major changes to what you get (unless your care needs have changed a lot), but if you have not previously been given a personal budget, for example, you should be told what your personal budget is at this point. You should then be given the option of taking this amount as direct payments to arrange your own care if this option has not been offered to you before.

Complaints and appeals

From April 2016, people getting social care support will have a new right to appeal a decision about their care, and for this to be independently investigated. This could include the council's decision about whether you qualify for support, or what your personal budget should be to meet your care needs if you do qualify, for example. The new appeals process will only cover key care and support decisions to begin with – the existing complaints procedure will cover everything else.

These key decisions could be about:

- your assessment
- your eligibility for support
- care planning (the support seen as suitable for you)
- direct payments and personal budgets
- deferred payment agreements for paying care home fees
- independent advocacy support.

The aim is to help resolve this kind of dispute with the council more quickly than they have been in the past. The appeals process will be an alternative to the legal routes for challenging decisions which people have had to resort to in the past, which often take a long time and are very costly.

The details of the new appeals process are currently being finalised, but it is likely to be a three stage process:

- **Early resolution** – if you ask for an appeal of a decision, the council must acknowledge this within 3 working days. They will then arrange for you to meet with them to discuss the situation, with the aim of improving communication and coming to a mutual agreement

quickly. This should take place within working 30 days of acknowledging your appeal, and should not involve the council officer who made the original decision.

- **Independent review** - if an early resolution to the problem has not been possible, the council must appoint an Independent Reviewer to look at the decision taken by the council and make a recommendation about whether they think the council's decision was right. They can look at all the relevant paperwork for your appeal, and ask to meet with you and the council if necessary. This review must take place within 30 working days, and the Independent Reviewer then has 10 working days to tell the council what their recommendation is.
- **The council decision** - the council must then make a decision about how to resolve the matter, considering the recommendation from the Independent Reviewer. The council will have 5 working days to do this once the Independent Reviewer has informed them of their recommendation. The council's decision on the appeal is final - there are no further stages in the process to dispute or appeal this.

You will have 12 months from the date the council made its original decision to lodge an appeal, and someone else such as a friend, family member or an independent advocate will be able to ask for an appeal on your behalf.

Good to know



The existing complaints procedure used by councils when you are unhappy with a service you are getting will stay the same (see our factsheet: Complaints about health and care services in England).

8. If you move to a new area

The Care Act tells your council what they need to do if you are receiving care and support from them and you wish to move to a different council area. Your current council and the council in your new area now have a new legal duty to work together to make sure that you still get the support you need when you move, so there is no disruption to your care.

It is your responsibility to make the first contact with the council in the area you want to move to. Once you have confirmed with them that you intend to move into their area, they should ask for a copy of all the necessary information about you from your existing council (such as your needs assessment and support plan).

Before you move, the new council should carry out a needs assessment for you, using the information from your previous council to help them to understand how you like your needs to be met. A new support plan should be agreed with you and be ready to start from the day you move. If for some reason this is not possible, the new council should arrange support for you as per your previous support plan, and arrange for you to have a needs assessment as soon as possible.

If a friend or family member caring for you has had a carer's assessment and gets support from the council, the same applies for them too (see chapter 9 about the new rights for carers).

Good to know



You should have a named person from each council who is responsible for supporting your move.

Changes to your support

If the new council changes your care and support plan from what it was before once they have assessed your needs, they should write to you to explain why. They should also write to you to explain why if the amount that you need to pay towards your support changes.

From April 2016: Your care account

Your previous council must make sure that your care account is transferred to the new local authority when you move.

However, your previous council still needs to keep a record of your care account.

9. If you care for someone

If you care for a friend or family member, the Care Act means that you now have a legal right to a free carer's assessment - and to support if your needs assessment shows that you qualify.

In the past, only carers who provided 'substantial' and 'regular' care were entitled to a carer's assessment. The new law means that all carers who feel they could benefit from some support have the right to an assessment. It doesn't matter how much care you provide - what is important is the impact that caring has on your daily life and your wellbeing.

Good to know



You can have a carer's assessment (and possibly get support) regardless of whether or not the person you care for is getting support from the local council.

If the person you care for has not yet had a needs assessment by the council, your carer's assessment could be carried out at the same time if you both agree.

A carer's assessment will look at:

- the things that you are unable to achieve because of your caring responsibilities (known as 'outcomes')
- the impact that caring has on your wellbeing
- how you might need to be supported to continue in your caring role in the future (if you are willing and able to).

Carer's outcomes

The person carrying out your carer's assessment with you should talk to you about whether you are able to:

- take care of any children you need to look after, alongside your caring role
- take care of any other adults you have caring responsibilities for
- keep your home clean and safe
- do all the shopping and prepare enough meals for yourself and your family
- have enough contact with other friends and family
- work, volunteer, learn or do any training that you would like to do
- find the time to use local services, such as the gym
- spend time doing things you enjoy.

Good to know



The assessment should take into account the fact that the amount of care you provide and the impact it has on you can vary.

Which carers will qualify for council support?

As with people with social care needs, there is a national 'threshold' which must be used to work out whether or not your needs as a carer are high enough to qualify for council support.

Carers qualify for support from the council if their carer's assessment shows that the answer to all three of the following questions is 'yes':

1. Do you need support because you are caring for another adult? (and would they be unable to cope without your care?)
2. Is your physical or mental health suffering? Or are there any other 'outcomes' (mentioned above) that you are unable to achieve?
3. Could this have a significant impact on your wellbeing?

As with people with social care needs, carers need to show how the things that they are not able to achieve (outcomes) affect their daily life and their general wellbeing.

In chapter 2, we explained the different aspects of wellbeing which councils must consider. As mentioned earlier, when the council is deciding whether there is a 'significant' impact on a carer's wellbeing, they should consider the individual person's circumstances and what is most important to them.

An example: Jane

Jane struggles to find time to exercise because she cares for both of her parents. She really enjoys swimming, and this also greatly helps ease the pain she suffers in her joints. For Jane, not having the time to exercise could be seen as having a significant impact on her physical wellbeing, as well as impacting her emotional wellbeing. This may not have such a significant impact for someone in very good health, or who did not enjoy exercising, for example.

Getting your support

If you qualify for support, the council could support you by providing services to the person you care for, or by providing you with support directly. This will be discussed with you and with the person you care for if necessary.

When thinking about what could best help carers, councils must consider the support they might need in a variety of areas, including practical help with things like housework or gardening, or support to improve their wellbeing such a gym or leisure membership and emotional support from other carers.

The council must help you to prepare a support plan, to show how your needs are going to be met.

Charging for support for carers

The Care Act states that the council cannot charge you for any services that will be provided to the person you care for as a result of your carer's assessment. Eg, if the person you care for agrees to receive replacement (respite) care to give you a break, you as a carer should not pay for this. If they can afford it, the person you care for will be charged for these services.

If you get any support services to help you directly, the council may decide to charge you for these, but if they do, you will have a financial assessment to work out what you can afford to pay (see section 3 about who pays for care).

Although councils can charge for this support, the government guidance for councils recommends that councils consider carefully whether they charge for carer's

support, in recognition of the valuable contribution that carers make to society.

When your support plan is created, you should receive a personal budget - telling you how much money is needed to meet your needs. If the council is contributing towards the cost then you can ask to receive this budget as direct payments from the council, so you can manage your own support.

See our factsheet: carers – what support is available for more information.

General responsibilities for councils

10. Looking after your wellbeing

The Care Act aims to make sure that a person's overall wellbeing is the main consideration when they ask for support from their council. As of 1 April 2015, councils have taken on a new wellbeing responsibility.

As mentioned earlier in this factsheet when we explained the needs assessment process, this means that your council must look at **all** areas of your life when working out what support you need, and make sure that you are fully involved and in control of decisions made about your care. The council may need to work closely with partners such as health and housing organisations to get the best support for you.

Having a wellbeing responsibility also means that councils cannot prioritise one area of your life over another when looking at your support needs. Eg, they should not see your physical wellbeing as more important than your emotional wellbeing. All should be considered equally when deciding what support you need to live independently.

This duty applies even if an assessment shows that you don't qualify for support. The council should tell you about local services that may be able to support your wellbeing and help stop your care needs getting worse.

Community wellbeing

The law also means that councils have to think about the wellbeing of the wider community. This includes people who are caring for a friend or family member, and people who

may have some social care needs, or could develop them in the future.

The council should support local people with services which would help them to stay independent and delay or reduce their social care needs. This could include information and advice, leisure services and community activities. For people who need a bit of social care support, perhaps after an illness or accident, the council may offer free 'reablement' or rehabilitation support. This is short-term support to help people learn or re-learn skills to stay as independent as possible.

Shaping the local market

The council must 'shape the local market' and make sure that there is a wide choice of good services for people to access which will meet their support needs. This includes supported and extra care housing options, and local care homes.

These services must be flexible so that they can adapt if people's needs change, or the demand for the service changes. There must be a range of different providers delivering care services in the area, and councils should commission providers which pay their staff appropriately.

11. Information and advice

As of 1 April 2015, your local council needs to make sure that information is available to all of its residents about:

- how the social care system works in the area
- the types of care services and the providers available locally
- how to access services (including housing services and benefits)
- how to raise concerns over the safety or wellbeing of someone with care needs
- how to get independent financial advice (about benefits, household budgets, and regulated financial advice if you are thinking about how to pay for your care needs now and in the future)
- support available for people caring for a friend or family member.

The aim is to make sure that people can make informed choices about their care and support, and get the right advice early on to stop their support needs getting worse.

If there is no good quality information or advice available locally on these issues (eg, from the council or from a charity), the council must make sure that this gap is filled. The council can provide the information and advice itself or can commission another local organisation to provide it. If there could be a conflict of interest in the council producing a certain type of information itself, then the council should consider signposting to independent organisations.

Making information accessible

The council must make sure that information and advice is available in different formats (such as through leaflets, over the phone or face to face), to make it accessible to everyone. They cannot just rely on leaflets and web information - you should challenge your council if information is not accessible to you in the way it has been provided (eg, because you have a visual impairment and need information on audio cd).

12. Working with partner agencies

The Care Act says that as of 1 April 2015, health and social care services need to work together and join up their services wherever possible to improve your experience of getting support. Eg, if you have a stay in hospital, hospital staff are required to work with your local council to make sure that you get the support you need when you leave hospital.

The council's social care department should also work closely with other services like housing and leisure where this would help to meet all of your needs so that you can live a more independent, fulfilling life. This means that you might have a joint needs assessment, where another agency joins adult social care at the assessment to talk to you about your support needs.

13. Keeping residents safe

Every council must now have a Safeguarding Adults Board. This is a group of professionals from the council, the police and the local NHS who must make sure that the most vulnerable residents in the area are kept safe from abuse. This includes vulnerable residents who are not getting any support from the council.

What is abuse?

Abuse is harm that is caused by anyone who has power over another person, which may include family members, friends, unpaid carers and health or social care workers. It can take various forms, including physical harm or neglect, and verbal, emotional or sexual abuse. Adults at risk can also be the victim of financial abuse from people they trust.

What Safeguarding Adults Boards must do

Safeguarding Adults Boards in every council area must have a plan of what they will do throughout the year to protect vulnerable residents, and produce a report at the end of the year to show their progress against this plan.

They must also review particular cases where something went wrong for an individual, to make sure that lessons are learned from it and it doesn't happen again in the future. The person who is the subject of the review should be fully involved in it, which may mean the need for an independent advocate to help them to have their say.

When things go wrong

As of 1 April 2015, the Care Act also means that if your care provider fails and you aren't getting the care that you

need, the council must step in so that you stay safe. This applies even if the council did not arrange or pay for your care originally. They must make sure you are getting care until alternative arrangements can be made.

The Care Quality Commission (CQC) now have the power to request information from any provider which they think is likely to fail or which is hard to replace, and can share information with local councils so that their residents' care and support is protected. The CQC (cqc.org.uk) have the freedom to decide on a new system for rating the performance of care providers (it can make providers display this rating for the public to see). The CQC can also investigate poor performance as it sees fit.

14. Getting advice

Independent Age can provide advice on benefits and entitlements, getting a care assessment, moving into a care home, paying for care, being discharged from hospital and much more. To speak to an expert adviser about any of the issues you have read about in this factsheet, call us on 0800 319 6789 or email us at advice@independentage.org



Other useful contacts

Carers UK

Carers UK (carersuk.org) support carers with benefits checks and give advice on financial and practical matters related to caring. They have a listening service for carers to talk through their caring situation and how it makes them feel. The advice line (0808 808 7777, advice@carersuk.org) is open Monday to Friday, 10am to 4pm.

Older People's Advocacy Alliance

The older people's advocacy alliance supports, promotes and develops independent advocacy services for older people. You can find local advocacy organisations on their website (opaal.org.uk), or contact Disability Rights UK (0300 555 1525, disabilityrightsuk.org).

The Care Act 2014

You can see the guidance which accompanies the Care Act at gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation

This factsheet has been put together by Independent Age's expert advisers. It is not a full explanation of the law and is aimed at people aged over 60.

If you need this information in an alternative format (such as large-print or audio cd), call us on 0800 319 6789 or email advice@independentage.org.

Tell us what you think

We'd love to hear what you think of our publications. Please write to us at the address below, phone us on 020 7605 4294 or email comms@independentage.org.

We will use your feedback to help us plan for changes to our publications in the future. Thank you.

Supporting Independent Age

If you have found this information helpful and would like to support our work, there are lots of ways you can help:


- get fit - run, walk or cycle in aid of Independent Age
- take part in our annual raffle
- donate in memory of a loved one
- remember Independent Age in your will and benefit from our Free Wills offer to supporters.

If you would like to donate or raise money in aid of Independent Age, please visit our website, email supporters@independentage.org or call our fundraising team on 020 7605 4288.



Independent Age
6 Avonmore Road
London
W14 8RL

T 020 7605 4200
E charity@independentage.org
www.independentage.org
Advice line 0800 319 6789

 View our page on Facebook

 Follow us on Twitter @IndependentAge

Independent Age is the operating name of the Royal United Kingdom Beneficent Association Registered charity number 210729