



## **CIH briefing on statutory care and support guidance: Care Act 2014**

The Care Act received royal assent on 14 May 2014. A short concise summary of the Care Act is available for members: [What you need to know about the Care Act](#).

The Department of Health has issued supporting regulations and statutory guidance. This paper provides a summary of the guidance. (CIH's response to the initial consultation is available [here](#)).

This paper includes:

- An executive summary of the key provisions that have implications for housing (pp1-2)
- An expanded summary which focuses on the main elements of the guidance which impact on housing and provide the framework on which housing professionals can build partnerships with health and social care (pp3-17).

### **Executive summary**

The Care Act is a significant piece of legislation that includes local housing authorities and providers as significant partners for health and care. The statutory guidance reinforces that and expands on how and when housing provision and options should be embedded into the processes in place to support wellbeing and address care and support needs.

Key sections are:

- The principle of wellbeing - section 1

The definition of wellbeing includes suitability of living accommodation. The principle must underpin the functions of the local authority (LA) in addressing a person's care and support needs. Wellbeing should also shape the LA's broader strategic approach to universal service provision, providing opportunities to prevent or reduce a person's care and support needs.

- Preventing, reducing and delaying care and support needs - section 2

This requires LAs to understand and identify existing, unmet and future needs for care and support, and link this into Joint Strategic Needs Assessments and strategies to shape services. It requires LAs to understand the services in their local area, including services targeted at whole populations such as accessing good quality information or measures to promote healthy and active lifestyles. It should consider how to align or integrate with other local services to develop approaches to prevention.

- Information and advice – section 3

This covers the duty placed on LAs to establish and maintain a service that provides information and advice relating to care and support. This should be a service available to the whole local population and not be confined to a narrow definition of care and support, in keeping with the drive towards a more prevention focused approach. The LA is not required to directly provide all elements of the service but to understand, co-ordinate and make effective use of other service provision of information and advice, for example, FirstStop care and housing advice and its local partners or other housing options information.



- Safeguarding adults – section 14

Safeguarding adult boards (SABs) are now placed on a statutory footing. Housing authorities and providers are not included as statutory partners, although locally they may be included. As organisations likely to be in contact with adults at risk, they should have their own clear operational policies and procedures on safeguarding, having regard to the framework and policies of the local SAB. They should train staff to recognise the signs and symptoms of abuse, operate according to the principles underpinning safeguarding work and be able to engage with and respond to concerns about safeguarding.

- Integration, co-operation and partnerships – section 15

LAs are required to carry out care and support responsibilities with the aim of promoting greater integration with health and health-related services. Housing is explicitly recognised as a health related function. This requirement in particular refers to preventing needs; provision of information and advice; reducing/ delaying needs; improving the quality of services and outcomes achieved.

It can be promoted through planning for services (including planning for specialised/ adapted housing); commissioning, providing information and advice; and connecting up services in the assessment and support planning process.

**CIH initial view:**

CIH contributed to the initial drafting of the guidance. Overall, we are pleased with the clarity in the guidance around the role of housing and its contributory impacts on care and support. It largely addresses areas where there were concerns remaining after the process of amendments to the Bill in parliament, for example, around information and advice.

We believe this can provide a framework that will help health, care and housing professionals to develop and deliver housing based solutions for care and support, and achieve better outcomes for local people.



## Extended summary

The statutory guidance sets out how local authorities (LAs) should meet the legal obligations laid on them by the Care Act and regulations. They must follow it unless they can demonstrate legally sound reasons for not doing so.

### 1. Promoting wellbeing

LAs must promote wellbeing when carrying out any of their care and support functions in respect of a person. Wellbeing is also part of a local authority's broader strategic approach to universal service provision.

#### *Definition:*

Wellbeing is a broad concept based on:

- Personal dignity
- Physical and mental health and emotional wellbeing
- Protection from abuse or neglect
- Control by the individual over day to day life, including how care and support is provided
- Participation in work, education, training, recreation
- Social and economic wellbeing
- Domestic, family and personal relationships
- Suitability of living accommodation
- Contribution to society.

#### *Promoting wellbeing involves:*

- Actively seeking improvements in wellbeing when carrying out a care and support function at any stage in the process (from provision of information and advice to reviewing a care and support plan)
- Taking a flexible approach, dependent on a person's circumstances and goals. It requires a shift from provision of particular services to the concept of meeting needs.

#### Key principles:

- Beginning with the assumption that the individual is best placed to judge their wellbeing
- Taking account of the person's views, wishes, feelings and beliefs
- The importance of preventing or delaying the development of needs for care and support and reducing the needs that already exist
- The need to ensure that decisions are made having regard to all the individual's circumstances
- The importance of the individual participating as fully as possible in all decision making
- Achieving a balance between the individual's wellbeing and that of friends/ relatives involved in caring for them
- The need to protect people from abuse or neglect.



- Ensuring that restriction of freedom is kept to a minimum.

## 2. Preventing, reducing or delaying needs.

Prevention, how it is approached and who can benefit can be considered in terms of primary, secondary and tertiary approaches:

- Primary prevention: promote wellbeing. Includes whole population measures as well as targeted interventions, for example:
  - Access to good quality information
  - Supporting safer neighbourhoods
  - Promoting healthy and active lifestyles
  - Reducing isolation.
- Secondary prevention/ early intervention: reduce need for and dependency on care and support. More targeted where individuals are at risk of increasing needs, for example, carers newly taking on responsibilities; adults at risk of a major health issue such as a fall. Interventions can include: adaptations to the home; access to information and support networks and so on.
- Tertiary prevention: delay need for care and support. Further targeting of support over different timescales, for example, provision of short term crisis response; intermediate care (in home or bed-based settings); and re-ablement.

LAs must provide/ arrange for services that prevent, reduce or delay the needs for care and support or carer's need for support. LAs should develop a clear local approach to prevention which sets out how they plan to fulfil this, taking into account the different types and focus of preventative support; for example, in partnership with NHS bodies or through other organisations such as specialist housing providers or carers' services. LAs should consider the different routes to and benefits of each for achieving aims.

LAs must take steps to understand and identify current and future demand for services. They should have mechanisms in place to identify existing and new services and draw on existing analyses in the Joint Strategic Needs Assessment.

LAs must promote diversity and quality of services and ensure a person has a choice of providers. They should engage with local providers in all aspects of delivery and encourage them to innovate and respond flexibly to needs.

LAs must consider how to identify unmet need, sharing information through the Health and Wellbeing Boards to contribute to wider intelligence for local strategies. They should consider how to work with different partners to identify unmet needs and co-ordinate shared approaches.

LAs should consider how to align or integrate with other local partners' services in developing local approaches to prevention; they must ensure integration of care and support services with health



and health related services, including housing (more below in chapter 15). This includes a focus on how to prevent, reduce or delay care and support needs.

LAs should put in place arrangements to identify and target individuals who may benefit from care and support, taking into account the different opportunities to contact them, including through their interaction with other organisations, for example, at hospital admission or discharge; when they apply for certain benefits such as Attendance Allowance or Carers Allowance; or when they experience change in housing circumstance and approach the housing authority or providers.

LAs should ensure that they develop approaches that meet the needs of their local population and help them to access preventative support. When assessing individuals for care and support, the LA should consider where access to and use of services, facilities or resources would prevent, reduce or delay the care needs and may pause the process of assessment/ planning if appropriate to ensure this happens and monitor impacts. Where the person's needs are not to be met by the LA, it should provide written information on what can be done to prevent, reduce or delay the individual's needs, so that they receive personalised, targeted information to help them.

LAs can charge for certain preventative services, facilities and resources, but should take steps to ensure these are affordable for the person, although they do not need to use the financial assessment method used for mainstream charging and the process should not be disproportionate. LAs cannot charge more than the cost of providing the type of support.

No charge can be made for intermediate care and re-ablement lasting up to six weeks, or minor aids and adaptations to the value of £1,000.

### 3. Information and advice

LAs must establish and maintain a service for providing people in their areas with information and advice relating to care and support for adults and support for carers. This duty relates to the whole population, not just people with care and support needs. It must cover more than care and support: LAs must ensure that it addresses prevention of care and support needs; financial matters and access to independent financial information and advice; health; housing, employment; what to do if a person is experiencing or at risk of abuse or neglect; complaints; and other areas required.

In undertaking this duty, LAs should take account of services already existing in the local areas, plans of partners, and national provision, for example, FirstStop. The duty does not mean LAs have to provide all elements of the service but they are expected to understand, co-ordinate and make effective use of other statutory, voluntary or private sector information and advice resources.

In doing so, the LA must ensure that information and advice covers:

- The local care and support system
- How to access local care and support
- Choices of types of services and service providers available
- How to access independent financial advice relating to care and support



- How to raise concerns about the safety or wellbeing of an adult with care and support needs.

LAs must ensure that the information and advice service meets the needs of and is accessible to the local population. Reasonable adjustments should be made to ensure that disabled people have equal access to information and advice in line with the Equality Act 2010. The information and advice should be made available in the manner preferred by the person and will need to be made available in a number of different formats, and be more than leaflets or web based materials. LAs should also be clear about responding to urgent provision as many people access care and support at a time of crisis.

LAs must provide independent advocacy where nobody else appropriate is available, to facilitate a person's involvement in care assessment, planning and review where that individual would experience substantial difficulty in understanding, retaining or using the information given, or in communicating their views, feelings or beliefs.

The duty to promote wellbeing and prevent, reduce or delay care and support needs, alongside the breadth of circumstances in which information and advice must be provided means that LAs must ensure areas covered by the service go beyond a narrow definition of care and support, and include matters such as available housing and housing related support options, and the availability of other related options such as handy person services.

*CIH comment: Following calls from CIH and other housing bodies for housing options to be embedded in the provision of information and advice, we are pleased that the statutory guidance is so clear and robust on this point.*

LAs should identify direct opportunities for signposting to information and advice, and work with partners to identify opportunities through their contact with people to steer them towards the information and advice available, including known trigger points, such as change/ loss of housing, retirement, bereavement and so on. Together with partners and local people using services, LAs will need to develop and implement a plan in respect of information and advice services, drawing on national good practice, and review its effectiveness and publish that, perhaps in the joint health and wellbeing strategies.

#### 4. Market shaping and commissioning of adult care and support

The Care Act places duties on LAs to facilitate and shape their market for adult care and support as a whole, so that it meets the needs of all requiring care and support, whether arranged and funded by the LA, themselves or in other ways. The aim is for the LA to use this to drive continuous improvement, and better, innovative and cost effective outcomes. Reviewing commissioning practices is a lever to drive transformation of the way services are delivered. LAs need to engage with stakeholders to understand the supply of services, and signal trends and changes in needs and aspirations to encourage innovation and continuous improvement.

Market shaping and commissioning should focus on outcomes (both in terms of individuals, groups of people and populations). In setting these, LAs should consider the Adult Social Care Outcomes



framework as well as any local information on outcomes and experiences. In framing the outcomes, LAs should have regard to the guidance from Think Local Act Personal (TLAP), particularly the [Making It Real](#) statements that set out what good personalised care and support should look like. LAs should also consider other relevant national standards such as those developed by National Institute of Health and Care Excellence (NICE). LAs should also consider the appropriateness of services (for example in respect to age). LAs may find CIH's [Service Quality Tool](#) useful in assessing and commissioning quality support services (this tool replaces the Quality Assessment Framework and reads across to the care outcomes framework)

LAs must ensure that their commissioning practices, and services delivered on their behalf comply with the requirements of the Equality Act 2010. They should work with providers to understand their challenges and risks, and work to ensure quality, sustainability and diversity – in providers and in services delivered. This may include direct intervention to promote an appropriate balance of provision. Approaches should be in line with the Building Capacity and Partnership in Care Agreement. It will also include assurance about an effective workforce to deliver quality services.

LAs should facilitate personalisation of care and support, and help self-funders/ people in receipt of direct payments to micro-commission and/ or pool budgets.

It is important that LAs develop local strategies on the exercise of these functions, and that this is cross referenced to and informed by the Joint Strategic Needs Assessments. Developing and publishing a Market Position Statement has been suggested as a starting point to delivering the LAs' duties on market shaping, oversight and provider failure. This would be a useful vehicle for engaging with providers and local communities.

The Care Act places a duty on LAs to integrate care and support services with those provided by NHS or other health related services, such as housing. This mirrors the duty placed on NHS bodies through the Health and Social Care Act 2012. The guidance sets out the value of the home as a focal point for effective delivery for integrated services and the need to consider the central role of housing within integration, including formal arrangements with housing and other appropriate partners.

LAs should prioritise integration activity where there is evidence that it materially improves people's wellbeing and where it is in line with the priorities of the Better Care Fund. LAs are also required to consider added social value when letting contracts in line with the Public Services (Social Value Act) 2012, and the impacts for wider social, environmental and economic wellbeing of the local area.

*CIH comment: We welcome the explicit recognition of housing as a health related function on the face of the Act and in the guidance, as it provides opportunities to encourage greater integration of housing and related support services. Working locally to establish the evidence will be important, to drive further integration, including the social value for investment in housing related services.*



## 5. Managing provider failure and other service interruptions

LAs have a temporary duty to meet people's needs when a provider is unable to continue to do so because of business failure. If the activity can continue, for example, where an administrator runs the service in cases of insolvency, the temporary duty may not be triggered.

Where the duty is triggered, all people receiving services in the LA's area must be treated the same (regardless of funder) and authorities should follow general duties to co-operate where the funder is another authority.

From April 2015 some providers, because of size, geographical spread or market concentration, will be subject to monitoring by the Care Quality Commission, and it will be required to notify relevant LAs which it thinks will be required to carry out the temporary duty. The responsibility for continuity of care falls on the LA. The LA also has powers to meet needs where no duty arises but needs appear to be urgent. LAs will need to draw on their knowledge of local markets to fulfil the duty (awareness of quality and capacity in service provision).

## 6. Assessment and eligibility

Assessment is one of the key interactions between the LA and the person requiring care and support/ carer. LAs must undertake an assessment for any adult who appears to have any level of need for care and support regardless of whether or not the LA thinks the individual has eligible needs.

The assessment must be appropriate and proportionate, and a collaborative process with the individual. It could be undertaken:

- With a face-to-face assessment
- Through a supported self-assessment
- Online or by telephone (for those already known to the authority or with less complex needs)
- As a joint assessment with other agencies to avoid duplication
- As a combined assessment (of the person with care and support needs with their carer for example).

It provides a framework within which the LA can also provide information, advice or other preventative services, if needs at that time are not eligible. It can also provide the opportunity to link into preventative services, and possibly to pause the assessment while these are accessed and benefits for the individual are monitored.

Where needs are as a result of or part of wider needs the assessor should refer the person to other services, such as housing, as necessary. Where the person has contact with and assessments by a number of services, including housing, agencies should work together to ensure that the person does not have to undergo a number of different assessments.

National eligibility criteria establishes the minimum threshold level of needs that must be met by all LAs (set out in the care and Support (Eligibility Criteria) Regulation 2014. Needs must be related to or





arise from physical or mental impairment or illness; result in the adult being unable to achieve two or more specified outcomes (including safe use of/ movement around the home, and being able to maintain a habitable home environment); and that as a result there is or is likely to be a significant impact on the wellbeing of the person.

Maintaining a habitable home environment is also one of the outcomes in assessments of eligibility for carers to receive support.

*CIH comment: CIH argued that assessments should include appropriate liaison/ referral with other services as appropriate, including housing, and draw on the contact with and expertise of housing professionals engaged with people with care and support needs. So we welcome the approach set out in the guidance. It will need to be developed within the broader framework of co-operation and integration/ partnership.*

#### 7. Independent advocacy

LAs must arrange for an independent advocate to facilitate a person's engagement with and involvement in their assessment, care and support planning, and plan reviews. This is necessary where the person would have substantial difficulties in being fully involved, and there is no one appropriate to support and represent them. The guidance sets out the skills and knowledge required of people acting as independent advocates.

LAs will need to consider how to help people who need the support of an independent advocate to access and use the information and advice that must be available in the local area.

#### 8. Charging and financial assessment

The Care Act provides a single framework for charging for care and support, although the detail of how to charge varies between receiving care and support at home or in a care home. The single framework aims to ensure it is comprehensive and reduces variation in assessments and charging, and that it is clear and transparent, so people know what they are expected to pay.

Certain services must **not** be charged for. These include: assessment of needs and care planning; intermediate care, including re-ablement for up to six weeks, and minor aids and adaptations up to £1,000.

*CIH comment: We welcome the commitment to maintaining minor aids and adaptations free of charge (although the limit has remained set at £1000 over a considerable length of time). Retaining intermediate care and re-ablement free is important to support the overall aim to reduce/ delay care and support needs.*

Where it is determined through care planning that a person's needs are best met in a specific setting, the LA must provide for the person's preferred choice of accommodation of that type, subject to certain conditions. This extends to shared lives, supported living and extra care housing.



At least one offer must be affordable within a person's personal budget. The person must be able to choose alternative options. Where more expensive, a third party or the individual if willing, may pay a top-up in certain circumstances.

Where care and support is delivered outside of a care home, for example, in the person's home, the charging rules must take into account that living costs must be met, and ensure that the person is left with the minimum income guarantee plus a buffer of 25%. Assessment of their capital should exclude the value of the property which is their main or only home. LAs should give consideration to supporting the principle of independent living when undertaking assessments. Charges for support to carers must take account of the likely impact, including whether carers are able/ willing to continue their caring responsibilities.

People with eligible care needs and financial assets over the upper capital limit can request the LA to arrange their care and support on their behalf. The LA will be under a duty to meet the person's eligible needs when requested to do so, but may charge the full cost of meeting those needs.

#### 9. Deferred payments

The Care Act brings in a universal scheme of deferred payment throughout England. LAs will be required to offer deferred payment agreements to people who meet certain eligibility criteria and who can provide adequate security.

LAs have permission to refuse deferred payment agreements in circumstances as set out in regulations. This is to provide a reasonable safeguard for the LA against default/ non-repayment. The Department of Health will develop a tool to help LAs assess sustainability of deferred payment agreements. The guidance sets out advice on the equity limits for LAs to apply in deferred payment schemes, and details on the interest rate and administration charges to be applied.

LAs' new duty to provide information and advice must extend to deferred payment schemes, and information about their deferred payment agreement must be given throughout the course of and at termination of the agreement.

Where an adult going into residential care retains their home and rents it out to provide funding for their care, the LA should signpost them to specialist information and advice, including the person's legal responsibilities as a landlord.

#### 10. Care and support planning

The person should be genuinely involved and influential throughout the care and support planning process. Where the LA is required or decides to meet needs, a plan must be provided, and the person given every opportunity to take joint ownership of its development. The plan should have regard to how needs are met beyond the provision of services. A person's needs are specific to them, and there are many ways in which the needs can be met; the purpose of care and support planning is to agree how those needs should be met.



Where the LA is not required to meet needs, and decides not to use its powers to meet non-eligible needs, it should give a written explanation for its decision, with information and advice on how the person can reduce or delay their needs in future. This should be tailored to the person's needs assessment.

The guiding principle is that the person should lead or strongly influence the development of the plan, and the planning should be proportionate. Elements to the plan must include:

- Needs identified by assessment
- Whether/ to what extent needs meet eligibility criteria
- Needs the LA is going to meet and how
- Desired outcomes for the person, for which the care and support could be relevant
- Desired outcomes for carer, where support could be relevant
- The personal budget
- Information and advice on what can be done to reduce needs, and prevent or delay future development of needs
- The needs to be met via direct payment (where relevant), and the amount and frequency of payments.

Needs being met by a carer should be taken into consideration. Where the carer remains able and willing to continue the LA is not required to meet those needs, but should note this in order to be able to respond to any future changes in circumstances. LAs should have regard to how universal services and community based support could contribute to factors in the plan.

Plans should not be developed in isolation from other planned interventions, and should take account of all of a person's needs and outcomes. LAs should attempt to establish where other plans exist or are being conducted and seek to combine where appropriate. Consideration should be given to how to combine plans where funding will be pooled. In combining plans, care should be taken to avoid duplication, and a lead organisation could be identified to monitor combined plans.

LAs must not meet needs that should be met by NHS or anything that falls under the Housing Act 1996. There may also be other services that the person is entitled to that could also be delivered under care and support plans; where possible the LA should enable the person to access the support to which they are entitled under other legislation. The duty to meet eligible needs is not met simply by the person being entitled to other support which they are not accessing; LAs should consider early on in the process about informing people about their wider entitlements, and working with other services to ensure they are accessing all the support they can

## 11. Personal budgets

The personal budget is an important element in allowing the person or their advocate to exercise greater control over how care and support needs are met.

Everyone whose needs are met by the LA must receive a personal budget as part of the care and support plan. The person can choose for the budget to be held by the LA to arrange care and



support, or with a third-party provider (often termed an individual service fund). Some or all may be taken as a direct payment and the LA must comply with a request for this where relevant conditions are met.

The personal budget must be sufficient to meet the person's care and support needs, and must include the cost to the LA of meeting the needs it is under a duty or has chosen to meet. It may also set out other public money that the person may be receiving, for example, a personal health budget.

Services for which the LA cannot charge are excluded from the personal budget, for example, minor adaptations or intermediate care lasting for six weeks.

LAs should have a consistent method to calculate personal budgets and provide an early indication of the appropriate amount to meet needs. The process should provide transparency, timeliness and sufficiency.

## 12. Direct payments

This chapter sets out the framework for making available and administering direct payments, which replaces the previous guidance.

The availability of direct payments should be included in the information and advice the LA provides. The LA must be satisfied that the direct payment is used to meet the needs set out in the care and support plan, and monitor this appropriately.

## 13. Review of care and support plans

This chapter establishes the process for reviewing plans, responding to requests for reviews and unplanned reviews.

A system of regular reviews of plans is essential in the overall planning process. Revision of the plan must include the person, carer and any other person's the adult wants to be involved/ advocate.

Particular attention should be paid if the plan includes increased restraints/ restrictions on a person without the capacity to agree to them – a suitably qualified professional or mental capacity lead officer should be involved.

## 14. Safeguarding

Safeguarding is about protecting an adult's right to live safely, free from abuse or neglect. Duties in respect of safeguarding apply to LAs, NHS and police. These duties apply in respect of an adult who:

- Has need for care and support (whether met by LA or not)
- Is experiencing or is at risk of abuse or neglect
- As a result of care and support needs is unable to protect themselves from the abuse or risk of abuse or neglect.

Safeguarding aims to:

- Stop abuse or neglect occurring



- Prevent harm and reduce risk of abuse/ neglect
- Safeguards adults in ways that supports their choice and control over their lives
- Raises public awareness so communities and professionals play their part in safeguarding
- Provide information and support to understand what is abuse/ neglect, how to raise concerns and how to stay safe
- Address causes of abuse/ neglect.

The Care Act places the safeguarding of adults experiencing or at risk of abuse or neglect on a statutory basis. It requires that each LA:

- Sets up a Safeguarding Adults Board (SAB)
- Makes enquiries, or ensure others do so, where it believes an adult is experiencing, or is at risk of, abuse or neglect. The enquiry should establish whether action is needed, and by whom, to stop/ prevent abuse or neglect
- Arranges for an independent advocate, where appropriate, to represent and support an adult who is the subject of an enquiry or Safeguarding Adult Review
- Co-operates with each of its relevant partners in order to protect adults experiencing or at risk of abuse or neglect.

Abuse can be: physical; psychological; sexual; exploitation; financial or material; neglect or acts of omission; discriminatory; organisational; self-neglect; domestic violence; modern slavery.

Six principles underpin adult safeguarding:

- Empowerment (personalisation and presumptions of person-led decisions and informed consent)
- Prevention (better to take action before harm occurs)
- Proportionality (proportionate and least intrusive response appropriate to risk presented)
- Protection (support and representation for those in greatest need)
- Partnership (local solutions through services working with their communities)
- Accountability (and transparency in delivering safeguarding).

These principles apply to all sectors and settings including housing and should inform how professionals work with people experiencing or at risk of abuse or neglect.

Early information sharing is critical where there are concerns about abuse or neglect:

- All organisations should have arrangements clearly setting out processes and principles for sharing information between each other, with other professionals and the SAB
- No professional will assume that someone else will pass on the information which they think may be critical to the safety and wellbeing of an adult at risk of abuse or neglect.

LAs and their relevant partners must co-operate with each other to protect adults at risk. Relevant partners include: other LAs; NHS England; clinical commissioning groups (CCGs); NHS Trusts/ Foundation Trusts; Jobcentre Plus; the police; prisons; and the probation service.



In any organisation that comes into contact with adults at risk, there should be safeguarding policies and procedures which reflect the statutory guidance. This includes housing organisations, where increasingly many adults at risk are housed in both specialist and mainstream housing.

These procedures may include:

- Statement of purpose about promoting wellbeing, preventing harm and responding effectively
- Statement of roles and responsibilities, authority and accountability
- Procedures for dealing with allegations of abuse or neglect
- Full list of points of referral at all times
- How to record allegations, enquiries and subsequent actions
- List of sources of expert advice
- Descriptions of inter-agency communication and procedures for decision making
- How professional disagreements are resolved; e.g. around making enquiries.

Agencies should also agree procedures where allegations refer to employees.

LAs must make enquiries, or require another agency to do so, when abuse or neglect are suspected in relation to an adult with care and support needs. It may ask another agency, where that agency knows the individual concerned, for example, a housing support worker. The LA remains responsible for ensuring that the enquiry is referred to the right place and is acted upon.

The purpose is to establish if the LA or other organisation should do something to help and protect the adult. The adult should be involved, unless this would increase the risk of abuse. The outcome should reflect the adult's wishes wherever possible. Where criminal activity is suspected, the early involvement of police is important.

Staff and volunteers must be trained in recognising symptoms, how to respond, where to go for advice/ assistance and how to record issues/ decisions.

A Safeguarding Adult Board (SABs) must:

- Publish an annual strategic plan of how it will meet its main objectives. This must be developed with local community involvement and consultation with the local Healthwatch organisation
- Publish an annual report detailing what it has done to meet objectives and implement the plan, and the findings of any Safeguarding Adult Reviews (SARs)
- Conduct any SARs.

LAs may co-operate with anyone else they consider appropriate in addition to the relevant partners. This can include housing partners. For organisations on SABs, there should be a designated adult safeguarding manager responsible for management and oversight of cases.

There should be clear mechanisms to enable early identification and assessment of risk. Multi-agency safeguarding hubs (MASH is one such model). Strategies should look also at minimising circumstances, including isolation, that make adults vulnerable to abuse.



All commissioners and providers of services in the public, voluntary and private sectors should disseminate information about multi-agency policies and procedures. Internal guidelines should make staff aware of what to do if they suspect abuse or neglect, and of their own responsibilities.

Agreements should be drawn up to set out matters of confidentiality, record keeping and information sharing, based on the best interests of the adult at risk of abuse or neglect.

The SABs' core responsibility is to ensure strategies to prevent abuse and neglect, and should take a strategic overview of how this is taking place in the locality, and how it ties in with other work, such as the strategies and activity of Health and Wellbeing Boards, Community Safety Partnerships etc.

Housing providers should have clear operational policies and procedures reflecting the framework set out by the SAB and in consultation with them. They should include what circumstances would lead to the need to report outside the chain of command or internal management to the local authority. Internal guidelines should include:

- Identifying adults at risk
- Recognising risk from different sources, in different situations
- Routes for making referrals within and beyond the organisation
- Organisational and individual responsibilities for whistleblowing and protection for whistleblowers
- Working within and to regulatory mechanisms
- Working to agreed operational guidelines.

#### 15. Integration, cooperation and partnerships

Sections 3, 6 and 7 of the Act require LAs to carry out their care and support responsibilities with the aim of promoting greater integration with NHS and other health-related services. LAs and relevant partners must co-operate generally in performing their care and support related functions, and in the case of specific individuals with care and support needs where needed.

*CIH comment: the explicit mention of housing as a health related function on the face of the Act is important. CIH welcomes the recognition, noted in 15.54-15.74 specifically but also throughout this chapter of the guidance, of the valuable contribution that the right home can provide in terms of supporting key aims of the Act, and in particular to the prevention/delay/reduction of care and support needs. The guidance provides further support for LAs and housing providers in developing that greater integration and closer working.*

The general requirement to join up services with NHS and health related services applies to:

- Preventing needs
- Providing information and advice
- Contributing to the reduction/ delay in development of needs
- Improving quality of care and support services and the outcomes achieved.

Strategic mechanisms to promote integration include:



- Planning

Using public health, care and support data to inform joint strategic needs assessments and local strategies including housing. Local Plans should reflect the needs of older and vulnerable people through requirements for specialist housing or inclusive and adaptable mainstream housing.

- Commissioning

LAs may want housing represented at health and wellbeing boards, with CCGs, to ensure a strong link to preventative/ community focused services. Linking information and advice across housing, care and health could support this, as could jointly commissioned services across healthcare and housing, and housing related support services.

- Assessments/ information and advice

Integrating assessments and information about housing options, support, care and finance to help develop a care plan, reflecting how a person's desired outcomes may be supported through housing choices.

- Delivery/ provision of care and support

Incorporate with assessments of the home, for suitability, access, safety, repair, and identified interventions to support delivery.

Integration can be promoted through pooled budgets and joint commissioning structures but also through multi-agency teams, co-location and so on.

All public organisations should co-operate and work together to focus on the needs of the local population. LAs may also consider other bodies with which they should co-operate in exercising care and support functions as appropriate, including private registered providers of social housing. The LA should consider the degree of co-operation required and the mechanisms in place to secure mutual co-operation, for example, through contracts.

LAs must ensure internal co-operation across its officers and professionals, such as housing, adult care and support, children's services, and public health. Multi disciplinary training and established systems to share information can support this.

The guidance explicitly recognises that housing is a critical component of care and support, as well as a key health-related service, and identifies both the home and neighbourhood as having a major impact on a person's needs and the ways needs can be prevented or met.

Paragraph 15.58 addresses the issue of section 23 in the Act, and the boundary between housing services that can be provided under the Care Act (where it is part of a person's need for care and support and not required to be provided under housing legislation). It emphasises that this does not prevent joint working or the provision of specific services such as housing adaptations.





*CIH comment: This clarity is welcome to ensure that LAs are clear about their ability to continue funding/ delivering key services that support independent living for as long as possible, including adaptations and other related support services.*

LAs have a general duty to promote a person's wellbeing when carrying out their care and support functions. Whenever relevant the LA should consider the suitability of accommodation when looking at needs and desired outcomes. It is also an important consideration in the other factors that contribute to wellbeing, for example, in supporting personal dignity.

Enabling people to continue to live independently, and in homes that are fit for purpose (physical design, standards and so on) is a key way to prevent, or delay the development of, needs for care and support. Housing support staff can identify issues early on (for example dementia) and help people to identify and access services.

LAs, in the requirement to establish information and advice, must include advice on relevant housing and related services that meet care and support needs. They should include services that bring health, care and housing services together such as adaptations or alternative housing options. In doing so, the LA does not have to provide all elements of the service but understand, coordinate and make effective use of statutory, voluntary and private information and advice resources in the area. This should also draw on national resources such as FirstStop care and advice.

#### 16. Transition to adult care and support

The transition to adult care and support for children may require the involvement of other agencies to achieve their goals, for example, housing services to support independent living.

This section sets out how the transition period is to be approached, including the reciprocal requirement to co-operate with external agencies such as GPs, housing providers and education institutions. LA duties to promote a local market offering choice will require them to have regard to the needs of young people moving to adult services, including age –appropriate services, and needs for different types of care and support around housing and education for example.

#### 17. Prisons, approved premises and bail accommodation

This sets out the expectations on LAs in relation to meeting the care and support needs of people in custody or custodial settings.

#### 18. Delegation of LA functions

Part one of the Care Act establishes the functions and responsibilities of LAs for care and support. In some cases, it may be appropriate for some of these to be carried out by other organisations on the LA's behalf, to allow for increased flexibility in local approaches. This section sets out which care and support functions can be delegated.

Key functions cannot be delegated including:

- The duty to cooperate and the duty to integrate services
- Adult safeguarding functions



- Decisions made under the power to charge for certain care and support services.

#### 19. Ordinary residence

‘Ordinary residence’ is a key test to determine where responsibilities lie between local authorities for funding to meet someone’s eligible care and support needs. The Care Act does not contain any definition of the term, so it should be given its ordinary and natural meaning.

LAs have a duty to meet the eligible needs of people present in their area but with no settled residence. They should be treated the same as people who are ordinarily resident.

LAs may assess that someone’s eligible needs are best met in accommodation in another LA area. In certain circumstances, a person has a right to make a choice about their preferred accommodation, including where it is situated. Regulations set out that this exists in relation to certain types of accommodation:

- Nursing/ care homes
- Supported living/ extra care housing
- Shared lives schemes.

#### 20. Continuity of care

This covers the arrangements that must take place where a person with care and support needs moves into a different LA area, to give confidence that care and support needs will continue to be met appropriately.

Where equipment or adaptations have been installed in one home in the first authority, these should be moved to the second authority where still required and if this is the person’s preference. Given potential differences in accommodation, it may be more practical for the second authority to organise the installation of any adaptations. The second authority should discuss this with the individual and the first authority. The long term loan of equipment from the NHS should be discussed with the relevant NHS body. The parties are jointly responsible for ensuring that the person has adequate equipment when they move.

#### 21. Cross-border placements

This sets out the arrangements when a person with care and support needs moves between the different territories of the UK.

#### 22. Sight registers

LAs are required to keep a register of people who are severely sight impaired and sight impaired, and this section sets out matters relating to ensuring their care and support needs are met. LAs may also keep a register of disabled people who have or who may develop care and support needs in the future.

#### 23. Transition to new legal framework



The new legal framework established by the Care Act will come into force from April 2015.

The additional reforms to the funding arrangements for care and support will be implemented from 2016/17. The changes will mean more people being in contact with LAs over care and support needs than ever before. LAs need to start to plan and prepare for these changes now. LAs should consider what steps to take to manage capacity issues, which could include self-assessments or using powers to delegate some/ all assessments to other organisations.

Although the Care Act does not address the Independent Living Fund, the guidance provides support for its transfer from central to local authorities.

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