

Disability Law Service

Fighting injustice for disabled people

CARE & SUPPORT ASSESSMENTS & ELIGIBILITY CRITERIA

What is a care needs assessment?

The purpose and aim of an assessment is to identify what needs the person may have and what outcomes they are looking to achieve, to maintain and improve their wellbeing.

When does the duty arise to assess?

When the Local Authority becomes aware that the individual may be in need of care and/or support.

Care & Support Statutory Guidance – paragraph 6.13: -

“Local Authorities must undertake an assessment for any adult with an appearance of need for care and support, regardless of whether or not the local authority thinks the individual has eligible needs”

Case Law – R (Patrick) v Newham LBC 2000

The claimant had physical and mental health difficulties and was living on the streets after the Local Authority had determined that she was intentionally homeless. The Lawyers acting on her case wrote to the Local Authority enclosing a letter from her Doctor confirming her psychiatric problems and requested urgent accommodation.

In the judicial review proceedings, it was argued that this should have triggered a social care assessment of her needs under S9 Care Act 2014.

The duty arose the date the Lawyers wrote to the Local Authority describing the claimant’s health conditions and requesting urgent accommodation.

What is the eligibility criteria?

The eligibility criteria threshold for adults with care and support needs is set out in the Care & Support (Eligibility Criteria) Regulations 2015.

An adult meets the eligibility criteria if –

- (a) The adult’s needs arise from or are related to a physical or mental impairment or illness;
- (b) As a result of the adult’s needs, the adult is unable to achieve two or more of the outcomes;
- (c) As a consequence, there is, or is likely to be, a significant impact on the adult’s well-being¹.

¹ S2(1)(a-c) The Care & Support (Eligibility Criteria) Regulations 2015

What are the outcomes?

The specified outcomes are: -

- (a) Managing & maintaining nutrition;
- (b) Managing personal hygiene;
- (c) Managing toilet needs;
- (d) Being appropriately clothed;
- (e) Being able to make use of the adult's home safely;
- (f) Maintaining a habitable home environment;
- (g) Developing and maintaining family or other personal relationships;
- (h) Accessing and engaging in work, training, education or volunteering;
- (i) Making use of necessary facilities or services in the local community including public transport, and recreational facilities or services; and
- (j) Carrying out any caring responsibilities the adult has for a child².

Who can be involved in the assessment?

For an adult's needs assessment, the duty is to involve the adult, any carer, and any other person at the request of an adult, or, if the adult lacks sufficient capacity to make such a request, any person who appears to be interested in the adult's welfare. (Care Act, S9(5) (a-c)).

To help the adult with needs for care and support, or the carer, prepare for the assessment, the local authority should provide in advance, and in an accessible format, the list of questions to be covered in the assessment. This will help the individual or carer prepare for the assessment and think through what their needs are and the outcomes they want to achieve. (Care & Support Statutory Guidance, paragraph 6.38).

Alternative ways to carry out an assessment

An assessment can be carried out in the following ways: -

- *Face to Face* – the assessor must be appropriately trained and have the right skills and knowledge.
- *Supported self-assessment* – person can complete the assessment themselves and the local authority assures itself that it is an accurate reflection – consult with other professionals.
- *Online or phone* – person's needs are less complex.
- *Joint assessment* – agencies work together to avoid the person having multiple assessments, e.g. mental health and social care teams.

² S2(2)(a-j) The Care & Support (Eligibility Criteria) Regulations 2015

- *Combined assessment* – adult’s and carers assessment are combined, and/or assessment relating to a child so that interrelated needs are noted. (*Care & Support Statutory Guidance, paragraph 6.3*)

Timescales

Local Authorities should inform the individual of an indicative timescale and keep the person informed throughout the assessment process³. Delay in the performance of this can amount to a breach of this duty, or breach of a common law principle that a public authority should not act irrationally/unreasonably.

A delay can amount to maladministration causing injustice.

³ Care & Support Statutory Guidance, paragraph 6.29

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