

Care and Support

Assessment & Eligibility Policy

Helping people to help themselves by making personalisation real

Adult Operations

Essex County Council

December 2014

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Document Control Sheet

Title of Policy:	Assessment & Eligibility Policy
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This policy should be read alongside:	Support Planning and Review Policy (December 2014) Personal Budgets Policy (December 2014) Safeguarding Policy (2014) Charging Policy (December 2014)
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Assessment and Eligibility Policy

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Assessment & Eligibility Policy

1 Introduction

Under Section 9 of the Care Act 2014, the council has a statutory duty to assess the needs of any adult or carer who appears to have needs for care and support and then to determine whether those needs are eligible for support or services from the council.

The council also has duties to provide advice and information about what can be done to meet or reduce any needs identified, whether or not they are eligible for support from the council. The council may also choose to meet needs that do not meet the eligibility criteria.

This policy sets out the framework for assessment and eligibility in Essex.

Registered social work professionals have a professional duty to maintain a sound understanding of current legislation applicable to social care and to take account of relevant policy and guidance in their practice.

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

The assessment process can be initiated by:

- An approach to the local authority by an individual or by a third party acting on their behalf
- A hospital discharge
- The local authority, if it becomes aware that a person may be in need of care and support

If it is apparent that the person requires urgent support, the council must make immediate provision for care before carrying out a full assessment of the person's needs.

Helping people to help themselves by making personalisation real

Essex County Council is committed to delivering Adult Social Care in accordance with the Adult Operations Charter. Its approach will always be based on helping people to help themselves and in so doing to promote progression and maximise independence

Essex has signed up to Making it Real, demonstrating its commitment to personalisation and community-based support. Our goal is that people with eligible needs for care and support in Essex can say:

Information and advice	<p>"I have the information and support I need in order to remain as independent as possible"</p> <p>"I have access to easy to understand information about care and support which is consistent, accurate, accessible and up to date."</p> <p>"I can speak to people who know something about care and support and can make things</p>
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<p>Active and supportive communities</p>	<p>happen.”</p> <p>“I have help to make informed choices if I need and want it”</p> <p>“I know where to get information about what is going on in my community.”</p> <p>“I have access to a range of support that helps me to live the life I want and remain a contributing member of my community.”</p> <p>“I have a network of people who support me – carers, family, friends, community and if needed paid support staff.”</p> <p>“I have opportunities to train, study, work or engage in activities that match my interests, skills, abilities.”</p> <p>“I feel welcomed and included in my local community.”</p> <p>“I feel valued for the contribution that I can make to my community”</p>
<p>Flexible integrated care and support</p>	<p>“I am in control of planning my care and support”</p> <p>“I have care and support that is directed by me and responsive to my needs.”</p> <p>“My support is coordinated, co-operative and works well together and I know who to contact to get things changed.”</p> <p>“I have a clear line of communication, action and follow up”</p>
<p>Workforce</p>	<p>“I have good information and advice on the range of options for choosing my support staff.”</p> <p>“I have considerate support delivered by competent people”</p> <p>“I have access to a pool of people, advice on how to employ them and the opportunity to get advice from my peers.”</p> <p>“I am supported by people who help me to make links in my local community.”</p>
<p>Risk enablement</p>	<p>“I can plan ahead and keep control in a crisis”</p> <p>“I feel safe, I can live the life I want and I am supported to manage any risks”</p> <p>“I feel that my community is a safe place to live and local people look out for me and each other”</p> <p>“I have systems in place so that I can get help at an early stage to avoid a crisis.”</p>
<p>Personal budgets and self funding</p>	<p>“I can decide the kind of support I need and when, where and how to receive it.”</p> <p>“I know the amount of money available to me for care and support needs, and I can determine how this is used (whether it’s my own money, direct payment or a council managed personal budget)”</p> <p>“I can get access to the money quickly without having to go through over-complicated procedures”</p> <p>“I am able to get skilled advice to plan my care and support, and also be given help to understand costs and make best use of the money involved where I want and need this.”</p>

2 Assessment

The council must carry out an assessment for any adult or carer who appears to have any level of needs for care and support. This duty applies regardless of whether the person's needs are likely to be eligible for local authority-funded support or whether the person has the means to finance their own care.

National guidance makes clear that the assessment is to be treated as an intervention in its own right. The purpose is to identify what needs the person may have and what outcomes they are looking to achieve to maintain or improve their wellbeing. As such, it provides an opportunity to help people to find ways to reduce or prevent needs from escalating and to build upon their personal strengths, capabilities and support that might be available in their wider network or community to meet their needs.

The needs assessment should generate a full picture of the person's needs, including those currently met by a carer. Where the adult has a carer, information on the care they are providing should be captured during the assessment but cannot be used to influence the eligibility determination. This is to ensure that an appropriate response can be provided at the right time to meet the level of needs, whether or not the carer is able to continue providing care.

A carer's assessment must establish not only the carer's needs for support but also the sustainability of the caring role in the short and longer term. The carer's assessment must also consider the outcomes that the carer wants to achieve in their daily life, their activities beyond caring and the impact of caring upon those activities. This includes the carer's desire and ability to work and to partake in education, training or recreational activities, including having time to themselves. Carers should not be encouraged to give up existing paid employment.

The assessment provides a basis for:

- Providing information and advice to the individual and targeting prevention services
- Supporting the person to find ways to meet the identified needs
- Determining eligibility for services or other types of support
- Identifying and managing risks in line with the council's safeguarding responsibilities
- Working in partnership with health and other organisations, including sharing information
- Calculating the personal budget required to meet the person's eligible needs

If it appears that the person is experiencing, or is at risk of, abuse or neglect, the council must carry out a safeguarding enquiry and decide with the adult in question what action, if any, is necessary and by whom.

If it is apparent that the person requires urgent support, the council will make immediate provision for care before carrying out a full assessment of the person's needs.

In addition to the council's general duty to assessment, there are some further specific circumstances in which we must carry out an assessment:

Adults about to be discharged from hospital	Adults who may need care and support services must be assessed by the council before they can be discharged safely from hospital.
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<p>Young carers and young people in transition</p>	<p>The Care Act introduces new entitlements to transition assessment for young people and their carers. The council has a duty to carry out a transition assessment for a young person or carer if they are likely to have needs once they (or the child they care for) turn 18. There are three groups who have a right to a transition assessment:</p> <ul style="list-style-type: none"> • Young people under 18 with care and support needs who are approaching transition to adulthood; • Young carers under 18 who are preparing for adulthood; • Adult carers of a young person who is preparing for adulthood. <p>The council must carry out the assessment when it considers there is “significant benefit” to the individual in doing so. This duty also applies to young people who are not receiving children’s services.</p> <p>Under the Children and Families Act 2014, the Education, Health and Care Plan requirements for preparation for adulthood begin at 14. Adult Operations must work with Family Operations to ensure young people experience a seamless transition.</p>
<p>Prisoners</p>	<p>Under section 76 of the Care Act, where the council is made aware that an adult in a custodial setting may have care and support needs, we must carry out an assessment in the same way as for someone in the community.</p>

The assessment process can be initiated by the individual or by a third party acting on their behalf. If the council becomes aware that a person may be in need of care and support, it may initiate an assessment without being asked first.

Refusal of assessment

Under section 11 of the Care Act, the council is not required to carry out an assessment if the person does not feel they need care or does not want local authority support, provided they have capacity to refuse the assessment.

If someone who refuses an assessment appears to lack the capacity to do this or to request an assessment or to express their needs, the council should carry out a mental capacity assessment in line with best practice and the requirements of the Mental Capacity Act.

If the person is found to lack capacity to refuse the assessment, and the council believes that a needs assessment would be in their best interests, the council is required to carry out the assessment. The same applies, if the person is experiencing or is at risk of abuse or neglect.

In line with national guidance it is good practice to maintain contact with the person, support them to consider the implications of their choice and to understand other choices open to them. If their circumstances or needs change, the council should consider whether it is required to offer an assessment.

Appropriate and proportionate assessment

The Care and Support (Assessment) Regulations 2014 (the “Assessment Regulations”) require the council to carry out an assessment in a manner which is **appropriate and proportionate** to the needs and circumstances of the person to whom it relates. This means that the assessment should be in proportion to the severity of need and the complexity of the situation. It should also reflect the wishes of the person being assessed and address any communication needs the person may have. To ensure the assessment is proportionate, the council must have regard to:

- The person’s wishes and preferences and desired outcomes
- The severity and overall extent of the person’s needs
- The potential fluctuation of a person’s needs

To ensure the assessment is appropriate, the council must establish the person’s communication needs and adapt the assessment process accordingly.

First Contact

The assessment starts from the point where the council begins to collect information about the person. For this reason, staff must make clear to the person that particular information is being captured and may contribute to any assessment. Contact centre staff must have appropriate assessment skills and must have access to people with expertise to whom they can refer issues that go beyond their knowledge and skill base.

At the point of first contact, the council must consider whether the person would have difficulty being involved in the assessment (see below).

Pausing the assessment

Early or targeted interventions, such as universal services, a period of reablement or provision of equipment or minor household adaptations, can delay an adult’s needs from progressing. If such interventions are put in place after the first contact, the assessment process can be paused. This is to allow the intervention to take place and then evaluate the effect on the person’s needs.

Urgent needs

The council has the power to meet urgent needs for care and support before completing an assessment. The council may also meet urgent needs regardless of the person’s ordinary residence. This initial response to meet urgent needs should be followed by a more detailed needs assessment and any relevant referrals.

Format of assessment

The assessment may take different forms according to the person’s circumstances and preference:

Face to face	A face-to-face assessment between the person and an assessor, whose professional role and qualifications may vary depending on the circumstances, but who must always be appropriately trained and have the right skills and knowledge.
Supported self-	A supported self-assessment should use the same assessment

assessment	materials as a face-to-face assessment but the person will complete the assessment themselves. The council must assure itself that it is an accurate reflection of the person's needs.
Telephone or online	A proportionate way of assessing less complex needs or where the person is already known to the council.
Combined assessment	<p>An adult's assessment may be combined with a carer's assessment and / or an assessment relating to a child so that interrelated needs are properly captured and the process is as efficient as possible.</p> <p>Those being assessed must consent to the assessments being combined otherwise they must be carried out separately.</p>
Joint assessment	<p>Where relevant agencies work together to avoid the person undergoing multiple assessments. This includes assessments in a prison.</p> <p>Where a person has both health and care support needs, the council should work with the health professionals to ensure the person's health and care services are aligned.</p>

The council may use an assessment tool to collect information about the person and details of their needs, wishes and their desired outcomes.

Supported self-assessment

A supported self-assessment is an assessment carried out jointly by the adult with care and support needs or carer and the local authority. It places the individual in control of the process to the point where they themselves complete the assessment form. The council remains responsible for assessing the person's needs and ensuring that the assessment is accurate and complete.

The council must offer the person the choice of a supported self-assessment if they have the capacity to take part in this process and wish to do so. If the person does not wish to self-assess, the council must undertake the assessment. The person should be asked to complete the same assessment questionnaire that the council uses for a needs or carer's assessment.

The assessor must ensure that the person has all the facts about the care and support history and should share any relevant information with them.

If a carer is undertaking a self-assessment, the assessor should ensure they have any relevant information about the person they care for. The council must secure the cared-for person's consent to share their information.

If the carer is a **young carer**, the council must consider whether the information is appropriate to be shared is appropriate for the child.

The person must have capacity to fully assess and reflect their own needs in line with the Mental Capacity Act. If a capacity assessment shows that the person does not have capacity to self-assess, the council must carry out the assessment. If the person has capacity but would have substantial difficulty in engaging in a self-assessment, the council should establish whether there is an

appropriate individual who can support them. If there is not, the council must provide an independent advocate to assist the person to self-assess.

If a person who would otherwise receive a specialised assessment (eg someone who is deafblind) chooses to self-assess, the council must involve a person who has specific training and expertise when assuring itself that the assessment accurately reflects the person's needs.

The council must assure itself that the self-assessment is an accurate and complete reflection of the person's needs and must then make an eligibility determination. The council must inform the person of the decision and the reasons for it. If the person disagrees with the decision, they have the right to appeal against the decision.

Who can carry out an assessment?

Assessments can be carried out by a range of professionals, including registered social workers, occupational therapists, rehabilitation officers, care managers or first contact staff. Anyone carrying out an assessment must have the required skills, knowledge and competence.

First contact staff should have the support of professional social workers, occupational therapists and other relevant experts to support the identification of underlying conditions or to ensure that complex needs are identified early and that people are signposted appropriately.

When assessing particularly complex or multiple needs an assessor may require the support of an expert to carry out the assessment. The council should consider whether additional expertise is required on a case-by-case basis, taking into account the needs of the individual and the skills of the assessor.

Where the assessor does not have the necessary knowledge of a particular condition or circumstance, they must consult someone who has relevant expertise. This means someone who through training or experience has acquired knowledge or skill of the particular condition or circumstance.

There are some specific groups of people that the Department of Health consider require specialised assessment:

Autism	In accordance with statutory guidance, the assessor must have specialised training in autism to assess an adult with autism.
Deafblind	In accordance with the Assessment Regulations, the council must ensure that a trained expert is involved in the assessment of adults who are deafblind. This includes where an adult who is deafblind is carrying out a supported self-assessment.

Supporting the person to be involved in the assessment

Under the Care Act the council must involve the person being assessed and any carer(s) and any other person the adult wants to involve. This means that the council should help the person to understand how they can be involved, how they can contribute and take part and sometimes lead or direct the process.

The person being assessed should be given information about the assessment process, including the list of questions to be covered in the assessment in advance. The purpose is to help the person prepare for their assessment and support their involvement in the assessment process.

At the point of first contact, the council must consider whether the person, including carers, would have difficulty being involved in the assessment. If so, the council must establish whether the person could be supported to be involved through changes to the assessment process. Under the Equality Act, the council has a duty to make reasonable adjustments to meet the needs of people with particular accessibility requirements.

If the person would have **substantial difficulty** in being involved, and adaptations to the process would be insufficient to overcome this, the council must ensure there is an **appropriate individual**, such as a friend or relative, who can facilitate their involvement. If there is no-one who can fulfil this role, the council must arrange for an **independent advocate** to support and represent the person in the assessment process.

If the person lacks mental capacity, the Mental Capacity Act requirements for Independent Mental Capacity Advocates will apply.

Safeguarding adults from abuse and neglect

Safeguarding and risk assessment have always been a key part of the assessment and support planning processes. The Council has a duty to make enquiries and take appropriate action if there is reason to suspect abuse has occurred or is likely to occur. If a safeguarding issue is identified during the assessment process, the council's **Safeguarding Policy** and **Guidance** must be followed.

If risks are identified that do not constitute a safeguarding issue, the council's approach to risk enablement, as set out in the **Support Planning Policy** and in the **Risk Enablement Guidance** must be followed.

Confidentiality and consent to share information

The Health and Social Care Information Centre has published "[A guide to confidentiality in health and social care](#)" The main rules are:

1. Confidential information about service users or patients should be treated confidentially and respectfully
2. Members of a care team should share confidential information when it is needed for the safe and effective care of an individual
3. Information that is shared for the benefit of the community should be anonymised
4. An individual's right to object to the sharing of confidential information about them should be respected
5. Organisations should put policies, procedures and systems in place to ensure the confidentiality rules are followed.

At initial assessment, the individual must be made aware of how the information they provide will be shared and their written consent obtained. The person has the right to refuse their consent or can change their mind at any time. If they lack capacity, information may only be shared in their best interests in accordance with the requirements of the Mental Capacity Act. However, if the individual's

safety, or the safety of others, is at risk, professionals have a duty to share confidential information in line with Safeguarding Policy and Guidance.

Continuing Health Care

If it appears that the person may be eligible for NHS Continuing Healthcare the council must notify the relevant Clinical Commissioning Group.

NHS Continuing Health Care is care outside of hospital that is arranged and funded by the NHS. It is available for people who need ongoing healthcare and meet the eligibility criteria specified in the [National Framework for Continuing Health Care](#) . The key criteria are that the person must be assessed as having a “primary health need” and have a complex medical condition and substantial and ongoing care needs.

Continuing Health Care can be provided in any setting, including a care home, hospice or the person’s home. If a person in a care home is eligible for NHS Continuing Health Care, the NHS will fund their care home fees, including the cost of accommodation, personal care and health care. If Continuing Health Care is provided to a person in their own home, the NHS will fund the costs of personal care and health care. It may also include support for carers.

3 Mental Capacity

The Mental Capacity Act 2005 (MCA) applies to anyone over 16 who is unable to make all or some decisions for themselves. The council must pay particular attention to the five statutory principles of the MCA when working with anyone who may lack capacity:

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. Any decision or act made on behalf of a person who lacks capacity must be done in their best interests.
5. Anything done for or on behalf of a person who lacks capacity should be the least restrictive of their basic rights and freedoms.

Individuals can appoint people to make decisions on their behalf in the event that they become unable to make their own decisions, under a Lasting Power of Attorney. The person must be over 18 and must have mental capacity to make an LPA at the time they make one.

If the person does not have capacity, the Court of Protection may appoint a Deputy to make decisions on their behalf. The Deputy may be a close friend, relative, a professional, or the local authority.

There are two types of LPA or Deputy:

Health & Welfare	This covers decisions about day-to-day care; medical care; where to live; assessments and provision of community care. It can only be used when the person is unable to make a particular decision themselves.
Property & Financial Affairs	This covers decisions about paying bills; bank accounts; collecting benefits; property transactions. It can be used to receive and manage a Personal Budget in the form of a direct payment on a person's behalf.

There are some decisions which can never be made on behalf of someone who lacks capacity to make the decision themselves, including:

- Decisions concerning family relationships:
 - Consent to marriage / civil partnership;
 - Consent to sexual relations;
 - Consent to a child being placed for adoption or the making of an adoption order;
 - Discharging parental responsibility in a matter not relating to the child's property.
- Treatment for mental disorder under the Mental Health Act

In carrying out a Needs or a Carer's Assessment, practitioners must always consider whether they need to conduct an assessment of the person's capacity to consent to any actions that may need to be taken to meet their needs. This is essential in order to ensure that any actions taken by care

professionals under a subsequent support plan are protected from liability under section 5 of the Mental Capacity Act.

There is a particular need to consider the person's mental capacity when either the council or an NHS body is proposing to arrange accommodation in hospital for longer than 28 days or in a care home for more than 8 weeks.

If arrangements proposed for the care or treatment of someone who lacks capacity would amount to a **deprivation of liberty**, this must be authorised in accordance with Mental Capacity Act or Mental Health Act requirements. A deprivation of liberty arises if the person will be under continuous supervision and control, is not free to leave and lacks capacity to consent to these arrangements. This includes domestic settings, such as a supported living placement, if the council has imposed the arrangement. The purpose of the placement or the person's compliance or lack of objection to it are not relevant to whether there is a deprivation of liberty requiring authorisation.

Adults who lack capacity may find it harder to communicate their needs and aspirations and may require additional support during assessment, such as the use of alternative forms of communication and information as well as access to an independent advocate.

If an adult is believed to lack the capacity to engage in decisions about how their needs will be met, the **Mental Capacity Act Guidance** must be followed.

4 Preventing needs for care and support

Under Section 2 of the Care Act the council has a statutory duty to take action to prevent or delay the development of needs for care and support. This duty applies to both adults with needs and carers. Essex County Council is committed to ensuring that individuals are able to lead as independent a life as possible. To achieve this we will promote individual progression and enablement through the assessment and support planning processes.

The assessment is a key element of the council's approach to prevention. It provides the opportunity to identify needs that could be reduced and to exploit opportunities to stop needs from increasing. This might be through providing specific services or interventions or it could be through providing information and advice. It also involves working with the individual to help them build upon their existing strengths, capabilities and networks of support.

Statutory guidance identifies three levels of preventative activity:

- Primary prevention, which involves promoting wellbeing
- Secondary prevention, which involves early intervention
- Tertiary prevention, which involves maximising independence.

As well as assessing the person's needs, the assessor must consider whether the person would benefit from the available preventative services, facilities or resources. This also applies to people who do not currently have needs but who may otherwise require care and support in the future.

Where the council judges that the person may benefit from specific types of support, it should take steps to support the person to access those services. The assessor should also consider what else, other than formal services, might assist the person to meet the outcomes they want to achieve. This includes identifying strengths, capabilities and resources available within the individual's network that they could draw upon. It also includes small adaptations, equipment or reablement.

The council may pause the assessment to allow the benefits of such preventative activities to be realised, so that the final assessment of need (and determination of eligibility) is based only on the remaining needs which have not been met through such interventions. If any of the person's needs require urgent support, the council has the power to meet those needs before the assessment is completed.

Building upon the person's strengths and capabilities

The council must consider what, other than the provision of care and support, might help the person to meet the outcomes they want to achieve. The assessor must work with the person to explore their own strengths and capabilities and what support might be available from their wider support network or within the community that the person might draw upon. Formal interventions or care and support should only be considered after the potential to help the person to help themselves has been exhausted.

Potential support from family and friends should be considered in the light of their appropriateness, willingness and ability to provide any additional support and the impact on them of doing so. The agreement of the adult or carer who is the subject of the assessment is also required. If a carer wishes to maintain other commitments, including employment, they must not be expected to take on

caring responsibilities that would prevent them from doing so. Carers should also not be encouraged to give up existing paid employment to become a paid carer for the cared-for person.

Whole family approach

During the assessment the council must consider the impact of the person's needs for care and support on family members or any other relevant person. This means the assessor must identify anyone who may be part of the person's wider network of care and support and consider whether they would benefit from the provision of information, advice or signposting to support services in the local community.

Young carers

If a child is involved in providing care for an adult the council must offer the adult a needs assessment and consider whether the child should be referred for a young carer's assessment under section 63 of the Care Act or a needs assessment under the Children Act 1989. Adult and Family Operations should work together to ensure that the family's needs are assessed effectively as a whole.

When assessing an adult or carer, if it appears that a child is involved in providing care, the council must consider the impact of the person's needs on the young carer's wellbeing, welfare, education and development. The assessment should also take into account the parenting responsibilities of the adult. A young carer becomes vulnerable if their caring role leads to regular absences from school, impacts upon their learning, prevents them from building friendships and relationships or undermines their wellbeing.

The council must also consider whether the child is undertaking any caring tasks that are inappropriate, which may include heavy lifting, emotional support, maintaining the family budget, administering medication or personal care. The assessor should take the child's own view into account when considering the appropriateness of any caring tasks.

5 Eligibility

After completing the assessment of the adult’s needs the council must determine whether any of those needs are eligible for support from the council. The Care Act establishes a national eligibility threshold under which councils must consider whether:

- The adult’s needs relate to a physical or mental impairment or illness
- As a result of those needs, the adult is unable to achieve two or more specified **outcomes**
- As a consequence, there is likely to be a significant impact on their **wellbeing**

An adult’s needs are only eligible when they meet all three of these conditions.

Interpreting the eligibility criteria

		Interpretation
1. Needs	The adult’s needs arise from or are related to a physical or mental impairment or illness.	Includes physical, mental, sensory, learning or cognitive disabilities or illnesses; substance misuse or brain injury. A formal diagnosis of the condition is not required.
2. Outcomes	As a result of the needs, the adult is unable to achieve two or more of the following: <ol style="list-style-type: none"> a. Managing and maintaining nutrition; b. Maintaining personal hygiene; c. Managing toilet needs; d. Being appropriately clothed; e. Maintaining a habitable home environment; f. Being able to make use of the home safely; 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; j. Carrying out any caring responsibilities the adult has for a child. 	The outcomes are not to be confused with the personal outcomes that the person identifies that they want to achieve at the beginning of the assessment process, although these may overlap. The adult is “unable to achieve” an outcome if: <ul style="list-style-type: none"> • they are unable to do so without assistance; • doing so causes significant pain, distress or anxiety • doing so is likely to endanger their health or safety or that of others • doing so takes significantly longer than would normally be expected.
3. Wellbeing	As a consequence, there is or is likely to be a significant impact on the adult’s wellbeing, including the following:	The council must consider whether the adult’s needs impact on the nine areas of wellbeing and make a judgment

	<ul style="list-style-type: none"> a. Personal dignity (including treatment of the individual with respect); b. Physical and mental health and emotional wellbeing; c. Protection from abuse and neglect; d. Control by the individual over day-to-day life (including over care and support provided and the way it is provided); e. Participation in work, education, training or recreation; f. Social and economic wellbeing; g. Domestic, family and personal relationships; h. Suitability of living accommodation; i. The individual's contribution to society. 	<p>whether:</p> <ul style="list-style-type: none"> • The adult's needs impact on an area of wellbeing in a significant way. • The cumulative effect of the impact on several areas of wellbeing mean that they have a significant effect on the adult's overall wellbeing. <p>The council should consider the impact of the person's needs in the context of what is important to him or her. What is important to one person may not be the same for another.</p>
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The determination of eligibility must be based solely on the adult's needs. Any care provided by a carer should not be taken into account. Support available from carers is considered at the support planning stage.

Fluctuating Needs

The council must consider whether the person's current level of need is likely to fluctuate and what their on-going needs for care and support are likely to be. This applies to both short term and long term changes in the level of the person's needs.

More detailed guidance on interpreting the eligibility criteria is provided in the Care Act Statutory Guidance (Chapter 6). There is also guidance available from Skills for Care and the Social Care Institute of Excellence.

Carer's Eligibility

Carers can be eligible for support in their own right. Their eligibility does not depend on whether the person they care for has eligible needs. The Care Act introduces a national eligibility threshold for carers. Under this, the council must consider whether:

- The carer's needs are due to providing **necessary** care for an adult;
- Those needs put the carer's health at risk **or** means that they are unable to achieve specified outcomes; **and**
- As a consequence there is, or is likely to be a significant impact on their wellbeing

A carer's needs are only eligible where they met all three of these conditions.

Interpreting the carers' eligibility criteria

Interpretation

<p>1. Needs</p>	<p>The needs arise as a consequence of providing necessary care to an adult</p>	<p>Is the care “necessary”?</p> <p>If the carer is providing care and support for needs which the adult is capable of meeting themselves, the care may not be necessary.</p> <p>In such cases the council should provide information and advice to the adult and carer about how the adult can use their own strengths or services in the community to meet their needs.</p>
<p>2. Outcomes</p>	<p>As a result of the needs, either</p> <ol style="list-style-type: none"> 1. The carer’s physical or mental health is, or is at risk of deteriorating, or 2. The carer is unable to achieve any of the following outcomes: <ol style="list-style-type: none"> a. Carrying out any caring responsibilities the carer has for a child; b. Providing care to other persons for whom the carer provides care; c. Maintaining a habitable home environment; d. Managing and maintain nutrition; e. Developing and maintaining family or other significant personal relationships; f. Accessing and engaging in work, training, education or volunteering; g. Making use of necessary facilities or services in the local community including recreational facilities or services; h. Engaging in recreational activities; 	<p>The carer is “unable to achieve” an outcome if:</p> <ul style="list-style-type: none"> • they are unable to do so without assistance; • doing so causes significant pain, distress or anxiety • doing so is likely to endanger the health or safety of the carer or any adults or children for whom the carer provides care.
<p>3. Wellbeing</p>	<p>As a consequence, there is or is likely to be a significant impact on the carer’s wellbeing, including:</p> <ol style="list-style-type: none"> a. Personal dignity (including treatment of the individual with respect); b. Physical and mental health and 	<p>The council must consider whether the carer’s needs impact on the nine areas of wellbeing and make a judgment whether:</p> <ul style="list-style-type: none"> • The carer’s needs impact on an area of wellbeing in a

	<p>emotional wellbeing;</p> <ul style="list-style-type: none"> c. Protection from abuse and neglect; d. Control by the individual over day-to-day life (including over care and support provided and the way it is provided); e. Participation in work, education, training or recreation; f. Social and economic wellbeing; g. Domestic, family and personal relationships; h. Suitability of living accommodation; i. The individual's contribution to society. 	<p>significant way.</p> <ul style="list-style-type: none"> • The cumulative effect of the impact on several areas of wellbeing mean that they have a significant effect on the carer's overall wellbeing. <p>The council should consider the impact of the carer's needs in the context of what is important to him or her. What is important to one person may not be the same for another.</p>
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Informing the person

Following their assessment, the person must be given a copy of the assessment, including the views of the individual. A copy must also be shared with anybody else that the person asks the council to share it with.

Once the eligibility determination has been made the council must provide the person with a copy of its decision and the reasoning for it.

If the person has some eligible needs, the council must:

- Agree with the person which of their needs they would like the council to meet. The adult may choose to arrange alternative services themselves to meet some needs or may not want a service from the council.
- If the person wants support from the council, consider how to meet those needs and if a chargeable service is involved, initiate a financial assessment.
- Establish whether the person meets the ordinary residence requirement.
 - An adult must be ordinarily resident in Essex
 - In the case of a carer, the person they care for must be ordinarily resident in Essex.

Treatment of non-eligible needs

Where none of the person's needs meet the eligibility criteria, the council must give him or her written advice and information about what can be done to meet or reduce the needs or what can be done to prevent or delay the development of needs for care and support in future.

The council can decide to meet needs that are not deemed to be eligible if it chooses to do so. Essex might choose to do this if a person is unable to achieve only one outcome specified in the eligibility criteria but this is seen to have a significant impact on their wellbeing. Essex may also choose to do

this if it is seen that this will contribute to preventing or delaying the person's needs for care and support, in line with our statutory prevention duty.

People who have needs that fall below the eligibility criteria may qualify for help from a range of other services, including health, housing, benefits, education, training, employment, transport and leisure. Local voluntary services, community groups and networks may also be able to help people. The council must give people information about alternative sources of support and advice about how to access them.

If a person's condition is likely to deteriorate without support so that their needs will increase, the assessor should consider whether the person would benefit from preventative interventions or services. This may involve referring the individual to another service or providing advice or assistance to access support.

Some people have disabilities that mean that their needs are at risk of being overlooked or understated in the assessment of eligible needs. This includes people with autism, specific communication difficulties, sensory impairments, dual impairments, whose needs may not be immediately apparent or easily understood. Assessors need to be aware of the potential impact of such conditions on the assessment and know how to make reasonable adjustments to the assessment process in line with Equalities legislation.

Complaints and Appeals

The council should take all reasonable steps to limit appeals or disputes including through effective assessment practice and transparency in decision making. In addition people should be kept informed of the timescales that are likely to be involved in different stages of the process.

Anyone who is dissatisfied with a decision made by the council can make a complaint about that decision and have that complaint handled by the council.

A1 Wellbeing

Under the Care Act, the general duty of the council is to promote the wellbeing of the individual. The wellbeing principle underpins the whole of the Care Act and its associated regulations and guidance. Specifically, it applies in all cases where the council is carrying out a care and support function or making a decision in relation to a person. It applies to adults, carers and, in some circumstances, to children in transition, their carers and to young carers. The wellbeing principle applies equally to people who do not have eligible needs if they come into contact with the care system.

Definition

The dictionary definition of “wellbeing” is “the state of being comfortable, healthy or happy”. It is necessarily a broad concept and in relation to Care Act functions is described as relating to the following nine areas in particular:

- Personal dignity (including treatment of the individual with respect);
- Physical and mental health and emotional wellbeing;
- Protection from abuse and neglect;
- Control by the individual over day to day life (including over care and support provided and the way it is provided);
- Participation in work, education, training or recreation;
- Social and economic wellbeing;
- Domestic, family and personal;
- Suitability of living accommodation;
- The individual’s contribution to society.

Promoting wellbeing

Promoting wellbeing means actively seeking improvement in the aspects of wellbeing described above when carrying out a care and support function in relation to an individual. This applies at any stage of the process from providing information and advice to reviewing a support plan.

There is no set approach. Promoting wellbeing will depend on the individual’s needs, goals and wishes. The council should consider each person’s case on its own merits, based upon what the person wants to achieve and how the council’s actions will affect their wellbeing.

All the nine aspects of wellbeing are of equal importance. However it is likely that some aspects will be more relevant to one person than another. The council should adopt a flexible approach that focuses on those aspects that matter most to the person concerned.

In addition to the wellbeing principle, the Care Act sets out a number of other key principles which local authorities must have regard to when carrying out the same activities or functions:

- a. The importance of beginning with the assumption that the individual is best placed to judge the individual’s wellbeing;
- b. The individual’s views, wishes, feelings and beliefs;

- c. The importance of preventing or delaying the development of needs for care and support and the importance of reducing needs that already exist.
- d. The need to ensure that decisions are made having regard to all the individual's circumstances;
- e. The importance of the individual participating as fully as possible;
- f. The importance of achieving a balance between the individual's wellbeing and that of any friends or relatives who are involved in caring for the individual;
- g. The need to protect people from abuse and neglect;
- h. The need to ensure that any restriction on the individual's rights or freedom of action that is involved in the exercise of the function is kept to the minimum necessary for achieving the purpose for which the function is being exercised.

Neither these principles nor the wellbeing principle require the council to make a specific decision or undertake a particular action. The steps the council should take will depend entirely on the circumstances.

A2 Statutory duties and national policy

This appendix briefly explains the current legal and policy context for delivery of adult social care services. This is an overview of the main requirements and should not be taken as a comprehensive summary of all the council's legal duties.

Assessment of needs for care and support and Carer's assessments	<p>Local authorities have a statutory duty to carry out an assessment of need for any adult or carer who appears to have any level of care and support services and determine whether any of those needs are eligible for support from the local authority. (Care Act 2014, sections 9 & 10).</p> <p>The Care and Support (Assessment) Regulations 2014 and Department of Health Care and Support Statutory Guidance (2014) impose further requirements in relation to the Assessment</p>
Eligibility	<p>Eligibility for a service provided by the local authority must be determined following an assessment of need in line with the national eligibility framework. This is prescribed by the Care and Support (Eligibility Criteria) Regulations 2014 and subject to the Care and Support Statutory Guidance (2014) (Chapter 6)</p>
Prevention duty	<p>Under Section 2 of the Care Act, the local authority has a duty to take action to prevent or reduce an adult's or carer's needs for care and support.</p>
Ordinary Residence	<p>Sections 39 to 41 of the Care Act and the associated Care and Support (Ordinary Residence) (Specified Accommodation) Regulations 2014 provide the legal framework for determining where an adult is ordinarily resident for the purpose of identifying where responsibility lies between different local authorities for the funding and / or provision of care for adults with eligible assessed needs. There is additional guidance in the Care and Support Statutory Guidance (Chapter 19)</p> <p>The Care and Support (Ordinary Residence Disputes etc) Regulations 2014 provide the framework for resolving disputes between local authorities.</p>
Duty and powers to meet needs	<p>Once a local authority has undertaken an assessment and concluded that a person has needs that meet the national eligibility criteria, then the authority must meet those needs (Care Act section 18)</p> <p>The local authority has a <i>power</i> to meet needs without carrying out an assessment if those needs are urgent. It also has a <i>power</i> to meet needs that are not eligible under the national eligibility criteria if it chooses to do so. (Care Act section 19)</p>
Mental Capacity	<p>The Mental Capacity Act 2005 (MCA) applies to anyone over 16 who is unable to make all or some decisions for themselves. The MCA should be considered by everyone involved in the assessment or provision of care, treatment and support for people who may lack capacity.</p> <p>The MCA provides the framework for best interests decisions, lasting powers of attorney, court appointed deputies, deprivation of liberty safeguards, the Court of Protection</p>

Guidance on all aspects of the Mental Capacity Act and links to the Office of the Public Guardian can be found on the [Ministry of Justice site](#).

Safeguarding

Local authorities have overarching duties to safeguard both children and vulnerable adults from abuse. It is everyone's responsibility to recognise suspected or actual abuse and to take appropriate action.

The [Care Act 2014](#) provides the statutory framework for adult safeguarding and for Safeguarding Adults Boards. Chapter 14 of the [Care Act Statutory Guidance](#) covers safeguarding and replaces the *No Secrets* guidance.

An updated [Statement of Government Policy on Adult Safeguarding](#) (May 2013) sets out the key principles for all agencies involved in safeguarding and how these should translate into outcomes for individuals.

Equality

The Equality Act 2010 requires all organisations that provide a service to the public to make "reasonable adjustments" to those services to ensure they are accessible for disabled people. Reasonable adjustments are not limited to removing physical barriers to accessing services but include changes to the ways in which services are delivered and ensuring that policies, procedures and staff training all enable services to work equally well for people with disabilities.

Personalisation

Government policy is that everyone who receives social care support, regardless of their level of need, in any setting, will have choice and control over how that support is delivered. This means that individuals exercise control over their care. Personal budgets, preferably as direct payments, are provided to all eligible people. Information about care and support is available for all local people, regardless of whether or not they fund their own care.

The Department of Health Vision for Adult Social Care, [Capable Communities and Active Citizens](#) (2010) describes the Government's policy in this area. [Think Local Act Personal](#) (TLAP) is the national partnership responsible for driving forward personalisation and community-based care. TLAP's framework, [Making it Real](#) sets out the main characteristics that people expect from a truly personalised service.

Direct Payments

Direct Payments are cash payments in lieu of a service made directly to individuals with eligible assessed needs and carers so that they can purchase the assistance or services they need, instead of the authority providing those services.

Sections 31 to 33 of the [Care Act](#) provide the legal framework for direct payments, along with the Care and Support (Direct Payments) Regulations 2014. Chapter 12 of the [Care and Support Statutory Guidance](#) provides additional guidance.
