

Everything Providers wanted to
know about **The Care Act 2014**

but were afraid to ask...



“Local authorities must not undertake any actions which may threaten the sustainability of the market as a whole...for example, by setting fee levels below an amount which is not sustainable for providers in the long term.”

*Care and Support Statutory Guidance,
June 2014*



Department
of Health



Legislative base change, including...

1. National Assistance Act 1948
2. Chronically Sick and Disabled Persons Act 1970
3. NHS and Community Care Act 1990
4. Choice of Accommodation Directions 1992
5. Delayed Discharges Regulations 2003
6. NHS Continuing Healthcare (Responsibilities) Directions 2009
7. Charging for residential accommodation guidance (CRAG) 2014
8. Transforming Adult Social Care (LAC(2009)1)
9. Fair Access to Care Services (FACS) guidance on eligibility criteria
10. No secrets: guidance to protect vulnerable adults from abuse

The Care Act introduction

Part 1 – April 2015

- Wellbeing and safeguarding
- Eligibility
- Carers' rights to assessment
- Prevention, advocacy, market shaping
- Deferred payments
- Partnership working

Part 2 – April 2016

- Care Account
- Care Cap
- Increased funding thresholds



The Care Act: a new statutory base

1. Care Act 2014
2. A range of regulations
3. Statutory Guidance

In practice, much will remain the same for providers, with new opportunities

Q. How does your organisation respond to change?



Rebalancing of social care focus

- Now, LA duty is to provide particular services
- From April 2015, LA to 'meet needs' – Care Act is person centred
- LA must act to promote wellbeing
- Emphasis on integration and co-operation between agencies
- Prevention and delaying need

Q. How much do you already work in partnership?



Changes: Principle of wellbeing

Wellbeing includes:

1. personal dignity (including treatment of the individual with respect)
2. physical and mental health, and emotional wellbeing
3. protection from abuse and neglect
4. control by the individual over day-to-day life (including over care and support provided and the way it is provided)
5. participation in work, education, training or recreation
6. social and economic wellbeing
7. domestic, family and personal
8. suitability of living accommodation
9. the individual's contribution to society

Q. What services could you provide that promote wellbeing?

Changes: Assessment, including carers

- Equivalent rights for carers, as for those they care for, including:
 - Wellbeing principle
 - Preventing needs for support
 - Right to assessment where there are needs for support
 - Eligibility: national minimum threshold for carers
 - Planning: rights to personal budgets, direct payment, support plan
 - Market shaping must ensure appropriate services for carers
- Understand how the process works, be able to explain it to people seeking care and support, and guide them to their LA

Q. Are you ready to offer services to carers?



Changes: National eligibility criteria

- Understand the criteria based on:
 - whether a person's needs are due to a physical or mental impairment or illness
 - to what extent a person's needs affect their ability to achieve two or more specified outcomes
 - whether and to what extent these have a significant impact on their wellbeing.
- Understand 10 outcomes when eligibility is determined
- Formal appeal process from 2016

Q. Are your services outcome-focused?



Changes: Care planning and review

Identify outcomes within the care and planning process that will establish the cornerstone of a subsequent care plan

- Everyone will have a costed personal budget as part of their care and support plan
- People can choose whether to receive their personal budget as a direct payment
- Plans must be pertinent and intelligible to the person: role of advocacy?
- Services may be delivered through 'non-care'

Q. Are you ready to respond to micro-commissioning?

Changes: Deferred payments

Review commercial terms to be able to explain to clients and potential clients how to access deferred payment of core care costs in line with LA policy

- No selling of home within lifetime, but interest and admin fee chargeable
- Enduring / Lasting Power of Attorney for those without capacity

Q. Do you have existing channels for informing potential clients?



Changes: Funding reforms

- As before, intermediate care for up to 6 weeks and minor aids to value of £1,000 arranged by LA must be free of charge to the service user. LA must consider if continuation beyond 6 weeks will reduce hospital admission.
- Top-up fee arrangements to be done through LA
- Self-funder re-charge to be extended to Care Homes from April 2016 to match Dom Care arrangements
- LA may charge admin fee for self-funders
- April 2016: biggest funding reforms for 60 years to provide protection from spiralling costs

Q. Are you clear, & can you articulate, what prevention means?



New areas: Market shaping and commissioning

Understand LA powers and duties when a care provider fails or provision of a service is interrupted.

- Providers can achieve delivery of high quality well resourced care and support through fair employee contracts and adequate remuneration
- LA must not set fees below an amount not sustainable for providers in the long-term

Q. Does the LA demonstrate an understanding of your business or sector challenges?

New areas: Provider failure and service interruptions

- LA must ensure needs are met where a provider fails and this impacts on a person's wellbeing
- Applies to CQC and non-CQC registered providers

Q. How resilient is your business?



New areas: Market oversight

- CQC will have new function to oversee financial sustainability of providers that would be difficult to replace were they to fail.
- Applies to largest and difficult to replace providers, i.e.:
 - **Dom Care** providers who deliver 30,000 hours or more care in a week, *or* deliver care to 2,000 or more people in a week, *or* deliver care to 800 or more people in a week *and* they each receive more than 30 hours in that week.
 - **Residential care** providers with bed capacity of 2,000 beds or more, *or* bed capacity of between 1,000 and 2,000 beds *and* either they have beds in more than 16 LA areas, *or* the capacity in each of three or more LA areas exceeds 10% of the bed capacity of those local authorities.
- Providers have duty to provide information to CQC. Applies to smaller/ **specialist** providers

Q. Does this apply to you; size, capacity, specialism?



New areas: Statutory safeguarding

- Be aware of the need for adult safeguarding policies and procedures and the areas to cover; benchmark against existing policies and procedures and draw up new ones where required. Access Safeguarding Boards annual reports
- 6 key safeguarding principles – a partnership approach to delivering outcomes
- LA has role is engaging public to reduce social and physical isolation / abuse and neglect
- Providers must promote wellbeing in person-centred safeguarding
- Statutory footing for SAB
- Provider policies and processes must reflect 9 areas in statutory guidance

Q. What does safe mean, and how do you balance this with wellbeing?



New areas: Information, Advice and Guidance

- Have in place information about services provided so that individuals can decide if those services are appropriate for them.
- LA should make effective use of a range of outlets: statutory, voluntary, private sectors; variety of sources

Q. Is your information appropriate for potential clients?



New areas: Duty of Candour

- Understand provider responsibility to be open when things go wrong and actions they are expected to take
- Specific and detailed responsibility on all provider
- Open to legal enforcement by CQC

Q. How up to date and is your whistle-blowing policy?



Opportunities: Prevention

- Consider what preventative services are currently offered and what could be delivered in the future.
- LA responsibilities for prevention apply to all adults, including:
 - People who do not have any current needs for care and support,
 - Adults with needs for care and support whether their needs are eligible or not,
 - Carers
 - Prevent: primary prevention – promoting wellbeing
 - Reduce: secondary prevention – early intervention
 - Delay: tertiary prevention

Q. Are you innovative and do you understand emerging needs?

Opportunities: Independent Advocacy

- LA must arrange independent advocacy for those who experience substantial difficulty in arranging their care (& if there is no appropriate person)
 1. understanding relevant information
 2. retaining information
 3. using or weighing up the information
 4. communicating views, wishes and feelings
- Care Act: advocacy focuses on involvement in care and support process
- Consider offering this service to local authorities in future

Q. How many people would have substantial difficulty if they have no appropriate person?



Opportunities: Personal budgets / direct payments

- Providers should review their commercial terms to enable people using their services to use personal budgets and direct payments.

Q. Do you have clear guidance for potential clients wishing to spend their personal budget with you?



Opportunities: Integration, co-operation and partnerships

- Provider to consider what services it might offer now and in the future as a result of integration

Q. What services could you provide that underpin well-being?



Opportunities: Transition from children's to adults' services

- Understand local authorities' duty to conduct a transition assessment.
- Assessment planning around individual needs.

Q. Do you have practical arrangements with children's services for young adults to transition easily?



Opportunities: Ordinary residence

- Understand geographically which LA is responsible for each service user.
- Develop expertise to assist LA in discharging their functions of determining best interests.

Q. If you have regional / national connections, are you ready to support people moving from one service to another?



Opportunities: Delegation of functions

- Providers should consider what existing services they might want to offer, and any new services they might wish to develop, that may fit with functions delegated by local authorities.

Q. Are you a provider, or a provider+?



More information



<http://www.local.gov.uk/documents/10180/6869714/L14-759+Guide+to+the+Care+Act.pdf/d6f0e84c-1a58-4eaf-ac34-a730f743818d>

Q. What other support do you need?