

Adult Social Care Policies and Procedures

ELIGIBILITY CRITERIA

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Contents

ELIGIBILITY CRITERIA	1
POLICY VERSION CONTROL	3
1. POLICY STATEMENT	4
2. KEY DEFINITIONS AND PRINCIPLES APPLICABLE TO THIS POLICY	5
2.1 Wellbeing:	5
2.2 Assessment:.....	6
2.3 Proportionate:.....	6
2.4 Eligibility outcomes:.....	6
2.5 Fluctuating needs.....	6
3. PROCEDURES	7
3.1 Step One.....	7
3.2 Step Two.....	7
3.3 Step Three	9
4. FLOW CHARTS/ DIAGRAMS OR EXAMPLES	11
5. DOCUMENT HISTORY	15

POLICY VERSION CONTROL

POLICY NAME	Eligibility Criteria		
Document Description	This document sets out the Council's response to the Care Act 2014 national eligibility criteria, which sets a minimum threshold for adult's care and support and carer support.		
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1. POLICY STATEMENT

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 or of their financial situation.

From April 2015, the Care Act 2014 specified a new national minimum threshold for eligibility (Section 13) for **adults**. The regulations, The Care and Support (Eligibility Criteria) Regulations 2014, set the minimum threshold - *that as a result of the adult's needs the adult is unable to achieve two or more of the specified outcomes*. Local authorities are **not** able to restrict their eligibility beyond this.

Local Authorities however, continue to have discretion (power) to meet other needs that are below the national threshold. Therefore the Local Authority can if it chooses, meet needs it does not consider eligible.

The national eligibility criteria sets a minimum threshold for adult care and support needs which local authorities must meet. All local authorities **must** comply with this national threshold. Authorities however, can also decide to meet needs that are not deemed to be eligible if they chose to do so.

The Fair Access to Care Services (FACS) framework which was introduced in 2003 has therefore been repealed. However to ensure a smooth transition from old to new legislation with effect from 1st April 2015, individuals deemed eligible under the FACS criteria continue to be eligible until their next statutory review under the Care Act.

The introduction of a national eligibility threshold provides greater transparency on the threshold of need for eligibility. Improved clarity supports authorities in deciding whether the prior provision of information and advice or preventative services would delay a person from developing needs which meet the eligibility criteria or whether longer-term care and support might be needed. It should also help the person needing care or their carer to think more broadly about what support might be available in the local community or through their support network to meet their needs and support the outcomes they want to achieve.

Establishing whether or not a person has eligible needs is one of the most important decisions under the Care Act. Eligible needs are those which meet the eligibility criteria and which a local authority may be required to meet.

The threshold is based on identifying how an individual's needs affect their ability to achieve relevant desired outcomes, and whether as a consequence this has a significant impact on their wellbeing.

The Care Act has established that carers can be eligible for support in their own right. Therefore there is a separate policy in relation to eligibility for carers.

Therefore to fulfil its duty under section 13 of the Care Act, the Council will, working with its statutory, voluntary and private sector partners, comply with the national threshold relating to care and support that is relevant, coherent, timely and sufficient.

The Council will make all reasonable adjustments to ensure that all disabled people have equal access to participate in the eligibility decision in line with the Equality Act 2010.

The geography and population of Lancashire is diverse and our Adult Social Care Policies and practice will aim to deliver services and supports that are representative of the communities in which we work.

The Council will follow the Care Act and other relevant legislation, policies and guidance to ensure our practice is of high quality and legally compliant. Where our customers or those we come into contact with wish to challenge or raise concerns in regard to our decisions, regarding eligibility the Council's complaints procedures will be made available and accessible.

2. KEY DEFINITIONS AND PRINCIPLES APPLICABLE TO THIS POLICY

2.1 Wellbeing:

“Wellbeing” is a broad concept, and it is described as relating to the following 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

There is no hierarchy, and all should be considered of equal importance when considering “wellbeing” in the round.

2.2 Assessment:

This is one of the key interactions between a local authority and an individual. The process must be person-centred throughout, involving the person and supporting them to have choice and control. It starts from when a local authority begins to collect information about the person, and will be an integral part of the person’s involvement in the care and support system as their needs change. An assessment **must** seek to establish the total extent of needs **before** the local authority considers the person’s eligibility for care and support and what types of care and support can help to meet those needs. A carer can also have an assessment.

2.3 Proportionate:

This means that the assessment is only as intrusive as it needs to be to establish an accurate picture of the needs of the individual or their carer, regardless of whatever method of assessment is used. This will involve:

- both hearing and understanding the initial presenting problem,
- not taking this at ‘face value’,
- ensuring any underlying needs are also explored and understood,

2.4 Eligibility outcomes:

These are listed within the eligibility regulations. There is a list for adults with care and support needs, which is set out in section 3.2 below. These outcomes set out the minimum criteria that local authorities must consider in order to comply with the new national eligibility threshold for adults needing care and support. These are the outcomes that the eligibility determination should be based on.

2.5 Fluctuating needs:

The condition(s) of an individual at the time of the assessment may not be entirely indicative of their needs more generally. Local authorities must consider whether the individual’s current level of need is likely to fluctuate and what their on-going needs for care and support are likely to be. This is the case both for short-term fluctuations, which may be over the course of the day, and longer term changes in the level of the person’s needs. In establishing the on-going level of need local authorities must consider the person’s care and support history over a suitable period of time, both the frequency and degree of fluctuation. The local authority may also take into account at this point what fluctuations in need can be reasonably expected based on experience of others with a similar condition.

3. PROCEDURES

3.1 Step One

Following a proportionate assessment, an eligibility decision is then required. The first condition that the Council assessors must consider is whether an adult with care and support needs has eligible needs. The Council must consider whether:

- The adult's needs arise from or are related to a physical or mental impairment or illness.
- As a result of the adult's needs the adult is unable to achieve **two or more** of the specified outcomes (which are described in 3.2 Step Two).
- As a consequence of being unable to achieve these outcomes there is, or there is likely to be, a significant impact on the adult's wellbeing (see section on Wellbeing).

An adult's needs are only eligible where they meet all three of these conditions.

Where an adult's needs fluctuate, in order to determine whether the adult's needs meet the eligibility criteria, the assessor shall take into account the adult's circumstances over a period of time that they consider necessary. This is to ensure that the Local Authority has established an accurate indication of the adult's ongoing level of need.

3.2 Step Two

The second condition that assessors must consider is whether the adult is **“unable” to achieve two or more** of the outcomes set out in the regulations.

The Council workers must also be aware that the regulations provide that “being unable” to achieve an outcome includes any of the following circumstances, where the adult:

- is unable to achieve the outcome without assistance. This would include where an adult would be unable to do so even when assistance is provided. It also includes where the adult may need prompting for example, some adults may be physically able to wash but need reminding of the importance of personal hygiene
- is able to achieve the outcome without assistance but doing so causes the adult significant pain, distress or anxiety. For example, an older person with severe

arthritis may be able to prepare a meal, but doing so will leave them in severe pain and unable to eat the meal

- is able to achieve the outcome without assistance, but doing so endangers or is likely to endanger the health or safety of the adult, or of others – for example, if the health or safety of another member of the family, including any child, could be endangered when an adult attempts to complete a task or an activity without relevant support
- is able to achieve the outcome without assistance but takes significantly longer than would normally be expected. For example, an adult with a physical disability is able to dress themselves in the morning, but it takes them a long time to do this, leaves them exhausted and prevents them from achieving other outcomes

The Eligibility Regulations set out a range of outcomes. The Council assessors must consider whether the adult is unable to achieve **two or more** of these outcomes when making the eligibility determination.

(a) managing and maintaining nutrition

Assessors should consider whether the adult has access to food and drink to maintain nutrition, and that the adult is able to prepare and consume the food and drink.

(b) maintaining personal hygiene

Assessors should, for example, consider the adult's ability to wash themselves and launder their clothes.

(c) managing toilet needs

Assessors should consider the adult's ability to access and use a toilet and manage their toilet needs.

(d) being appropriately clothed

Assessors should consider the adult's ability to dress themselves and to be appropriately dressed, for instance in relation to the weather to maintain their health.

(e) being able to make use of the home safely

Assessors should consider the adult's ability to move around the home safely, which could for example include getting up steps, using kitchen facilities or accessing the bathroom. This should also include the immediate environment around the home such as access to the property, for example steps leading up to the home.

(f) maintaining a habitable home environment

Assessors should consider whether the condition of the adult's home is sufficiently clean and maintained to be safe. A habitable home is safe and has essential amenities. An adult may require support to sustain their occupancy of the home and to maintain amenities, such as water, electricity and gas.

(g) developing and maintaining family or other personal relationships

Assessors should consider whether the adult is lonely or isolated, either because their needs prevent them from maintaining the personal relationships they have or because their needs prevent them from developing new relationships.

(h) accessing and engaging in work, training, education or volunteering

Assessors should consider whether the adult has an opportunity to apply themselves and contribute to society through work, training, education or volunteering, subject to their own wishes. This includes the physical access to any facility and support with the participation in the relevant activity.

(i) making use of necessary facilities or services in the local community including public transport and recreational facilities or services

Assessors should consider the adult's ability to get around in the community safely and consider their ability to use such facilities as public transport, shops or recreational facilities when considering the impact on their wellbeing. The Local Authority does not have responsibility for the provision of NHS services such as patient transport, however Assessors should consider needs for support i.e. would not understand information being given, when the adult is attending healthcare appointments, if no other support networks are available.

(j) carrying out any caring responsibilities the adult has for a child

Assessors should consider any parenting or other caring responsibilities the person has. The adult may for example be a step-parent with caring responsibilities for their spouse's children.

3.3 Step Three

The third condition that must be met is that the Council assessors must consider whether the adult's needs and their inability to achieve the outcomes above cause or risk causing a significant impact on their wellbeing. The meaning of "wellbeing" is set out in Section 1 of the Care Act 2014 and see definition in section 2 of this Policy.

Assessors must determine how the adult's inability to achieve the outcomes above impact on their wellbeing. Where the adult is unable to achieve more than one of the outcomes, the assessor does not need to consider the impact of each individually, but should consider whether the cumulative effect of being unable to achieve those outcomes is one of a "significant impact on wellbeing". In doing so, assessors should also consider whether:

- the adult's inability to achieve the outcomes above impacts on at least one of the areas of wellbeing in a significant way; or,
- the effect of the impact on a number of the areas of wellbeing mean that there is a significant impact on the adult's overall wellbeing.

The term "significant" is not defined by the regulations, and must therefore be understood to have its everyday meaning. Assessors will have to consider whether the adult's needs and their consequent inability to achieve the relevant outcomes will have an important, consequential effect on their daily lives, their independence and their wellbeing.

In making this judgment, assessors should look to understand the adult's needs in the context of what is important to them. Needs may affect different people differently, because what is important to the individual's wellbeing may not be the same in all cases. Circumstances which create a significant impact on the wellbeing of one individual may not have the same effect on another.

There is an expectation that assessors will provide objective evidence to support their judgement when applying the criteria.

Prior to applying an eligibility decision a proportionate assessment **must** be undertaken (see Needs Assessment Policy).

If providing for urgent needs prior to a more proportionate assessment, no eligibility decision will be required at that time but should be undertaken as soon as possible.

If referring for preventative intervention, such as universal services, a period of reablement and providing equipment or minor household adaptations, no eligibility decision will be required until the outcome of this intervention is known. In effect the Council is 'pausing' the assessment and eligibility process. Early or targeted interventions can delay an adult's needs from progressing. The pause in the assessment process is to allow such interventions to take effect and for any benefit to the adult to be realised and determined, so that the final assessment of need (and determination of eligibility) is based on the remaining needs which have not been met through such interventions. For example, if the Council believes that a person may benefit from a short-term reablement service which is available locally, it may put that in place and complete the assessment following the provision of that service.

4. FLOW CHARTS/ DIAGRAMS OR EXAMPLES

The table below illustrates the decision making process incorporating:

- the needs
- the outcomes listed in the eligibility regulations and
- the wellbeing principle, which is broken down into areas of wellbeing

Eligibility decision process
<p>Step 1 - Needs</p> <p>The adult's needs arise from or are related to a physical or mental impairment or illness.</p>
<p>Step 2 - Outcomes</p> <p><i>As a result of the needs, the adult is unable to achieve two or more of the following:</i></p> <ul 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.
<p>Step 3 – Impact on Wellbeing</p> <p><i>As a consequence, there is or is likely to be a significant impact on the adult's wellbeing, including the following:</i></p> <ul style="list-style-type: none"> k) personal dignity (including treatment of the individual with respect); l) physical and mental health and emotional wellbeing; m) protection from abuse and neglect; n) control by the individual over day-to-day life (including over care and support provided and the way it is provided); o) participation in work, education, training or recreation; p) social and economic wellbeing; q) domestic, family and personal relationships; r) suitability of living accommodation; s) the individual's contribution to society.

Examples of Eligibility determinations:**Case Study 1: John Taylor (Eligible)**

John is 32 and has been referred by his mother for an assessment, who is concerned for John and his future. John is unemployed and lives with his mother and she is getting to an age where she realises that she might not be able to provide the same level of care and support for her son as she has done so far.

John is able to manage his own personal care, but his mother does all the housework for both of them. John feels increasingly isolated and will not leave the house without his mother. It is important to John that he is intellectually stimulated and there is a chess club nearby which he would like to join, but John does not feel confident about this due to his anxiety in social situations.

Step 1 - Needs

Adult on the autistic spectrum.

Step 2 - Outcomes

John has severe difficulties socialising and co-operating with other people.

He only has transactional exchanges and cannot maintain eye contact.

John knows that others feel uneasy around him, and spends a lot of his time alone.

As a result, John is unable to achieve the following outcomes:

1. developing and maintaining family or other personal relationships
2. making use of necessary facilities and services in the community

Step 3 - Impact on wellbeing

John is too anxious to initiate developing friendships on his own although he would like to and he feels lonely and depressed most of the time. His nervousness also affects his ability to take advantage of facilities in the community, which could help him feel less lonely. Feeling anxious and lonely has a significant impact on his wellbeing.

Decision:

Eligible

Next Actions:

John's local authority thinks John's needs are eligible. Both John and the local authority agree that the most effective way of meeting John's needs is to develop his confidence to join the chess club. John uses his personal budget to pay for a support worker to accompany him to an autism social skills group, and to the chess club and to travel with him on the bus to get there. John's local authority notes that John's mother could need support too and offers her a carer's assessment

Case study 2: Dave Brown (Not Eligible)

Dave is 32 and has been referred by his mother for an assessment, who is concerned for Dave and his future. Dave lives with his mother and she is getting to an age where she realises that she might not be able to provide the same level of care and support for her son as she has done so far.

Dave is able to manage his own personal care, but his mother does all the housework for both of them. Dave also works, but would like to get a job that is a better match for his intellectual abilities as his current job does not make the most of his numerical skills. Dave's social contact is mainly online because he feels more comfortable communicating this way and he spends a lot of time in his room on his computer.

Step 1 - Needs

Adult on the autistic spectrum.

Step 2 - Outcomes

Dave struggles severely in social situations leading to difficulties accessing work and cooperating with other people.

He only has transactional exchanges with others and cannot maintain eye contact.

Dave knows that others feel uneasy around him and spends a lot of his time alone.

Step 3 - Impact on wellbeing

Dave is not in ideal employment, but has access to and is engaged in work.

This has some impact on his wellbeing but not to a significant extent.

Dave prefers to socialise with people online. It emerges from conversations

with Dave that he has access to those personal relationships that he considers essential.

Dave is contributing to society, has contact with others, is in employment and is able to look after himself.

Decision:

Not Eligible

Dave has difficulties doing some of the things that many other people would think should be a natural part of daily living and he is unable to participate in recreational activities in a conventional sense.

Those aspects of his wellbeing that are affected by the needs caused by his autism are not so significantly affected that Dave's overall wellbeing is at risk.

The local authority decides that Dave's needs are not eligible, because they do not have a significant effect on his wellbeing despite his mother's concerns.

Next Actions:

The local authority records Dave's assessment and sends him a copy. They include information about a local autism support group.

Dave's local authority notes that Dave's mother could well need support and offers her a carer's assessment.

5. DOCUMENT HISTORY

RELATED DOCUMENTS	
OTHER RELATED DOCUMENTS	<ul style="list-style-type: none"> • Needs Assessment Policy • Continuity of Care Policy • Ordinary Residence Policy • Wellbeing Policy
LEGISLATION OR OTHER STATUTORY REGULATIONS	<ul style="list-style-type: none"> • The Care and Support (Eligibility Criteria) Regulations 2014 • The Care Act 2014 - Part 1 Assessing Needs Section 13 • Chapter 1 Promoting Wellbeing Statutory Guidance • Chapter 6 Assessment and eligibility Statutory Guidance • Chapter 19 Ordinary residence Statutory Guidance • Chapter 20 Continuity of care Statutory Guidance