

**ADULT AND COMMUNITY SERVICES
STAFF GUIDANCE, POLICY & PROCEDURE**

Care Act 2014 Eligibility Policy and procedure

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REMARKS:	This policy and procedure sets out how to apply the national eligibility criteria under the Care Act 2014.
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AS A MANAGER YOU SHOULD ENSURE THAT:-

- You read, understand and, where appropriate, act in accordance with the policy
- All people in your workplace who need to know see this procedure, are aware of its content and you ensure that all staff act in accordance with the policy
- This document is available in a place to which all staff members in your workplace have access

AS AN OFFICER OR MEMBER OF STAFF YOU SHOULD ENSURE THAT:-

- You read, understand and, where appropriate, act on this information
- Discuss any issues with your manager or supervisor which you do not understand

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1. Executive summary

This section covers the Eligibility for care and support and Carer's eligibility as set out in Chapter 6 of the [Care and Support Statutory Guidance](#) and the [Care and Support \(Eligibility Criteria\) Regulations](#) issued under the Care Act 2014.

This procedure has been developed to support staff in their roles. It is not exhaustive and should be read alongside other procedures and the **Frameworki user guide**.

Related information:

- Assessments guidance on Rio
- Skills for care – [Assessment and eligibility slide pack](#)
- [Assessments Quick guide](#)
- [Eligibility Quick Guide](#)
- [Carer's Eligibility Quick Guide](#)
- [Me Learning](#)

2. Key messages

The Care Act 2014 introduces a new national framework for eligibility for adults and carers:

- The Care and Support (Eligibility Criteria) Regulations 2014 set out the national eligibility criteria for access to adult care and support, and for access to carer support - *these criteria replace the Fair Access to Care Services (FACS)*;
- For the first time, councils have a duty to meet the eligible needs of carers - *the regulations and statutory guidance set out how the eligibility threshold applies to carers*;
- Councils still have the power to meet needs that are not considered eligible - *this means supporting people as early as possible to help maintain wellbeing and independence and potentially delaying a situation where longer-term care and support might be required*;
- For a person to be eligible for care and support, they must have an impairment or illness, be unable to achieve at least two outcomes in their day-to-day life, and as a result there must be a significant impact on their wellbeing;
- Eligibility determination must be made after the needs assessment.

3. Introduction

The Care Act 2014 introduces a uniform system for care and support with single national eligibility criteria across England making the system clearer and fairer for people. The new eligibility threshold sets out **three conditions**, all of which must be met for a person's needs to be eligible for care and support.

The council still has the power to meet needs that are not considered eligible. This means that the council can continue to support people as early as possible to help maintain

wellbeing and independence, and potentially delay a situation where longer-term care and support might be required.

The overall aim of care and support is to help people meet their needs to achieve the outcomes that matter to them in their lives and which in turn promote their wellbeing. The national eligibility criteria is based on identifying how a person's needs affect their ability to achieve relevant desired outcomes, and whether as a consequence this has a significant impact on their wellbeing.

4. Eligibility for care and support

When determining eligibility, staff must consider how the adult meets the following three conditions:

Condition 1	The adult's needs for care and support arise from or are related to a physical or mental impairment or illness and are not caused by other circumstantial factors.
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This includes conditions such as physical, mental, sensory, learning or cognitive disabilities or illnesses, brain injuries and substance misuse.

Condition 2	As a result, the adult is 'unable to achieve' two or more of the outcomes specified in the Care and Support (Eligibility Criteria) Regulations 2014.
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The outcomes are:

- **Managing and maintaining nutrition:** *staff should consider whether the person has access to food and drink to maintain nutrition, and that the person is able to prepare and consume the food and drink;*
- **Maintaining personal hygiene:** *staff should, for example, consider the person's ability to wash themselves and launder their clothes;*
- **Managing toilet needs:** *staff should consider the person's ability to access and use a toilet and manage their toilet needs;*
- **Being appropriately clothed:** *staff should consider the person's ability to dress themselves and to be appropriately dressed, for instance in relation to the weather to maintain their health;*
- **Being able to make use of the person's home safely:** *staff should consider the person'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;*
- **Maintaining a habitable home environment:** *staff should consider whether the condition of the person's home is sufficiently clean and maintained to be safe. A habitable home is safe and has essential amenities. An person may require support*

to sustain their occupancy of the home and to maintain amenities, such as water, electricity and gas;

- **Developing and maintaining family or other personal relationships:** staff should consider whether the person 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.
- **Accessing and engaging in work, training, education or volunteering:** *staff should consider whether the person has an opportunity to apply themselves and contribute to society through work, training, education or volunteering, subject to their own wishes in this regard. This includes the physical access to any facility and support with the participation in the relevant activity;*
- **Making use of necessary facilities or services in the local community including public transport and recreational facilities or services:** *staff should consider the person'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. Local authorities do not have responsibility for the provision of NHS services such as patient transport; however they should consider needs for support when the person is attending healthcare appointments;*
- **Carrying out any caring responsibilities the person has for a child:** *staff should consider any parenting or other caring responsibilities the person has. The person may for example be a step-parent with caring responsibilities for their spouse's children.*

What does being “unable” to achieve mean?

- **Unable to achieve the outcome without assistance:** This includes where the person may need prompting, for example some people may be physically able to wash but need reminding of the importance of personal hygiene.
- **Able to achieve the outcome without assistance but doing so causes the person significant pain, distress or anxiety:** *For example, an elderly person with severe arthritis may be able to prepare a meal, but this leaves them in severe pain and unable to eat the meal;*
- **Able to achieve the outcome without assistance, but doing so endangers or is likely to endanger the health or safety of the person, or of others:** *For example, if the health or safety of another member of the family, including any child could be endangered when an person attempts to complete a task or an activity without relevant support; or*
- **Able to achieve the outcome without assistance but takes significantly longer than would normally be expected:** *For example, a young person with a physical disability is able to dress themselves in the morning, but it takes them a long time to do this and exhausted and taking the remainder of the morning to recover.*

Condition 3

As a consequence of being unable to achieve these outcomes, there is, or there is likely to be, a significant impact on the person's wellbeing.

Staff must determine whether:

- The person's needs impact on an area of wellbeing in a significant way; or,
- The cumulative effect of the impact on a number of the areas of wellbeing mean that they have a significant impact on the person's overall wellbeing.

5. Making the eligibility determination

The eligibility determination cannot be made until after the assessment when the full extent of the person's needs has been identified. When making the eligibility determination, staff should use the knowledge and information gathered during assessment about what is important to the person, what needs they have and what outcomes they want to achieve. Staff should use their professional judgement to establish what impact the person's needs have on their wellbeing.

Information gathered during the assessment should include care and support provided by a carer; however the eligibility determination must be based solely on the person's needs, whether or not they are met by the carer. Staff will consider any needs met by a carer further when developing the care and support plan.

5.1 Considering a person's ability to achieve the specified outcomes

Managing and maintaining nutrition

What to consider:

Does the person have access to food and drink to maintain nutrition and are they able to access, prepare and consume food and drink?

Examples of circumstances affecting the ability to achieve the outcome

If the person is eating a restricted or unhealthy diet (e.g. only eats toast):

- They may have difficulty in getting to the shops to buy food
- They may be able to prepare food but have swallowing problems.

Maintaining personal hygiene

What to consider:

What is the person's ability to wash themselves and launder their clothes?

Examples of circumstances affecting the ability to achieve the

	<p>outcome</p> <ul style="list-style-type: none"> • If the person cannot reach to wash themselves all over, this is not hygienic. • If the person does not have access to a washing machine and their mobility is poor, clothes and linen may not be properly clean. <p>If the person cannot buy cleaning products, or cognitively understand how to operate a washing machine, their clothes and linen may not be properly clean</p>
Managing toilet needs	<p>What to consider:</p> <p>Is the person able to access and use the toilet and manage their own toilet needs?</p>
	<p>Examples of circumstances affecting the ability to achieve the outcome</p> <p>If the toilet is no longer accessible due to mobility problems or if the person takes too long to get to the toilet, they may not be managing their toilet needs.</p> <p>If the person is unable to maintain their night-time continence, they may not be managing from a dignity-of-life point of view.</p>
Being appropriately clothed	<p>What to consider:</p> <p>Is the person able to dress themselves and be appropriately dressed, that is, in relation to the weather or the activities they are undertaking, which could include work/volunteering?</p>
	<p>Examples of circumstances affecting the ability to achieve the outcome</p> <ul style="list-style-type: none"> • If the person cannot put on or fasten their clothes, they are unlikely to be appropriately dressed. • If the person cannot acquire new clothes when needed, they may not be appropriately dressed e.g. for the change in seasons. • The person may be able to dress themselves in casual clothes unaided but may not be able to dress themselves in more formal work clothes e.g. put on a tie, zip up a dress or clean their shoes, and so would not be appropriately dressed for their circumstances. • If they are severely visually impaired, for example, they may be able to dress themselves but not know if clothes are

	appropriate or clean.
Being able to make use of the person's home safely	<p>What to consider:</p> <p>Is the person able to move around the home safely, including climbing steps, using kitchen facilities and accessing the bathroom/toilet?</p> <p>This includes their immediate environment e.g. access and steps to the home.</p> <p>Examples of circumstances affecting the ability to achieve the outcome</p> <ul style="list-style-type: none"> • If the person cannot reach certain rooms, they may not be using the home safely or be unreasonably confined e.g. having to spend all day in bed. • If the person cannot get in or out of the front door (e.g. because they cannot manage the steps), they are unlikely to be using the home safely or have proper access to it. • If the person is unable to use home appliances properly and safely (e.g. cooker, heater), they may not be meeting this outcome.
Maintaining a habitable home environment	<p>What to consider:</p> <p>Is the person's home sufficiently clean and maintained to be safe, including essential amenities?</p> <p>Does the person require support to sustain the home or maintain amenities such as water, electricity and gas or pay their rent or mortgage?</p> <p>Examples of circumstances affecting the ability to achieve the outcome</p> <p>If the person is unable to pay their rent or utility bills (e.g. due to mental or physical incapacity), they will not be able to sustain their home.</p> <p>It may not be a habitable home environment if:</p> <ul style="list-style-type: none"> • the home is damp or in very poor repair • the person is unable to clean their kitchen, leading to infestation • the person is hoarding excessively (note: hoarding per se does not determine eligibility; however, the impact of excessive hoarding on the person's ability to achieve their outcomes, and thereby on their wellbeing, will affect eligibility).
Developing and	What to consider:

<p>maintaining family or other personal relationships</p>	<p>Is the person lonely or isolated?</p> <p>Do their needs prevent them from maintaining or developing relationships with family and friends?</p> <p>Examples of circumstances affecting the ability to achieve the outcome</p> <ul style="list-style-type: none"> • The person's physical or psychological state may prevent them from making or maintaining relationships e.g. mental ill-health, autism. • If the person is unable to communicate easily and regularly – e.g. they may not have, or be able to use, a phone or computer, they may be unable to leave their home safely, they may be unable to communicate successfully or interact with others – this may prevent them from maintaining or developing relationships with family, friends and others.
<p>Accessing and engaging in work, training, education or volunteering</p>	<p>What to consider:</p> <p>Does the person have the opportunity and/or wish to apply themselves and contribute to society through work, training, education or volunteering?</p> <p>This includes physical access to any facility and support with participation in the relevant activity.</p> <p>Examples of circumstances affecting the ability to achieve the outcome</p> <ul style="list-style-type: none"> • If the person is unable to leave their home safely, or communicate successfully, or interact with others, they may not be able to access work, training, education or volunteering. • If the person is unable to access information about opportunities available to them, they are unlikely to be able to engage in activities.
<p>Making use of necessary facilities or services in the local community, including public transport, and recreational</p>	<p>What to consider:</p> <p>Is the person able to get around in the community safely and able to use facilities such as public transport, shops and recreational facilities?</p> <p>This includes the need for support when attending health care appointments.</p> <p>Examples of circumstances affecting the ability to achieve the outcome</p> <ul style="list-style-type: none"> • If the person is unable to walk, or to use public transport

facilities or services	<p>unattended or to organise alternative transport (e.g. someone giving them a lift), or does not have money for a taxi, they may not be able to access services locally.</p> <ul style="list-style-type: none"> As well as formal appointments e.g. health care appointments, this could include informal appointments e.g. being able to go to the library or to meet a friend in a cafe or pub.
Carrying out any caring responsibilities the person has for a child	<p>What to consider:</p> <p>Does the person have any parenting or other caring responsibilities e.g. as a parent, step-parent or grandparent?</p>
	<p>Examples of circumstances affecting the ability to achieve the outcome</p> <ul style="list-style-type: none"> If the person is not able to take care of others, or feels overwhelmed because of their condition, they may not be able to carry out their caring responsibilities for a child.

6. Determining the impact of wellbeing

Promoting wellbeing is one of the core principles when undertaking an assessment and making the eligibility determination. Wellbeing is seen as a broad concept covering the following areas:

- personal dignity (including treatment of the person with respect)
- physical and mental health and emotional wellbeing
- protection from abuse and neglect
- control by the person 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 relationships
- suitability of living accommodation
- the person's contribution to society.

Each area of wellbeing should be considered of **equal importance**. There is also no single definition of wellbeing because how it is interpreted will depend on the person, their individual circumstances and the outcomes they want to achieve in their life.

The impact of needs may be different for different people, because what is important for the person's wellbeing may not be the same in all cases. Staff should consider every case individually and build an understanding of the person's needs in the context of what is important to them in order to determine the impact on wellbeing.

Staff will build their judgement of how the person's wellbeing is affected as they gather information and evidence through the course of the assessment and make their own

analysis of whether there is a significant impact. In considering what impact there may be on a person's wellbeing, staff may find it helpful to ask themselves the following questions:

- Why has the person approached the council in the first place?
- How does their inability to achieve set outcomes make the person feel?
- Are other people affected too?
- What would happen if their carer(s) did not do certain things for them?
- What will most likely happen if the person does not receive good information and advice and care and support services?
- How often does the person say they need support? Occasionally? Frequently? Always?
- Would the person describe the impact on their life as none? Some? Or major? Does the assessor have reason to doubt their own assessment?
- What risks is the person currently choosing to take (for instance to maintain control over their life or independence) and are these acceptable?

6.1 What do we mean by significant impact?

The term "significant" is not defined as such in the Care Act 2014 or the statutory guidance and should be understood in its ordinary meaning. The following are examples of what **significant impact** could mean:

- **Significant impact could be a consequence of a single effect:** *this means that the inability to achieve two or more outcomes affects at least one of the areas of wellbeing in a significant way;*
- **Significant impact could be a consequence of a cumulative effect:** *this means that the person may have needs across several of the eligibility outcomes, perhaps at a relatively low level, but as these needs affect the person in various areas of their life, the overall impact on them is significant;*
- **Significant impact could be a consequence of a domino effect:** *this means that currently the person may have needs in relation to few eligibility outcomes, but it can be anticipated that in the near future other outcomes will be affected, causing a significant impact on the person's wellbeing.*

6.2 Considering risk in relation to wellbeing

It is important that staff analyse risk by using the information they have gathered during the assessment, along with their knowledge of the person within their individual context. The risk of the inability to achieve one or more of the specified outcomes causes a consequential significant impact on a person's wellbeing.

Staff should consider the following risk factors:

- likelihood
- severity
- imminence
- physical safety
- self-harm

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- self-neglect
 - abuse (safeguarding)
 - harm to others.

It is important to consider how any risks identified may impact on the person's health, their ability to live independently and/or their ability to engage in social activities or work.

Effective risk management enables people to make appropriate choices for themselves, ensuring that support is provided to maximise the person's independence. Staff will need to weigh up the risks, understand the consequences of decisions made, mitigating factors as well as the contingencies that need to be in place to avoid negative consequences.

7. Indicative Personal Budget

Based on the scores assigned during the assessment, an **Indicative Personal Budget** is calculated. At this early stage, the budget is a range and not a precise amount. The indicative budget is meant as a rough guide only. The final budget amount will be determined at the end of the care and support planning.

Staff may need to adjust the indicative budget even at this early stage. If a budget is too high it can lead to inflated expectations about the level of care and support people can expect from the council. Where staff make an adjustment, the reason for this adjustment must be recorded on the assessment of needs form.

8. What happens following eligibility determination?

Whether or not the person is assessed as eligible for care and support, they must be informed of the outcome of their assessment, the eligibility determination and the reasons for it.

Staff should ensure that the assessment document is an accurate and comprehensive record of the assessment process that reflects everybody's views and states clearly how eligibility was determined and what the eligibility determination is.

Where no eligible needs have been identified, staff must provide written information and advice, including:

- what can be done to meet or reduce the needs that are not eligible
- what services are available in the community that can support the person in meeting those needs
- what can be done to prevent or delay the development of needs in the future?

If some but not all of the person's needs are eligible, staff must provide information and advice to the person about the needs that are not eligible, including:

- what can be done to meet or reduce those needs
- what services are available in the community that can support the person in meeting the needs
- what can be done to prevent or delay the development of needs in the future

Staff should use the standard letter in Frameworki when writing to people to inform them about the outcome of their assessment.

9. Appeals process

The Care Act 2014 requires Councils to ensure that their processes are transparent and clear to the person at all times. This includes managing people's expectations of the timescales and possible outcomes of the assessment. Involving the person throughout the process and giving them as much control as they wish, will help keep disagreements to a minimum.

When a person is not happy with their assessment, personal budget or care and support plan, staff should encourage them to lodge an appeal. This should only be after initial discussion and trying to find a resolution. Staff should always encourage the person to make their appeal in writing. The person will need to outline the issue they are appealing against and why they think that the process has been unfair or the outcome inaccurate.

Appeals must be sent to the team manager in the first instance who will forward the case to the relevant Head of Service. The relevant Head of Service will review the matter and may contact the person to find a resolution and/or to clarify information.

The Head of Service will make a decision within 15 working days of the appeal being lodged. The outcome will be communicated to the person in writing with the decision and the reasons for the decision clearly explained. If the person is still not satisfied with the outcome they have recourse to the Adult Social Care complaints procedure.

10. Checklist of duties

- An eligibility determination can only be made on the basis of an assessment: *This means that staff must carry out an assessment in order to determine whether a person's needs are eligible;*
- When determining eligibility of people with care and support needs or carers with support needs, staff must consider whether all three conditions are met: *These revolve around needs, desired outcomes or circumstances, and the impact on a person's wellbeing. A person is only eligible if they meet all three conditions;*
- When determining eligibility, staff must ignore care and support being provided by a carer: *What care and support is provided by the carer can, however, be taken into consideration when the care and support plan is developed, meaning that the council does not have to meet needs that are already being met by a carer if the carer is willing and able to continue to provide the care;*
- Where a person has fluctuating need, staff must take account of this and ensure that all of their needs have been accounted for when determining eligibility;
- Staff must establish whether the person is ordinarily resident in Richmond;
- Anyone who has had an assessment must receive a record of their eligibility determination and the reasons for it;

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- Where a person is found to have no eligible needs, staff must provide information and advice and consider what is available that could prevent, meet or reduce the needs that are not eligible.