



Transitions

**Social care: preparing young people
for transition into adult services**

Luke Clements

www.lukeclements.co.uk

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Programme

1. Social care transitions ~ Care Act 2014
2. Brief overview of:
 - Looked after children transitions
 - NHS Continuing Care transitions
 - Mental capacity transitions.
3. Care Act 2014 ~ the rights of young adults and carers.

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Transition into adulthood

Fail to comply with the law;

Even if transition process is instigated, it is frequently characterised by:

- delay; officer turnover; a lack of incisive action;
- broken undertakings / ignored complaints;
- a persistent failure to locate suitable placements;
- Where councils lose the ability to look at the 'whole child' & his/hers spectrum of needs –
- become particularly insensitive to the impact this having on the family carers.

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Conceptualising transitions

A management – not a legal problem
Inability of organisations to develop medium term planning strategies;

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Conceptualising transitions

Transitions are about 'problem solving'
Know the answer

- By May 2027 Alice will be in a supported living home within walking distance from us sharing with people of her own age and interests ...

Most important need:

Support

Create a Plan

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Project manage

Create a Plan

Not 'thinking that 'solving their problem is their problem'.

Just as if renovating a house – dealing with builder, plumber, electrician, etc

- ie social services, NHS, education, housing etc
- Make diary note of dates by which each stage should be completed
- Make complaint if this not done.

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Project manage

For this to happen

- social services / housing / education / the NHS
- Need to do
 - a
 - b
 - c
 - d

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Complaining

Do it early

Precedent

- What has not happened
- This is what a reasonable body would have done
- This is what you need to do
- Set a deadline, diarise, be persistent
- Maladministration
- Quote a snippet of law / Ombudsman

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Transition into adulthood

Disabled
adult
Parent
Sibling

14

16

18

CM

Children Act
1989
services

Children Act
1989
services

Told what Care
Act 2014
services will be

Adult
services

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Transitions ~ Care Act 2014 ss 58 - 59

General formula

Where it appears to a LA that:

1. it is 'likely' that [person] will have care & support needs after transition
2. it to be of significant benefit to be assessed;
Must assess (with consent / BI assessment)
LA must give reasons if it refuses to assess

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Case study CA 2014 Statutory Guidance

Isabelle's story (para 16.15)

- 15 years old with complex needs. Attends residential school 38-week basis funded by education & social services. Care currently required on the weekends and in holidays.
- Isabelle's parents ask LA for a transition assessment on her 16th birthday.

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Case study CA 2014 Statutory Guidance

Isabelle's story (para 16.15)

- Initially LA say this is too soon to be of significant benefit. Since the support from school can continue until she is 19, they feel transition will be straightforward as adult services simply need to begin funding the package which is already in place.

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Case study CA 2014 Statutory Guidance

Isabelle's story (para 16.15)

- However, when they talk in more detail to the school and the parents they realise that when Isabelle leaves school at 19 it will not be appropriate for her to live with her parents and she will require substantial supported living support and a college placement.
- Due to the nature of Isabelle's needs, she will need a lengthy transition in order to get used to new staff, a new environment and a new educational setting.

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Case study CA 2014 Statutory Guidance

Isabelle's story (para 16.15)

- The college has also indicated that that they will need up to a year to plan for her start.
- It is therefore of significant benefit for the transition assessment to take place around the age of 16, looking at both the funding for support from age 18 – 19 and the longer-term options.

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Transitions ~ at 18

- LA must decide whether to treat the assessment as a needs assessment under the 2014 Act.
- Must consider when the it was carried out and if any of the circumstances have changed
- **The Statutory Guidance** (para 16.64) where it is decided that the YP's or carer's needs are to be met under the Care Act the authority must 'undertake the care planning process as for other adults – including creating a care and support plan and producing a personal budget'

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Transitions ~ at 18

CA 1989 s17ZH enables the Children Services & Adult Services to decide the best time to transfer when is best transfer their respective responsibilities.

SEND Code states (para 8.67):

- Under no circumstances should young people find themselves suddenly without support and care as they make the transition to adult services. Very few moves from children's to adult services will or should take place on the day of someone's 18th birthday.

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Transitions ~ at 18

CA 1989 s17ZH ~ LAs can continue to provide services under CA 1989 s17 and/or CSDPA 1970 s2 even though the young person has reached the age of 18.

Statutory Guidance (para 16.67)

- families must not faced with a gap in provision of support on the 18th birthday - if by that date the necessary support not in place then the existing services must be continued until the 'relevant steps have been taken'

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Duty on all agencies to cooperate

Substantial law:

- CA 1989 s27
- NHSA 2006 s72
- NHSA 2006 s82

Substantial guidance

Duty to act reasonably

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Transition into adulthood

The wellbeing of each young person or carer must be taken into account so that assessment and planning is based around the individual needs, wishes, and outcomes which matter to that person

Historically, there has sometimes been a lack of effective planning

Early conversations provide an opportunity for young people and their families to reflect on their strengths, needs and desired outcomes, and to plan ahead for how they will achieve their goals.

Care Act Statutory Guidance para 16.3

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Transition ~ Education

Disabled Persons (SCR) Act 1986 ss5 & 6

- EHC Plan ~ annual review in year 9
- Transition plan
- SEN Code of Practice chapter 8

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Transition YP in care / LAC

Children (Leaving Care) Act 2000

Children in care aged 16 and 17
looked after for 13 weeks

- Assessment of needs
- Pathway plan to age 21
- Personal adviser

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Children Leaving Care

- Assessment of needs
- Pathway plan
- Review plan regularly
- Financial, accommodation & other support
- Educational bursary
- Employment & educational expenses
- Appoint personal adviser
- Keep in touch with the YP

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Transition into adulthood

NHS
Continuing Healthcare Funding

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National Framework for NHS Continuing Care 2022

Framework Guidance C&YP 2016

Framework Guidance Adults 2022

- Adults ~ Checklist 2022
- Adults ~ Decision Support Tool (DST) 2022
- Adults ~ Fast-track Pathway Tool 2022

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NHS Continuing Healthcare (CHC)

'National Framework for Children and Young People's Continuing Care'
Department of Health (2016)

Paras 111 – 128

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NHS CHC Transitions

2016 Guidance advises (para 116):

future entitlement to adult NHS CC *'should be clarified as early as possible in the transition planning process, especially if the young person's needs are likely to remain at a similar level until adulthood' and this should be done 'at a suitable point when aged 16-17'.*

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NHS CHC Transitions

2016 Guidance (para 117):

At 14 years of age, the YP should be brought to the attention of the CCG as likely to need an assessment for NHS CC.

At 16 -17 years of age, screening for NHS CC should be undertaken using the adult screening tool, and an agreement in principle that the young person has a primary health need, and is therefore likely to need NHS CC.

At 18 years of age, full transition to adult NHS CC or to universal and specialist health services should have been made, except in instances where this is not appropriate.

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NHS CHC Transitions

2016 Guidance (para 120):

when the YP is 16 eligibility for NHS CC should be determined in principle 'so that, wherever applicable, effective packages of care can be commissioned in time' for their 18th birthday (or later, if it is agreed that it is more appropriate for responsibility to be transferred then)'

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Transition into adulthood

Mental Capacity & Decision Making

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Capacity and young people

18 & over	16/17	Under 16
<ul style="list-style-type: none">• MCA 2005• Presumption of capacity unless shown otherwise	<ul style="list-style-type: none">• MCA 2005• + <i>Gillick</i> competence? - see MCA Code 12.13	<ul style="list-style-type: none">• <i>Gillick</i> competence• Presumed to lack legal capacity unless shown otherwise)

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Best interests

Where a person lacks the necessary mental capacity to make a decision, the decision must be made in their 'best interests'

- 'Best interests' does not apply to cases such as consenting to marriage, sexual relations, divorce or adoption.

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Best interests ~ s4 MCA 2005

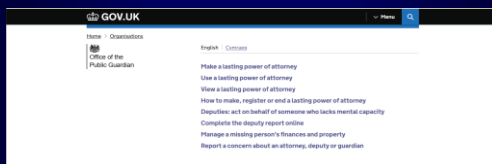
- Can the decision be put off?
- Duty to encourage / promote the person's participation & ability to decide
- Duty to ascertain their past views (ie what would they have done)
- Seek out the views of 'significant others':
"anyone engaged in caring for the person or interested in his welfare"

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Lasting powers of attorney

Financial LPA

Personal Welfare LPA



<https://www.gov.uk/government/organisations/office-of-the-public-guardian>

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Court 'deputies'

The Court of Protection can appoint a 'deputy' to make decisions for a person lacking capacity

- Normally only happens if that person has not made an LPA
- Deputies' powers limited to what is strictly necessary – ie financial and property decisions
- But can include personal welfare decisions

<https://www.gov.uk/become-deputy>

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Appointeeships

- The Department of Work and Pensions (DWP) can appoint a person to be responsible for the social security benefits of someone who does not have sufficient mental ability to understand and control their own affairs, for example because of 'senility or mentally illness'.

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The social care rights of young adults and their carers

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The well-being principle

section 1 Care Act 2014

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Well-being

"Well-being" relates to:

- (a) personal dignity
- (b) physical / mental health / emotional well-being;
- (c) protection from abuse and neglect;
- (d) control over day-to-day life inc nature of care provided;
- (e) participation in work, education, training or recreation;
- (f) social and economic well-being;
- (g) domestic, family and personal relationships;
- (h) suitability of living accommodation;
- (i) the adult's contribution to society.

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Well-being

"Well-being"

LA must have regard to—

- (a) assumption that the 'individual' is best placed to judge well-being;
- (b) individual's views, wishes and feelings;
- (c) take into account all the individual's circumstances (and non-discriminatory in terms of stereotyping etc);
- (d) individual participating (with support if needs be) as fully as possible in decisions about them;
- (e) a balance between the individual's well-being and that of any friends or relatives involved in their care;
- (f) the need to protect people from abuse and neglect;
- (g) any restrictions kept to the minimum necessary.

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Independent living

- The wellbeing principle is intended to cover the key components of independent living, as expressed in the UN Convention on the Rights of People with Disabilities (in particular, Article 19 of the Convention). Supporting people to live as independently as possible, for as long as possible, is a guiding principle of the Care Act

Guidance (para 1.19)

- *Burnip v. Birmingham City Council* (2012)
- *R (Bracking and others) v. SS DWP* (2013)
- *Mathieson v Sec State Work & Pensions* (2015)
- *Hurley v Sec State Work & Pensions* (2015)

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Duty to assess

Duty (for adults in need and carers) triggered by 'appearance of need' not a request

Duty to share copies of assessments and care plans with disabled person / carers

Maladministration not to share drafts too

- The Care Act 2014, ss 9 & 10 require LAs to involve adults in need and carers in their assessments.
- This will generally require the LA to share a draft assessments with individuals and to provide evidence as to how any comments they may make have been taken into account in the process

Complaint no 20 006 683 Hammersmith & Fulham 2021

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Eligibility criteria for adults in need

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An adult's needs meet the eligibility criteria if—

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

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unable to achieve an outcome if —

- (a) is unable to achieve it without assistance;
- (b) is able to achieve it without assistance but doing so causes the adult significant pain, distress or anxiety;
- (c) is able to achieve it without assistance but doing so endangers or is likely to endanger the health or safety of the adult, or of others; or
- (d) is able to achieve it without assistance but takes significantly longer than would normally be expected.

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Unable to achieve 2 or more of:

- (a) managing and maintaining nutrition;
- (b) maintaining personal hygiene;
- (c) managing toilet needs;
- (d) being appropriately clothed;
- (e) being able to make use of the adult's home safely;
- (f) maintaining a habitable home environment;
- (g) developing and maintaining family or other personal relationships;
- (h) accessing and engaging in work, training, education or volunteering;
- (i) making use of necessary facilities or services in the local community including public transport, and recreational facilities or services; and
- (j) carrying out caring responsibilities the adult has for a child.

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Guidance para 6.106

managing and maintaining nutrition.

- 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.

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Managing & maintaining nutrition

A blind person.

She said she needed help to (among other things) check the contents of her fridge; read cooking instructions; and have an escort to help her on occasional shop trips.

In the council's opinion although the need relates to eating / preparing meals this could be addressed by use of long-life foods, her freezer, and ready meals.

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Well-being

relates to:

- (a) personal dignity
- (b) physical /MH /emotional;
- (c) protect abuse /neglect;
- (d) control day-to-day life;
- (e) work, education, training;
- (f) social & economic;
- (g) personal relationships;
- (h) suitable accommodation;
- (i) contribution to society.

regard to—

- (a) individual is best placed;
- (b) views, wishes and feelings;
- (c) all the circumstances;
- (d) participate in decisions
- (e) a balance between individual's and carers;
- (f) Protect abuse/ neglect;
- (g) minimum restrictions.

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Managing & maintaining nutrition

Ombudsman

Maladministration for a LA to fail to recognise that 'fresh food is essential to meet nutritional needs' and that 'consumption of fresh food once it has started to perish carries a significant health risk'

Complaint ~ Hammersmith & Fulham 21 July 2016.

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Guidance para 6.106

being appropriately clothed.

- LAs 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.

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Getting dressed

A blind person.

She said she needed help to (among other things) sort clothes, so she did not wear stained or inappropriate clothing

In the council's opinion although the need related to dressing this was not a dressing outcome that was sufficiently significant for it to be eligible.

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Well-being

relates to:

- (a) personal dignity
- (b) physical /MH /emotional;
- (c) protect abuse /neglect;
- (d) control day-to-day life;
- (e) work, education, training;
- (f) social & economic;
- (g) personal relationships;
- (h) suitable accommodation;
- (i) contribution to society.

regard to—

- (a) individual is best placed;
- (b) views, wishes and feelings;
- (c) all the circumstances;
- (d) participate in decisions
- (e) a balance between individual's and carers;
- (f) Protect abuse/ neglect;
- (g) minimum restrictions.

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Clothing

Ombudsman

Maladministration for a LA to fail to recognise the importance to an adult's personal dignity of wearing clean, presentable and appropriate clothes

Complaint ~ Hammersmith & Fulham 21 July 2016.

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Guidance para 6.106

maintaining a habitable home environment.

- 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 & to amenities, such as water, electricity, gas.

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Housework / nutrition

Complainant receiving a Direct Payment to cover her eligible needs;

On review:

- Although no change her DPs reduced by 7 hours pw
- Reduction for: (a) 'nutrition' need and (b) 'maintaining 'habitable home' need.

In both cases this justified by saying that her DLA should be used to pay for these.

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Housework / nutrition

Ombudsman noted:

The Care Act 2014 places a duty on councils to:

- assess a need of care and support.
- decide what the person's 'eligible needs' are – ie:
 1. needs result of a physical or a mental condition.
 2. because of those needs, they cannot achieve two or more of 10 specified outcomes;
 3. this has a significant impact on their wellbeing.
- Where eligible needs are identified these must be met

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Housework / nutrition

Ombudsman noted:

I can see nothing in the Care Act 2014 or the statutory guidance which allows the Council to require a person to use their benefits this way.

Haringey LBC 16 012 715 12 June 2017 (para 36)

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maintaining a habitable home environment.

Ombudsman decision :

An investigation found the council routinely telling people it would not fund support to maintain a habitable home, and that they should find the money themselves

- *In this case the council appears to have decided some needs are more important than others. This is contrary to the Care Act, which places equal importance on all eligible needs – it is designed to ensure councils do not pick and choose which they meet.*

Press Release ~ Hertfordshire CC 19000200 7 September 2020

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Duty to provide care & support

section 18 ~ support for adults in need

Duty to provide applies where:

- Individual is ordinarily resident in LA area; and
- Individual has eligible needs; and
 - Individual's finances below maximum allowance (£23,250); or
 - Individual's finances above maximum allowance and they ask the LA to provide (but not if in a care home)

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Care & Support Plans

Key components of any care and support plan (para 10.36):

- the needs identified by the assessment;
- the extent to which the needs meet the eligibility criteria;
- how the LA is going to meet the needs;
- the desired outcomes of the adult 'in need';
- the outcomes the carer wishes to achieve (inc work, education and recreation);
- the personal budget ...;
- information / advice on what can be done to reduce the needs / prevent or delay development of needs ;
- where a direct payment ... , the needs to be met via the DP, the amount and frequency of the payments.

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Care & Support Plans

Local Government Ombudsman

- Care and support plans should include effective contingency plans.
- The fact that these may be difficult to predetermine in certain cases does not mean that they are absolved from this responsibility

Complaint no 15 019 443, against Kent CC, 20 October 2016 and
Complaint no 16 010 036 against Sheffield CC 3 April 2018

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Carers Rights

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Care Act 2014 s10

Assessing carers' needs

- A duty to assess on the 'appearance of need'
- No need for the care to be 'regular & substantial'
- No need for a 'request'

- A 'duty' to meet eligible needs

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Carers Assessments (s10)

What is 'care'?

- both practical and emotional support (para 6.18)
- Section 1 physical /mental health /emotional well-being?

Previous guidance

- may relate to being 'anxious and stressed waiting for, or actively seeking to prevent, the next crisis'.

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Carers Assessments (s10)

Basic principles

- whether the carer able / willing to provide and continue to provide the care;
- the impact on the carers 'well-being';
- the outcomes the carer wishes in day-to-day life;
- whether the carer works or wishes to (and / or) to participate in education, training or recreation.

A care plan will be unlawful if it 'assumes a level of input from a carer'

CP v. NE Lincolnshire C [2018]

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Willing and able

A 2018 ombudsman complaint concerned a disabled person who had a mobility car. Although he was unable to drive it, the council decided that his parents should drive it – taking him to and from his day centre.

- The ombudsman held that it was maladministration for the council to have failed to consider the impact that this would have on their health, their loss of respite care and whether they were willing and able to do this.

Nottingham City Council (18 004 245) 2018

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Willing and able

2018 ombudsman complaint where a council had introduced a new policy under which transport would not normally be provided if the adult had a Motability vehicle.

This was applied to an adult with learning disabilities who was dependent on his mother driving the car.

The ombudsman concluded that this required the mother to provide care and support that she was not willing and able to provide

Wiltshire County Council (16015946) 2018

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Willing and able

Local Government Ombudsman (2016)

- Authorities must not assume a carer is willing or able to provide any care – including additional care arising from a reduction in the care package.
- It will be maladministration for a reduction to occur without assessing the carer and explicitly clarifying (and recording) whether she/he is 'able and willing' to provide the additional care.

Complaint London Borough of Bromley 7/9/16

- LA Local authority reduced adult in needs support without proper consideration of the impact on his carer.

Complaint Essex CC 30/11/16

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Eligibility criteria for carers

The Care and Support (Eligibility Criteria) Regulations 2014

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Eligibility criteria ~ carers (reg 3)

A carer's needs meet the eligibility criteria if

- The needs arise as a consequence of providing necessary care for an adult
- The effect of the carer's needs is that any of the circumstances specified below apply to the carer
- As a consequence there is, or is likely to be, a significant impact on the carer's well-being.

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1. Needs arise as a consequence of caring for an adult;
2. One of the circumstances listed below exists;
3. A significant impact on the carer's well-being occurs

Outcomes

- (a) the carer's physical or mental health is, or is at risk of, deteriorating;
- (b) the carer is unable to achieve any of the following outcomes—
 - i. carrying out any caring responsibilities the carer has for a child;
 - ii. providing care to other persons for whom the carer provides care;
 - iii. maintaining a habitable home environment in the carers home (whether or not this is also the home of the adult needing care);
 - iv. managing and maintaining nutrition;
 - v. developing and maintaining family or other personal relationships;
 - vi. engaging in work, training, education or volunteering;
 - vii. making use of necessary facilities or services in the local community, including recreational facilities or services; and
 - viii. engaging in recreational activities.

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Carers' support & services

Most support provided by councils for carers takes the form of care delivered to the disabled person - most obviously 'respite care'.

Respite care (aka 'replacement care or 'short breaks' care) is not a carer's service it is care and support provided to the disabled person.

The service the carer receives is "a break".

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Carers services

- relaxation classes, training on stress management, gym or leisure centre membership, adult learning, development of new work skills or refreshing existing skills (so they might be able to stay in paid employment alongside caring or take up return to paid work), pursuit of hobbies such as the purchase of a garden shed, or purchase of laptop so they can stay in touch with family and friends.

para 11.41

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Care & Support Plans

A 2016 ombudsman report

Adult with significant LD lived with his parents. Care plan included 50 days of replacement care to enable his parents to have a break.

On review reduced to 14 days although his needs had not changed and the sustainability of his parents in maintaining their support was recorded as at risk.

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Care & Support Plans

Ombudsman held

the council must explain the reasons for the reduction:

it needs to show what circumstances have changed to warrant this reduction in respite provision'. In the ombudsman's opinion it was not acceptable for the council to state that it would offer emergency respite if the need arose:

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Care & Support Plans

- The parent's need for 'weekends away and a little social life are not emergencies but part of a planned sustainable support regime'. The Council's assessment does not address these sustainability issues and the guidance says the impact on the carers' daily lives and non caring activities must be included.

Complaint no 15 013 201 against Sefton MBC 23.8.16

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Care & Support Plans

Key components of any care and support plan (para 10.36):

- the needs identified by the assessment;
- the extent to which the needs meet the eligibility criteria;
- how the LA is going to meet the needs;
- the desired outcomes of the adult 'in need';
- the outcomes the carer wishes to achieve (inc work, education and recreation);
- the personal budget ...;
- information / advice on what can be done to reduce the needs / prevent or delay development of needs ;
- where a direct payment ... , the needs to be met via the DP, the amount and frequency of the payments.

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Care & support plans

Evidence based:

- Elderly person with dementia in family arranged care home (she was not coping in her own home);
- She had depression, anxiety attacks, barricaded the doors, needed to visit family to have a shower and had family member stay with her for up to five nights a week;
- Assessment identified need with 6 outcomes;
- Council refused to support the care home placement as her needs could 'easily' be met at home;
- Maladministration: must explain explain how that would be possible.

Complaint ~ Gloucestershire CC 17 002 906 (2017)

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Care & Support Plans

Local Government Ombudsman

- Care and support plans should include effective contingency plans.
- The fact that these may be difficult to predetermine in certain cases does not mean that they are absolved from this responsibility

Complaint no 15 019 443, against Kent CC, 20 October 2016 and
Complaint no 16 010 036 against Sheffield CC 3 April 2018

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Care & Support Plans

The duty to meet the needs is 'non resource-dependent'.

- ie if the assessment identifies a need for (say) 10 hours of personal care services a week – then this need must be met precisely and it is not something that the LA can 'trim' because it has to make cutbacks due to resource shortages.

R v Islington LBC ex p Rixon (1997)

- There can be no 'maximum' packages

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Care & support plans

Local authority financial difficulties

- A local authority's finances are relevant when it decides *how* to meet the eligible needs of an individual 'but not *whether* those needs are met'. (para 10.27)
- LAs 'should not set arbitrary upper limits on the costs [they are] willing to pay to meet needs through certain routes' (para 10.27)

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Rigid policies / cost caps

A LA refused to fund night-time care in a DP's home saying that it had to be funded by the NHS

Maladministration

56. This approach effectively capped the available budget for home care to that of a residential placement. Blanket policies of this nature are unlawful. It amounts to a fettering of the Council's duty to meet an assessed need. Setting the personal budget to the cost equivalent of a care home should never be an absolute.

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Rigid policies / cost caps

The SG says councils can look at the most cost-effective way of meeting someone's needs.

However, they also have to consider the benefits of someone remaining in their own home, if that is what they want.

The benefits may mean there are grounds to pay more so someone can stay at home, but it is not an open-ended budget. In most cases, the costs of funding 24-hour care at home are likely to outweigh the benefits, when the need to fund care across the whole area is factored in.

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Rigid policies / cost caps

However, the Guidance is clear that taking finances into account does not mean choosing the cheapest option, but the one that delivers the desired outcomes for the best value.

Councils cannot simply take the cost of a residential care home as the benchmark figure for other care packages.

Complaint 23 202 786 Croydon LBC (2025) para 52

SG para 10.27 states"This does not mean choosing the cheapest option; but the one which delivers the outcomes desired for the best value" ..

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Care & support plans

Funding Panels

... . In some cases, panels may be an appropriate governance mechanism to sign-off large or unique personal budget allocations and/or plans. Where used, panels should be appropriately skilled and trained, and local authorities should refrain from creating or using panels that seek to amend planning decisions, micro-manage the planning process or are in place purely for financial reasons. ... (para 10.85)

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Personal Budget (s26)

Guidance:

- The PB must always be an amount sufficient to meet the person's care and support needs
- Must be broken down into the amount the person pays and the amount the LA will pay.

s26 creates a duty to provide a 'transparent budget in a care and support plan' and a failure to do so will be a breach of public law

CP v. NE Lincolnshire Council [2018]

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Direct Payments (s31-s33)

The Direct Payment regulations 'soften' the presumption against making payments to spouses / partners / relatives living in the same house;

- payments can be made 'if the LA considers it is necessary to do so'; and
- payment can include not only the cost of meeting the adult's need – but also for the cost of providing administrative and management support or services

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Direct Payments

- LAs 'must not restrict choice or stifle innovation'
- pre-payment cards cannot be mandatory nor may they 'limit choice and control' as direct payments should 'encourage flexibility and innovation'

Statutory Guidance para 12.4 and 12.59

care plans should be flexible to 'accommodate changes to a person's priorities, needs and preferences' ... LAs should consider 'agreeing a rolling 3-monthly budget so that people can use their money differently each week'.

NICE 2018 Guideline (NG86) People's experience in adult social care services: improving the experience of care & support for people using adult social care services (para 1.3.11)

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Direct Payments & respite care

- It is unlawful for a council to refuse DPs for an individual who wishes to use it to pay for an eligible need – eg respite care
- A complaint concerning a decision by a LA that DPs would no longer be available to fund respite care because it had introduced block purchased such care and required individuals to pre book for this support.

Complaint no 19 008 804 Staffordshire, 2020

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Close

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