

## Adult Social Care Policy Framework

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## Document control sheet

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<b>0.2</b>	9 <sup>th</sup> Jan 2015	Added: <ul style="list-style-type: none"> <li>• Foreword</li> <li>• Paragraph numbers</li> <li>• Paragraph titled "Transition to new legal framework" added to relevant sections (9.0, 11.0, 15.0, 17.0, 18.0)</li> <li>• Policy review statements (added to sections 3.0-16.0)</li> <li>• Introduction to Advocacy (paragraph 10.1)</li> <li>• Links to final Care Act regulations added to relevant sections (4.0, 7.0, 9.0, 10.0, 11.0, 12.0, 13.0, 14.0, 17.0, 18.0)</li> </ul> Corrected spelling mistake (Deferred payments section) Corrected spelling mistake (Care market shaping and provider failure paragraph 7.8)	Andy Mailer
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<b>0.4</b>	2 <sup>nd</sup> Feb 2015	<ul style="list-style-type: none"> <li>• Added paragraph clarifying the start date of charging to section 17.4</li> <li>• Changed "local authority" to "Council p.26 (version 0.3)</li> <li>• Added "physical abuse" to Safeguarding section, 8.5</li> <li>• Added new section on Safeguarding enquiries, section 8.8</li> <li>• Added chief executives and chief officers to Safeguarding section 8.12</li> <li>• Added equalities paragraph to all policy statements</li> <li>• Revision to the "understanding the market" paragraph in section 7.5</li> <li>• Added references to eligibility matrix to sections 9.23 and 9.24</li> </ul>	Andy Mailer

		<ul style="list-style-type: none"> <li>• Correction of various spelling errors following additional legal feedback</li> <li>• Additional sentence added to sections 17.9, 17.10 and 18.6 clarifying that the Council will not make a profit from any administration fees charged to self-funders for the arrangement of care and support services following consultation feedback.</li> <li>• Appeals and complains section added to the deferred payment policy statement (18.22)</li> <li>• Removal of charging option for self-funders in a residential and nursing care (section 17.10) following legal advice received 12/3</li> </ul>	
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## 1.0 Foreword

To support the delivery of the requirements of the Care Act 2014, the Council has developed this policy framework to provide clear direction to staff tasked with implementing the provisions of the Care Act 2014 and transparency for service users, carers, the general public and partner organisations.

The policy framework reflects and underpins the new model of social work/social care being implemented locally (known as “Transforming Lives”) and will support the most efficient and effective use of the Council’s resources.

The policy framework consists of a number of policy statements that covers all the main aspects of the Care Act 2014, as set out in sections 3 to 18 of this document.

These policy statements cover a range of statutory duties as outlined in the Care Act 2014; some that apply broadly to the population as a whole, whilst others are more specific and relate solely to people with care and support needs, and / or their carers. For ease of reference, policy statements relating to general duties can be found in section A, and policy statements relating to care and support duties can be found in section B.

Each policy statement contains an outline of the following:

- The scope of the policy and the requirements established via the Act
- Definitions relevant to the specific policy statement
- An outline of any universal duties established via the Act
- An outline of those duties applicable for people who have care and support needs
- A final section entitled “what does it mean for me?” offering practical examples for;
  - Cambridgeshire residents
  - People with care and support needs
  - Carers
  - Professional staff

Each policy statement can be read and referred individually as well as being seen as a part of the overall policy framework.

## 2.0 Council priorities

The vision for Cambridgeshire County Council is; *making Cambridgeshire a great place to call home*.

Our three strategic priorities are:

- Developing the local economy for the benefit of all.
- Helping people live healthy and independent lives.
- Supporting and protecting vulnerable people.

The adult social care policy framework underpins the all three of these priorities.

### **Developing the local economy for the benefit of all**

The Care Act requires the Council to shape and manage the market and our local programmes including Transforming Lives and Support for Carers will have the potential to further develop the social care market locally and through that, develop the local economy.

### **Helping people live healthy and independent lives**

The Care Act reinforces this Council priority and the work that we are undertaking to deliver the Act including Transforming Lives and Support for Carers focus on people living healthy and independent lives.

### **Supporting and protecting vulnerable people**

The Care Act and the work to implement the requirements of the Act will support and protect vulnerable people by ensuring that people, including people who are caring for a relative or friend, are assessed and where they have eligible needs, the Council will identify a personal budget or individual budget to meet their needs, and provide support to arrange to meet those needs if required.

## SECTION A: GENERAL DUTIES

### 3.0 Wellbeing

#### 3.1 Wellbeing

Local authorities have a duty to promote wellbeing when carrying out any of their care and support functions in respect of a person. This may sometimes be referred to as “**the wellbeing principle**” The wellbeing principle applies in all cases where a local authority is providing non-assessed ‘universal’ services available to the local population as a whole, as well as when carrying out a care and support function, or making a decision in relation to a person.

#### 3.2 Key policy statements: wellbeing

- What is wellbeing?
- Promoting wellbeing in Cambridgeshire.
- Wellbeing throughout the care and support function.
- Equalities
- Policy review
- What does this mean for me?

#### 3.3 What is wellbeing?

“Wellbeing” is a broad concept, which may include any or all of the following;

- 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 will be considered of equal importance. The individual aspects of wellbeing or outcomes listed above are those specifically set out in the Care Act 2014, and are most relevant to people with care and support needs and carers.

#### 3.4 Promoting wellbeing in Cambridgeshire

Wellbeing covers an intentionally broad range of the aspects of a person’s life and will encompass a wide variety of specific considerations depending on the individual.

A local authority can promote a person's wellbeing in many ways. How this happens will depend on an individual's circumstances; including the person's needs, goals and wishes, and how these impact on their wellbeing.

The promotion of wellbeing will underpin the Council's provision of 'universal' non-assessed services, aimed at the local population as a whole, such as the provision of information and advice.

### **3.5 Wellbeing throughout the care and support function**

The promotion of wellbeing will also underpin the Council's care and support functions. The Care Act 2014 removes the duty for local authorities to provide particular services, instead placing the emphasis on 'meeting needs'. This recognises that everyone's needs are unique and personal to them, and that care and support can be provided in a number of different ways.

When undertaking any care and support function, the Council will act to promote an individual's wellbeing. The Council will consider each case on its own merits, taking into account what the person wants to achieve, and how any action undertaken may affect the wellbeing of the individual

There are a number of key principles and standards that the Council will reference in carrying out the care and support function:

- The assumption that the individual is best-placed to judge their own wellbeing
- The individual's views, wishes, feelings and beliefs should be taken into account
- The importance of preventing or delaying the development of needs for care and support and the importance of reducing needs that already exist
- The need to ensure that decisions are made having regard to all the individual's circumstances
- The importance of the individual participating as fully as possible in decisions about them and being provided with the information and support necessary to enable the individual to participate
- The importance of achieving a balance between the individual's wellbeing and that of any friends or relatives who are involved in caring for the individual
- The need to protect people from abuse and neglect
- The need to ensure that any restriction on the individual's rights or freedom of action that is involved in the exercise of the function is kept to the minimum necessary for achieving the purpose for which the function is being exercised

### **3.6 Equalities**

The Council is committed to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us



Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

[http://www.cambridgeshire.gov.uk/info/20086/communities\\_and\\_localism/480/equality\\_and\\_diversity](http://www.cambridgeshire.gov.uk/info/20086/communities_and_localism/480/equality_and_diversity)

### 3.7 Policy review

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

### 3.8 What does this mean for me?

**As a local resident:** A local authority will promote your wellbeing in many different ways. Depending on your circumstances, you may be offered a range of universal services such as information and advice in order to help meet your needs.

**As someone who may need care and support:** A local authority will promote your wellbeing in many different ways. How this happens is dependent on your specific circumstances, including your needs, goals and wishes. The Care Act 2014 places the emphasis on local authorities meeting needs, rather than providing specific types of service. This may mean that the way you receive care and support changes over time.

**As a carer of someone who might need care and support:** A local authority will take into account the impact of an individual's need on those who support them, and take steps to help others access information or support. This may mean that you are eligible for care and support from the local authority.

**As a care and support professional:** The promotion of wellbeing should underpin any tasks undertaken in order to support an individual or their carer. This may involve working across the health and social care system to ensure that a person's needs are met.

### 3.9 Useful links

Care Act Legislation – clause 1:	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/1/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/1/enacted</a>
Care Act Guidance – section 1:	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
Care Act Regulations:	

<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"> <li>• Prevention</li> <li>• Information &amp; advice</li> <li>• Integration</li> <li>• Market shaping</li> <li>• Safeguarding</li> <li>• Assessment of care and support needs</li> <li>• Advocacy</li> <li>• Support planning</li> <li>• Direct payments</li> <li>• Ordinary residence rules</li> <li>• Continuity of care</li> <li>• Transitions to adult services</li> <li>• Prisoners</li> <li>• Charging and financial assessments</li> <li>• Deferred payments</li> </ul>

## 4.0 Prevention

### 4.1 Preventing, reducing or delaying need

It is critical to the vision in the Care Act 2014 that the care and support system works to actively promote wellbeing and independence, and actively seeks to prevent people reaching a crisis point. It is vital, therefore that the care and support system intervenes early to support individuals, helps people retain or regain their skills and confidence and prevents need or delays deterioration wherever possible.

### 4.2 Key policy statements: preventing, reducing or delaying need

- What is prevention?
- Carers and prevention.
- The focus of prevention in Cambridgeshire.
- Prevention and the care and support function.
- Charging for preventative support.
- Equalities
- Policy review
- What does this mean for me?

### 4.3 What is prevention?

The term “prevention” or “preventative” measures can cover many different types of support, services, facilities or other resources. There is no one definition for what constitutes preventative activity and this can range from wide-scale whole-population measures aimed at promoting health, to more targeted, individual interventions aimed at improving skills or functioning for one person or a particular group or lessening the impact of caring on a carer’s health and wellbeing.

“Prevention” or “preventative” measures is often broken down into three general approaches. Services can cut across any or all of these three general approaches and as such the examples provided under each approach are not to be seen as limited to that particular approach. Prevention should be seen as an ongoing consideration and not a single activity or intervention.

These are:

**Prevent:** These are services, facilities or resources provided or arranged that may help an individual avoid developing needs for care and support, or help a carer avoid developing support needs by maintaining independence and good health and promoting wellbeing.

**Reduce:** These are more targeted interventions aimed at individuals who have an increased risk of developing needs, where the provision of services, resources or facilities may help slow down or reduce any further deterioration or prevent other needs from developing. In order to identify those individuals most likely to benefit from such targeted services, local authorities may undertake screening or

casefinding, for instance to identify individuals at risk of developing specific health conditions or experiencing certain events (such as strokes, or falls), or those that have needs for care and support which are not currently met by the local authority. Targeted interventions should also include approaches to identifying carers, including those who are taking on new caring responsibilities.

**Delay:** These are interventions aimed at minimising the effect of disability or deterioration for people with established or complex health conditions, (including progressive conditions, such as dementia), supporting people to regain skills and manage or reduce need where possible. The Care Act 2014 requires that local authorities must provide or arrange services, resources or facilities that maximise independence for those already with such needs, for example, interventions such as rehabilitation/re-ablement services, e.g. community equipment services and adaptations and the use of joint case-management for people with complex needs.

#### 4.4 Carers and prevention

Carers play a significant role in preventing the needs for care and support for the people they care for, which is why it is important that local authorities consider preventing carers from developing needs for care and support themselves.

#### 4.5 The focus of prevention in Cambridgeshire

**Promoting wellbeing:** The promotion of wellbeing will underpin the Council's provision of 'universal' non-assessed services aimed at the local population as a whole as well as all 'assessed' care and support functions provided to people with.

The Council will look at an individual's life holistically. This will mean considering any care and support needs in the context of the person's skills, ambitions and priorities. This will include consideration of the role a person's family or friends can play in helping the person to meet their goals. This is not creating or adding to their caring role but including them in an approach supporting the person to live as independently as possible for as long as possible.

In regard to carers, the local authority will consider how they can be supported to look after their own health and wellbeing and to have a life of their own alongside their caring responsibilities.

**Developing resilience & promoting individual strength:** The Council is committed to developing and delivering preventative approaches to care and support. The Council recognises that individuals are not passive recipients of support services, and will therefore design care and support systems based around the individual, enabling them to achieve their goals. By ensuring people have choice and control over the support they may need, and access to the right information at the right time enables people to stay as well as possible, maintain independence and caring roles for longer. This approach will include consideration of a person's strengths and their informal support networks as well as their needs and the risks they face. It recognises the value of voluntary and community groups and other resources of the local area.

**A local approach to preventative support:** The Council will provide or arrange for services, facilities or resources which would prevent, delay or reduce individuals'

needs for care and support, or the needs for support of carers. This approach may involve a range of Council departments and services, as well as those provided via voluntary groups and health and housing organisations.

The Council recognises the importance of identifying the services, facilities and resources that are already available in their area, which can support people to prevent, reduce or delay needs, and which forms part of the overall local approach to preventative activity.

The Council will promote diversity and quality in provision of care and support services, and ensure that a person has a variety of providers to choose from.

**Working with partners to focus on prevention:** The Council recognises that preventative actions will often be more effective when action is taken at a local level, with different organisations working together to meet the needs of the individual.

The Care Act 2014 requires local authorities to ensure the integration of care and support provision, including prevention with health and health-related services. This responsibility includes a particular focus on integrating with partners to prevent, reduce or delay the need for care and support.

**Identifying those who may benefit from preventative support:** The Council will seek to identify and target those individuals who may benefit from particular types of preventative support. In developing such approaches, the Council will consider the different opportunities for coming into contact with those people who may benefit from preventative support, including where the first contact may be with another professional outside the local authority.

The Care Act 2014 requires local authorities to establish and maintain a service for providing people with information and advice relating to care and support. This service will include information and advice about preventative services, facilities or resources, so that anyone can find out about the types of support available locally that may meet their individual needs and circumstances, and how to access them.

**Helping people access preventative support:** The Council recognises that a preventative approach requires a broad range of interventions, as one size will not fit all.

Where a person is provided with any type of service, or support as a preventative measure, the Council will provide such information as is necessary to enable the person to understand:

- what needs the person has or may develop, and why the intervention or other action is proposed in their regard;
- what the expected outcome for the action proposed is, and any relevant timescale in which those outcomes are expected; and
- what is proposed to take place at the end of the measure (for instance, whether an assessment of need or a carer's assessment will be carried out at that point).

The person concerned must agree to the provision of any service or other step proposed by the Council. Where the person refuses, but continues to appear to have needs for care and support (or for support, in the case of a carer), then the Council will proceed to offer the individual an assessment.

#### **4.6 Prevention and the care and support function**

In assessing whether an adult has any care and support needs or a carer has any needs for support, the Council will consider whether individual would benefit from the preventative services, facilities or resources provided by the local authority or which might otherwise be available in the community. As part of this process, the Council will consider the person's own capabilities, and the potential for improving their skills, as well as the role of any support from family, friends or others that could help them to achieve what they wish for from day-to-day life.

If a person is provided with care and support or support as a carer by the local authority, the Council will provide them with information and advice about what can be done to prevent, delay, or reduce their needs as part of their care and support plan or support plan. This will take into consideration the person's strengths and the support from other members of the family, friends or the community.

Regardless of whether or not a person is ultimately assessed as having needs which are to be met by the Council, the Council will provide information and advice in an accessible form, about what can be done to prevent, delay, or reduce development of their needs.

This will ensure that all people are provided with targeted, personalised information and advice that can support them to take steps to prevent or reduce their needs, connect more effectively with their local community, and delay the onset of greater needs to maximise their independence and quality of life.

#### **4.7 Charging for preventative support**

The Care Act 2014 specifically exempts the following preventative services from the Council's financial charging policy:

- **Minor** aids and adaptations, up to the value of £1,000
- **Up to 6 weeks** of re-ablement care

#### **4.8 Equalities**

The Council is commitment to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010

- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

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#### 4.9 Policy review

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

#### 4.10 What does this mean for me?

**As a local resident:** A local authority may use a range of preventative measures to promote your wellbeing. Depending on your circumstances, you may be offered a range of services designed to prevent, reduce or delay you developing needs for care and support. This could involve specific information and advice, or targeted intervention from a range of organisations, including the Council, health, housing and voluntary organisations.

**As someone who may need care and support:** A local authority may propose a range of preventative measures to promote your wellbeing throughout the care and support process. Depending on your circumstances this may involve information and advice about what can be done to prevent, reduce or delay development of your needs and maximise your independence and quality of life. This could involve targeted intervention from a range of organisations, including the Council, health, housing and voluntary organisations, and will include consideration the support from other members of the family, friends or the community. It may involve the use of technology or housing adaptations, or re-ablement services designed to help you regain your independence. In some very limited circumstances, preventative services may incur a charge.

**As a carer of someone who might need care and support:** A local authority may use a range of preventative measures to promote your wellbeing, in addition to any support given to the person you care for. Depending on your circumstances, you may be offered a range of services designed to prevent, reduce or delay you developing needs for care and support. This could include support such as moving and handling training to help you provide care effectively and safely, information about support groups in your local area and help to access information on benefits and other financial information.

**As a care and support professional:** Preventative measures should be considered when undertaking any tasks designed to support an individual or their carer. This should ensure that all people are provided with targeted, personalised information and advice that can support them to take steps to prevent or reduce their needs, connect more effectively with their local community, and delay the onset of greater

needs to maximise their independence and quality of life.

#### 4.11 Useful links

<b>Care Act legislation – clause 2:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/2/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/2/enacted</a>
<b>Care Act Guidance – section 2:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf</a>
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
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## 5.0 Information and advice

### 5.1 Information and advice

Information and advice is fundamental to enabling people, carers and families to take control of, and make well-informed choices about, their care and support and how they fund it. Not only does information and advice help to promote people's wellbeing by increasing their ability to exercise choice and control, it is also a vital component of preventing or delaying people's need for care and support.

### 5.2 Key policy statements: Information and advice

- **New statutory duties established under the Care Act 2014**
- **The focus of information and advice in Cambridgeshire**
- **Independent financial information and advice**
- **Equalities**
- **Policy review**
- **What does this mean for me?**

### 5.3 New statutory duties established under the Care Act 2014

Under the Care Act 2014 local authorities must: *“establish and maintain a service for providing people in its area with information and advice relating to care and support for adults and support for carers”*.

This duty to establish and maintain an information and advice service relates to the whole population of the local authority area, not just those with care and support needs or in some other way already known to the system.

The local authority must ensure that information and advice services cover more than just basic information about care and support including;

- prevention of care and support needs
- finances
- health
- housing
- employment
- what to do in cases of abuse or neglect of an adult

The Care Act 2014 also states that local authorities must provide independent advocacy to facilitate the person's involvement in the care and support assessment, planning and review processes where an individual would experience substantial difficulty in understanding, retaining or using information given, or in communicating their views, wishes or feelings and where there is nobody else appropriate.

### 5.4 The focus of information and advice in Cambridgeshire

The Council will maintain a service for providing people in their areas with information and advice relating to care and support for adults and support for carers,

taking into account relevant services available either direct from the Council, or via partner organisations including the NHS and the voluntary sector.

**The audience for information and advice:** The Council's Information and advice service will assist individuals in making informed decisions about their care and support needs, and will be universally available to local residents. The anticipated audience is likely to include;

- People wanting to plan for their future care and support needs
- People who may develop care and support needs, or whose current care and support needs may become greater
- People who have not presented to local authorities for assessment but are likely to be in need of care and support
- People who become known to the local authority (through referral, including self-referral), at first contact where an assessment of needs is being considered
- People who are assessed by local authorities as currently being in need of care and support
- People whose eligible needs for care and support the local authority is currently meeting (whether the local authority is paying for some, all or none of the costs of meeting those needs)
- People whose care and support or support plans are being reviewed
- Family members and carers of adults with care and support needs, (or those who are likely to develop care and support needs).
- Adults who are subject to adult safeguarding concerns
- People who may benefit from financial information and advice on matters concerning care and support.
- Care and support staff

The Council recognises that carers have specific requirements for both general and person information and advice, which needs to be separate and distinct from that aimed at the person cared for. The Council will therefore ensure that there are specific information and advice arrangements available for carers.

**Access to quality information & advice:** The Council recognises that information and advice needs to be clear, accurate and accessible, and will take into account national best practice guidance issued by the Standardisation Committee for Care Information (SCCI).

The Council is committed to ensuring that any information and advice provided should be accurate up-to-date and consistent with other sources, is comprehensive and provided at an early stage.

**Information and advice content:** In discharging this statutory duty, the Council will provide information and advice on;

- how to access the care and support available locally
- the choice of types of care and support, and the choice of care providers available in the local authority's area

- how to access independent financial advice on matters relating to care and support
- how to raise concerns about the safety or wellbeing of an adult with care and support needs

**When information should be provided:** The Council recognises that there are a number of direct opportunities to provide an individual with, or sign-post to, targeted information and advice. These opportunities include;

- at first point of contact with the local authority
- as part of a needs or carer's assessment, including joint Continuing Healthcare assessments
- during a period of short-term support aimed at preventing, reducing or delaying a person's need
- around and following financial assessment
- when considering a financial commitment such as a deferred payment agreement or top-up agreement
- during or following an adult safeguarding enquiry
- when considering take up of a personal budget and/or Direct Payment
- during the care and support planning process
- during the review of a person's care and support plan
- when a person may be considering a move to another local authority area
- at points in transition, for example when people needing care or carers under 18 become adults and the systems for support may change

The Council is committed to working with partner organisations to ensure that targeted information and advice is available at key 'trigger' points during a person's life, such as;

- contact with other local authority services;
- bereavement;
- hospital entry and/or discharge;
- diagnosis of health conditions – such as dementia, stroke or an acquired impairment for example;
- consideration or review of Continuing Healthcare arrangements;
- take-up of power of attorney;
- applications to Court of Protection;
- application for, or review of, disability benefits such as Attendance Allowance and Personal Independence Payments, and for Carers Allowance;
- access to work interviews;
- contact with local support groups, charities, or user-led organisations including carers' groups and disabled person's organisations;
- contact with or use of private care and support services, including homes care;
- change or loss of housing;
- contact with the criminal justice system;
- admission to or release from prison;
- 'Guidance Guarantee' in the Pensions Act 2014;
- retirement.

**Accessibility of information and advice:** The Council will ensure that information and advice products and materials are as accessible as possible for all potential users. Information provided via the Council's website will meet best practice standards such as the Web Content Accessibility Guidelines and guidance set out in the Government Digital Service's (GDS) service manual and printed products will be produced to appropriate guidelines. Key materials will be available in easy read, and telephone services will also be available to those with hearing impairments.

Advice and information will be provided in the manner preferred by the individual as far as is practical.

The Council recognises that some people, including some people with dementia, may benefit from an independent person to help them to access or avail themselves of necessary information and advice. The Care Act 2014 establishes a statutory duty for local authorities to provide this in limited circumstances relating to assessment, planning and review processes.

**Proportionality of information and advice:** The Council recognises that type, extent and timing of information and advice provided should be appropriate to the needs of the person. It also recognises the importance of providing the right level of information and advice at the right time, and acknowledges that a person's need for information or advice may vary depending on the circumstance. The Council is therefore committed to ensuring that the provision of information and advice is proportionate to the needs of the recipient.

## **5.5 Independent financial information and advice**

The Council recognises that financial information and advice is fundamental to enabling people to make well informed choices about how they pay for their care. It is integral to a person's consideration of how best to meet care and support needs, immediately or in the future.

Financial information and advice can be specialist and complex. The Care Act 2014 places a duty on local authorities to ensure that people have help in accessing independent financial advice, whilst recognising that it is not appropriate for local authorities to provide this service directly.

The Council recognises the importance of identifying those who may benefit from financial advice or information as early as possible. The Council will work collaboratively with partner organisations to help ensure that people can access accurate and timely information and advice. The Council is committed to ensuring that local authority and other frontline staff have the knowledge to explain the differences and potential benefits from seeking regulated and non-regulated financial advice, and why it may be beneficial for the individual to seek independent financial advice based on what is known about the individual and their circumstances.

In order to support people making well informed choices about how they pay for their care, the Council will provide information and advice on the following;

- care charges
- ways to pay

- the Care Cap (from April 2016)
- money management
- making informed decisions
- accessing independent financial advisors

Where a person lacks capacity, the Council will establish whether a person has a deputy of the Court of Protection or a person with Lasting Power of Attorney acting on their behalf.

## 5.6 Equalities

The Council is commitment to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

[http://www.cambridgeshire.gov.uk/info/20086/communities\\_and\\_localism/480/equality\\_and\\_diversity](http://www.cambridgeshire.gov.uk/info/20086/communities_and_localism/480/equality_and_diversity)

## 5.7 Policy review

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

## 5.8 What does this mean for me?

**As a local resident:** A local authority may use a range of preventative measures to promote your wellbeing. Depending on your circumstances, you may be offered specific information and advice designed to prevent, reduce or delay you developing needs for care and support. This information and advice may be provided direct by the Council, the NHS or a voluntary organisation.

**As someone who may need care and support:** Local authorities have a duty to provide targeted information and advice in order to promote an individual's wellbeing, designed to prevent, reduce or delay you developing needs for care and support. Depending on your circumstances this may be offered when contacting the local

authority or a voluntary or NHS partner organisation, or when undergoing an assessment or review. Depending on your circumstances, this may include information to help you access independent financial advice.

**As a carer of someone who might need care and support:** Local authorities have a duty to provide targeted information and advice in order to promote your wellbeing, and will work proactively to prevent, reduce or delay you developing needs for care and support. Depending on your circumstances, carer specific information and may be offered to you when contacting the local authority or a voluntary or NHS partner organisation, or when undergoing an assessment or review. Depending on your circumstances, this may include information to help you access independent financial advice.

**As a care and support professional:** Appropriate and proportionate Information and advice should be considered when undertaking any tasks designed to support an individual or their carer. This should ensure that all people are provided with targeted, personalised information and advice that can support them to take steps to prevent or reduce their needs, connect more effectively with their local community, and delay the onset of greater needs to maximise their independence and quality of life. Depending on the person's circumstances, this may include information to help them access independent financial advice.

## 5.9 Useful links

<b>Care Act legislation – clause 4:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/4/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/4/enacted</a>
<b>Care Act Guidance – section 3:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Information Standards and collections (Including Extractions) - National Governance</b>	<a href="http://www.hscic.gov.uk/isce">http://www.hscic.gov.uk/isce</a>
<b>Web Content Accessibility Guidelines</b>	<a href="http://www.w3.org/TR/WCAG20/">http://www.w3.org/TR/WCAG20/</a>
<b>Government Digital Service's service manual</b>	<a href="https://www.gov.uk/service-manual">https://www.gov.uk/service-manual</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"> <li>• Wellbeing</li> <li>• Prevention</li> <li>• Integration</li> <li>• Market shaping</li> <li>• Safeguarding</li> <li>• Assessment of care and support needs</li> <li>• Advocacy</li> <li>• Support planning</li> <li>• Direct payments</li> </ul>

	<ul style="list-style-type: none"> <li>• Ordinary residence rules</li> <li>• Continuity of care</li> <li>• Transitions to adult services</li> <li>• Prisoners</li> <li>• Charging and financial assessments</li> <li>• Deferred payments</li> </ul>
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## 6.0 Integration, cooperation and partnerships

### 6.1 Integration, cooperation and partnerships

Integration, cooperation and close partnership working seeks to improve patient and service user experience and outcomes by minimising barriers between organisations and services, and by delivering care that is tailored to meet the needs of those in need of care and support, their carers and families.

### 6.2 Key policy statements:

- **Integration of care and support with local services**
- **Cooperation between partners**
- **Working with the NHS, housing providers and welfare and employment support**
- **Equalities**
- **Policy review**
- **What does this mean for me?**

### 6.3 Integrating care and support with local services

Local authorities are required to carry out their care and support responsibilities with the aim of promoting greater integration with health services, particularly in those circumstances in which the local authority believes that integration will promote the wellbeing of adults with care and support needs, and / or contribute to the prevention or delay in the development of need of these people. Health partners including NHS England and Clinical Commissioning Groups (CCG's) have similar responsibilities.

Integration between care support and provision can be achieved through a number of different mechanisms:

- Effective, joined up strategic planning to meet the care and support needs of the local population, including carers. Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies could contribute to this approach and to the strategies and plans that will deliver integration and improved outcomes for people;
- Joint commissioning of services to ensure better outcomes for populations in specific areas;
- Delivering person centred-care through a range of mechanisms such as joint assessment of needs and a joined up approach to the provision of information and advice.

### 6.4 Integrating service provision and combining and aligning processes

The Council is committed to working with local partners to integrate services that provide care in ways that meet the needs of the local population and best serve the local area. This integration will take place at both a strategic and at an operational level and will consider how partners can combine or align key processes that are of benefit to the person in receipt of support or care. Integration in this sense does not



refer to structural integration, but to an integrated approach to delivery of care and support.

It is imperative that all partners involved in the provision of care and support are clear about their legal roles and responsibilities. The limits of local authority responsibility have not changed as a result of the Care Act 2014.

## **6.5 Co-operation of partner organisations**

Co-operation is the action or process of working together to achieve the same end, and should be an underpinning principle for every authority with responsibility for exercising respective functions relevant to the provision of care and support.

The Care Act 2014 defines five key aims of co-operation between partners with these responsibilities, however the purposes of co-operation are not limited to these matters:

- promoting the wellbeing of adults needing care and support and of carers
- improving the quality of care and support for adults and support for carers (including the outcomes from such provision)
- smoothing the transition from children's to adults services
- protecting adults with care and support needs who are currently experiencing or at risk of abuse or neglect
- identifying lessons to be learned from cases where adults with needs for care and support have experienced serious abuse or neglect

The Council will co-operate with each of its relevant partners and any other person or body which is considered appropriate when exercising any functions which are relevant to care and support; this co-operation will take place in a range of settings and contexts. In addition the Council will ensure internal co-operation between officers responsible for adult care and support, housing, public health and children's services.

There will be individual cases which require targeted levels of co-operation; in these cases the Council will request co-operation from the relevant partner or organisation and will co-cooperate with requests received from other partners, unless doing so incompatible with the Council's own duties or will have an adverse effect on the exercise of the Council's own functions.

## **6.6 Working with the NHS, housing providers and welfare and employment support**

The Council is committed to working with the NHS to plan the safe and timely discharge of NHS patients from acute hospital settings to local authority care and support. Practices relating to patient discharge will be established on a collaborative basis

Housing is recognised as a crucial health-related service which when integrated with care and support services because it improves the quality of services offered and the promotion of health and wellbeing. There are clear boundaries in law between a local authority's care and support function and housing functions but this does not prevent

co-operation or joined up working, or the provision of specific housing-related services to support the preventative agenda and person-centred delivery of care.

The Council will work with partners to provide information and advice to help people to make well informed choices relating their health and social care needs, and to help them navigate the system effectively.

## 6.7 Equalities

The Council is committed to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
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## 6.8 Policy review

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

## 6.9 What does this mean for me?

**As a local resident:** The Council is committed working with health and housing partners to provide an integrated service. The professionals involved in supporting you will do their best to understand your situation and needs, and will work together to deliver the care that is right for you.

**As someone who may need care and support:** The Council will work with other organisations involved in delivery of your care and support needs to ensure services meet your individual need and as far as possible, you receive a seamless and effective service. The Care Act 2014 places a clear requirement on local authorities and partners to ensure this happens.

**As a carer of someone who might need care and support:** The Council will work with other organisations to eliminate disjointed care that can often be a source of

frustration and can often lead to the delivery of poor care and have a negative impact on health and wellbeing. The council will take into account the impact of an individual's need on those who support them, and take steps to help others access information or support. This may mean that you are eligible for care and support from the local authority.

**As a care and support professional:** The drive for more integrated and joined up working will more easily enable the delivery of seamless and effective services for those in need of care and support. System navigation will be easier and more transparent and processes will be streamlined, more efficient and more effective.

## 6.10 Useful links

<b>Care Act legislation – clause 3:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/3/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/3/enacted</a>
<b>Care Act Guidance – section 1:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"> <li>• Wellbeing</li> <li>• Prevention</li> <li>• Information &amp; advice</li> <li>• Market shaping</li> <li>• Safeguarding</li> <li>• Assessment of care and support needs</li> <li>• Prisoners</li> </ul>

## 7.0 Care market shaping and provider failure

### 7.1 Care market shaping and provider failure

High-quality, personalised care and support can only be achieved where there is a vibrant, responsive market of service providers. The role of the local authority is critical to achieving this, both through the actions it takes to directly commission services to meet needs, and the broader understanding and interactions it facilitates with the wider market, for the benefit of all local people and communities.

Interruptions, and the possibility of interruptions to care and support services causes uncertainty and anxiety for people receiving service, their carers, family and friends. It is vital, therefore that the care and support systems remain robust, and that provisions are made to minimise the impact on the individuals concerned.

### 7.2 Key policy statements: Care market shaping and provider failure

- **New statutory duties established under the Care Act 2014**
- **What is care market shaping?**
- **The focus of care market shaping in Cambridgeshire**
- **What is provider failure?**
- **The focus of provider failure in Cambridgeshire**
- **Equalities**
- **Policy review**
- **What does this mean for me?**

### 7.3 New statutory duties established under the Care Act 2014

The Care Act places new duties on local authorities to facilitate and shape their market for adult care and support as a whole, so that it meets the needs of all people in their area who need care and support, whether arranged or funded by the state, by the individual themselves, or in other ways.

Local authorities have a vital role in ensuring that universal services are available to the whole population and where necessary, tailored to meet the needs of those with additional support requirements (for example housing and leisure services).

Interruption to care and support services can arise from a number of different causes. The Care Act 2014 gives local authorities the power to intervene in order to minimise the impact of an interruption to care and support services on the individuals receiving service, their carers, family and friends.

### 7.4 What is care market shaping?

Care Market shaping means the local authority collaborating closely with other relevant partners, including people with care and support needs, carers and families, to facilitate the whole market in its area for care, support and related services. This includes services arranged and paid for by the state through the authority itself, those services paid by the state through direct payments, and those services

arranged and paid for by individuals from whatever sources (sometimes called 'self-funders'), and services paid for by a combination of these sources. Market shaping activity should stimulate a diverse range of appropriate high quality services (both in terms of the types, volumes and quality of services and the types of provider organisation), and ensure the market as a whole remains vibrant and sustainable.

The core activities of market shaping are to engage with stakeholders to develop understanding of supply and demand and articulate likely trends that reflect people's evolving needs and aspirations, and based on evidence, to signal to the market the types of services needed now and in the future to meet them, encourage innovation, investment and continuous improvement. It can also include working to ensure that those who purchase their own services are empowered to be effective consumers, for example by helping people who want to take direct payments make informed decisions about employing personal assistants.

## **7.5 The focus of care market shaping in Cambridgeshire**

The Council will reference the following high-level themes when carrying out duties to shape the local care market. The specific theme will apply to a greater or lesser extent depending on the specific activity.

**Focussing on outcomes:** The Council is committed to promoting the wellbeing of individuals who need care and support, as well as the wellbeing of their carers, emphasising the importance of enabling people to stay independent as long as is possible. The Council will ensure that the focus on achieving positive outcomes is imbedded in all care market shaping activities.

In encouraging outcomes-based services, the Council will give consideration to incorporating "payment-by-outcomes" mechanisms, where practical.

**Promoting quality:** The Council has a duty to facilitate markets that offer a diverse range of high-quality and appropriate services. When considering the quality of services, the Council will be mindful of the capacity, capability, timeliness, continuity, reliability and flexibility of services delivered to support well-being, where appropriate, using the definitions that underpin the CQC's fundamental standards of care as a minimum, and having regard to nationally relevant standards, for example any developed by the National Institute of Health and Care Excellence (NICE).

**Supporting sustainability:** The Council will work to develop markets for care and support that – whilst recognising that individual providers may exit the market from time to time – ensure the overall provision of services remains healthy in terms of the sufficiency of adequate provision of high quality care and support needed to meet expected needs. The Council will maintain a Market Position Statement to support this objective.

**Ensuring choice:** The Council is committed to encouraging a range of different types of service provider organisations to ensure that the people have genuine choice of service type. The Council will pay suitable regard to ensuring sufficiency of provision – both in terms of capacity and capability- to meet the anticipated needs of the local population, regardless of how they are funded.

The Council will facilitate the personalisation of care and support, and will encourage services designed to enable people to make meaningful choices, and to take control of their support arrangements. The Council endorses the national view that personalised care and support services should be flexible so as to ensure people have choices over what they are supported with, when and how their support is provided, and whenever possible, by whom.

The Council will facilitate the provision of information and advice to support people's choices for care and support.

**Co-production with stakeholders:** Where possible, the Council will work alongside people with care and support needs to find shared and agreed solutions. Where there is a clear benefit to the county population, the Council will work with partners to provide integrated services for individuals who need care and support.

**Understanding the market:** The Council will undertake reasonable endeavours to maintain a robust understanding of current and future needs for care and support services, using the Market Position Statement as the principle, public-facing repository for this. Where information is available, this will include;

- appropriate information about specific conditions and multiple and complex needs
- trends and forecast estimates of the number of people who are or are likely to be fully or partly state funded care and support services
- trends and forecast estimates of the number of people who are or are likely to be fully or partly state funded and micro-commissioning their care via direct payments
- trends and forecast estimates of the number of people who are or are likely to be self-funding their own care and support services

**Facilitating market development:** Where practical, the Council will collaborate with stakeholders and providers to bring together information about needs and demands for care and support with that about future supply, to understand for their whole market the implications for service delivery.

The Council will endeavour to support and empower effective purchasing decisions by people who self-fund care or purchase services through direct payments, recognising that this can help deliver a more effective and responsive local market.

The Council is committed to ensuring that the market has sufficient signals, intelligence and understanding to react effectively and meet demand, a process often referred to as market shaping.

The Market Position Statement is intended to encourage a continuing dialogue between a local authority, stakeholders and providers where that dialogue results in an enhanced understanding by all parties, and is therefore an important market shaping tool.

In the event of the Council's market shaping activity is not achieving the strategic aims as quickly or as effectively as is needed, the Council will consider more direct

market interventions. This may include the encouraging and supporting of social enterprises, Community Interest Companies and User-Led Organisations.

**Ensuring value for money:** The Council will reference best practice in the commissioning, re-commissioning and decommissioning of services, and recognises that achieving value for money means optimum use of resources to achieve intended outcomes and therefore will regard service quality as well as cost when procuring services.

## **7.6 What is provider failure?**

Provider failure occurs when a provider is unable to exercise its normal day-to-day duties, due to a specific set of circumstances, such as;

- the appointment of an administrator
- a receiver is appointed
- a winding up order is made
- an application for bankruptcy is submitted
- the charity trustees of the provider become unable to pay their debts

The Care Act 2014 outlines a specific set of duties that local authorities should exercise in the event of provider failure.

## **7.7 The focus of provider failure in Cambridgeshire**

Not all instances of provider failure will trigger local authority intervention. If service provision remains uninterrupted and the needs of the people using that service are still met, there is no need for local authority intervention. Should provider failure lead to a temporary or permanent service interruption however, the Council has a temporary duty to intervene.

This temporary duty applies regardless of whether;

- there is a contract in place between the provider and the Council
- the people affected pay for their own care
- other local authorities had made the arrangements to provide service

The Council will intervene to ensure the needs of the individuals affected continue to be met.

The Council will seek to minimise the disruption to the people receiving care. The Council will aim to provide as similar a service as is possible, whilst recognising that the Council has discretion about how those needs will be met and it may not be possible or necessary to arrange for the exact same combination of services that were previously supplied.

In deciding how an individual's needs will be met, the Council will involve the person concerned, and carer that the person has, or anyone the person asks the authority to involve. If the individual lacks capacity to do that, the Council will involve anyone who appears to have an interest in the person's welfare.

Where the provider is subject to the Care Quality commission (CQC) oversight regime, the Council will work with the CQC to prepare to develop a remedial action plan in preparation for exercising this temporary duty.

In the event of service disruptions occurring that are not triggered by business failure, the Council may still chose to exercise these temporary duties if the disruption is likely to cause urgent needs of the individuals receiving that service.

The Council will examine the consequences of any actions in planning whether and how to respond. Particular consideration will be given to how any actions will impact on the likelihood of the service continuing, given that some actions may increase the risk of causing business failure.

These duties do not apply to anyone receiving Continuing Health Care, and the NHS remains responsible for intervening in the event of provider failure.

## **7.8 Charging in the event of provider failure**

Care and support services are not always provided free, and charging for some services is vital to ensure affordability.

The Care Act 2014 states that a local authority may charge a person for the costs of arranging alternative services, where the individual concerned is funding the costs of their own care. The Council will only seek to recover costs incurred in arranging the alternative care in order to ensure this service is cost neutral to the local tax payer.

In the event that the service was arranged by another local authority, the Care Act 2014 allows the cost of arranging alternative services to be recharged to the placing authority.

Additional transport and removal charges may also apply, in addition to the arrangement costs incurred by the Council. These will be discussed and agreed on an individual basis with the person concerned, or their representative. The underlying principle remains that there should be no cost to the local tax payer for the provision of this service.

The Council will not charge for the provision of information and advice to the person as a result of provider failure.

This charging mechanism does not apply to people who are receiving care that is paid partially or fully by the Council.

## **7.9 Equalities**

The Council is commitment to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us



Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

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## 7.10 Policy review

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

## 7.11 What does this mean for me?

**As a local resident:** This policy will not impact on you.

**As someone who may need care and support:** The Council will encourage growth, and promote choice, quality and diversity in the care market in order to help meet your needs - regardless of whether you are funding the care yourself, or in receipt of support that is fully or partially funded by the Council.

Should provider failure lead to a temporary or permanent service interruption, the Council has a duty to intervene to work with you to ensure your needs are met through alternative support arrangements. This duty applies to everyone who is receiving care that is part or fully by the Council, or another local authority. The Council is committed to minimising any disruption to your care and support arrangements, although your needs may not be met through exactly the same combination of services that were previously supplied. These duties apply to all individuals who are part or fully funded by the Council or another local authority, and are also available to individuals who fund their own care. If you do not receive care that is part or fully funded by the Council, you may incur an administration charge to cover the cost of arranging your alternative care.

**As a carer of someone receiving care and support:** The Council will encourage growth, and promote choice, quality and diversity in the care market in order to help meet your needs, as well as the needs of the person you care for.

Should provider failure lead to a temporary or permanent service interruption, the Council has a duty to intervene to work with everyone involved – including carers - to ensure continuity of service and to minimise the impact on the person receiving the care.

**As a care and support professional:** As someone who works for the local

authority or a partner organisation and are involved in planning and arranging care, you will need an awareness of the Council's duty to shape the care market and intervene in the event of provider failure impacting on service provision. Depending on the circumstances, you may be required to react to provider failure and arrange alternative care and support services for the individuals affected.

As a provider or care services, the Council will provide intelligence to help you better understand the needs of the local population. The Council will take action to encourage growth, and promote choice, quality and diversity in the care market which needs to be balanced against protecting the wellbeing of the individuals receiving service. In the event of provider failure, the Council will consider the consequences of any actions before deciding a response, in particular how these actions may impact on the likelihood of the service continuing and whether these actions may trigger business failure.

## 7.12 Useful links

<b>Care Act legislation – clauses 48-57:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/48/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/48/enacted</a>
<b>Care Act Guidance – sections 4-5:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366048/43738_2902999_Regs_Affirmative_Accessible.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366048/43738_2902999_Regs_Affirmative_Accessible.pdf</a> <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf</a>
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Market position statement:</b>	<a href="http://www.cambridgeshire.gov.uk/download/download/209/adult_social_care_market_position_statement">http://www.cambridgeshire.gov.uk/download/download/209/adult_social_care_market_position_statement</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"> <li>• Wellbeing</li> <li>• Prevention</li> <li>• Information &amp; advice</li> <li>• Integration</li> </ul>

## SECTION B: CARE AND SUPPORT DUTIES

### 8.0 Adult safeguarding

#### 8.1 Safeguarding

Safeguarding means protecting an adult's right to live in safety, free from abuse and neglect. It is about people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action.

#### 8.2 Key policy statements: Adult safeguarding

- What is adult safeguarding
- The focus of adult safeguarding in Cambridgeshire
- Identifying abuse and neglect
- Spotting signs of abuse and neglect
- Safeguarding enquiries
- Working with partners and sharing information
- Safeguarding Adults Board
- Safeguarding Adult Reviews
- Local roles and responsibilities
- Adult safeguarding and carers
- Equalities
- Policy review
- What does this mean for me?

#### 8.3 What is adult safeguarding?

The Care Act 2014 defines safeguarding as *protecting an adult's right to live in safety, free from abuse and neglect*.

Adult safeguarding duties apply to an adult who;

- has needs for care and support (whether or not the local authority is meeting any of those needs)
- is experiencing, or at risk of abuse and neglect
- as a result of their care and support needs, is unable to protect themselves from the risk or experience of abuse and neglect

Safeguarding involves people and organisations working together to prevent and stop both the risks and experience of abuse or neglect, while at the same time making sure that the adult's wellbeing is promoted including, where appropriate, having regard to their views, wishes, feelings and beliefs in deciding on any action.

This must recognise that adults sometimes have complex interpersonal relationships and may be ambivalent, unclear or unrealistic about their personal circumstances.

Adult safeguarding aims to:

- stop abuse or neglect wherever possible
- prevent harm and reduce the risk of abuse or neglect to adults with care and support needs
- support adults in making choices and having control about how they want to live
- promote an approach that concentrates on improving life for the adults concerned
- raise public awareness so that communities as a whole, alongside professionals, play their part in preventing, identifying and responding to abuse and neglect
- provide information and support in accessible ways to help people understand the different types of abuse, how to stay safe and what to do to raise a concern about the safety or well-being of an adult
- address what has caused the abuse or neglect

The Care Act 2014 stipulates that local authorities must:

- make enquiries, or cause others to do so, if it believes an adult is experiencing, or is at risk of, abuse or neglect
- set up a Safeguarding Adults Board (SAB)
- arrange, where appropriate, for an independent advocate to represent and support an adult who is the subject of a safeguarding enquiry or Safeguarding Adult Review (SAR)
- co-operate with each of its relevant partners in order to protect the adult.

There are six key principles that underpin all adult safeguarding work:

**Empowerment:** People being supported and encouraged to make their own decisions and informed consent.

*“I am asked what I want as the outcomes from the safeguarding process and these directly inform what happens.”*

**Prevention:** It is better to take action before harm occurs.

*“I receive clear and simple information about what abuse is, how to recognise the signs and what I can do to seek help.”*

**Proportionality:** The least intrusive response appropriate to the risk presented.

*“I am sure that the professionals will work in my interest, as I see them and they will only get involved as much as needed.”*

**Protection:** Support and representation for those in greatest need.

*“I get help and support to report abuse and neglect. I get help so that I am able to take part in the safeguarding process to the extent to which I want.”*

**Partnership:** Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.

*"I know that staff treat any personal and sensitive information in confidence, only sharing what is helpful and necessary. I am confident that professionals will work together and with me to get the best result for me."*

**Accountability:** Accountability and transparency in delivering safeguarding.

*"I understand the role of everyone involved in my life and so do they."*

## 8.4 The focus of adult safeguarding in Cambridgeshire

The Council is committed to safeguarding individuals from abuse and neglect.

The Care Act 2014 endorses the Making Safeguarding Personal model, which places the individual at the heart of the adult safeguarding process. Making Safeguarding Personal engages the individual in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement, choice and control as well as improving quality of life, wellbeing and safety. This model underpins the Council's safeguarding policy.

## 8.5 Identifying abuse and neglect

There are many forms of abuse and neglect, and instances can be one-off or multiple and affect one person or more. The list below is not exhaustive, but seeks to illustrate the sort of behaviour that could give rise to a safeguarding concern:

- **Physical abuse:** including assault, hitting, slapping, pushing, misuse of medication, restraint or inappropriate physical sanctions.
- **Domestic violence:** including psychological, physical, sexual, financial, emotional abuse; so called 'honour' based violence.
- **Sexual abuse:** including rape, indecent exposure, sexual harassment, inappropriate looking or touching, sexual teasing or innuendo, sexual photography, subjection to pornography or witnessing sexual acts, indecent exposure and sexual assault or sexual acts to which the adult has not consented or was pressured into consenting.
- **Psychological abuse:** including emotional abuse, threats of harm or abandonment, deprivation of contact, humiliation, blaming, controlling, intimidation, coercion, harassment, verbal abuse, cyber bullying, isolation or unreasonable and unjustified withdrawal of services or supportive networks.
- **Financial or material abuse:** including theft, fraud, internet scamming, coercion in relation to an adult's financial affairs or arrangements, including in connection with wills, property, inheritance or financial transactions, or the misuse or misappropriation of property, possessions or benefits.
- **Modern slavery:** encompasses slavery, human trafficking, forced labour and domestic servitude. Traffickers and slave masters use whatever means they

have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment.

- **Discriminatory abuse:** including forms of harassment, slurs or similar treatment; because of race, gender and gender identity, age, disability, sexual orientation or Religion.
- **Organisational abuse:** including neglect and poor care practice within an institution or specific care setting such as a hospital or care home, for example, or in relation to care provided in one's own home. This may range from one off incidents to on-going ill-treatment. It can be through neglect or poor professional practice as a result of the structure, policies, processes and practices within an organisation.
- **Neglect and acts of omission:** including ignoring medical, emotional or physical care needs, failure to provide access to appropriate health, care and support or educational services, the withholding of the necessities of life, such as medication, adequate nutrition and heating
- **Self-neglect:** this covers a wide range of behaviour neglecting to care for one's personal hygiene, health or surroundings and includes behaviour such as hoarding.

## 8.6 Spotting signs of abuse and neglect

The Council is committed to ensuring that care and support staff –internal, and working in relevant partner organisations – are sufficiently vigilant about adult safeguarding concerns. This will include;

- knowing about different types of abuse and neglect, and their signs
- supporting adults to keep safe
- knowing who to tell about suspected abuse or neglect
- supporting adults to make informed decisions when exercising choice and control

## 8.7 Reporting and responding to abuse and neglect

The Council recognises the importance of understanding the circumstances of the alleged abuse, including the wider context, such as whether others may be at risk of abuse, whether there is any emerging pattern of abuse, whether others have witnessed abuse and the role of family members and paid staff or professionals.

The circumstances surrounding any actual or suspected case of abuse or neglect will inform the response. It is important to recognise that abuse or neglect may be unintentional. This makes the need to take action no less important, but in such circumstances, the response will be appropriate and proportionate. Regardless of the circumstances, the primary interest of the Council will be the primary must still be how to safeguard the adult. In other circumstances where the safeguarding concerns arise from abuse or neglect deliberately intended to cause harm, then it would not only be necessary to immediately consider what steps are needed to protect the adult but also whether to refer the matter to the police to consider whether a criminal investigation would be required or appropriate.

## 8.8 Safeguarding enquiries

The Council has a duty to make a safeguarding enquiry if it reasonably suspects that an adult who meets the criteria in paragraph 8.3 is, or is at risk of, being abused or neglected.

A safeguarding enquiry is the action taken by, or instigated on behalf of, the Council in response to a concern that abuse or neglect may be taking place. The purpose of the enquiry is to decide whether or not the Council or a partner organisation should do something to protect the individual.

The council recognises that what happens as a result of an enquiry should reflect the adult's wishes wherever possible, as stated by them or by their representative or advocate. If the person lacks capacity, the council recognises that the response should be in the best interests of the individual if they are not able to make the decision, and be proportionate to the level of concern.

The Council will involve the individual concerned from the beginning of the enquiry, unless there are exceptional circumstances where involvement would increase the risk of abuse.

Although the Council has the lead role in ensuring adult safeguarding enquiries are undertaken, where criminal activity is suspected, the police investigation will take priority. In such cases, the Council will seek to agree a multi-agency approach to ensure the interests and personal wishes of the individual concerned will be considered throughout the investigation.

The scope of a safeguarding enquiry, who leads on it, the nature of the enquiry and how long it takes will depend on the specific circumstances of the concern.

The objectives of a safeguarding enquiry into abuse or neglect are to;

- establish facts
- ascertain the adult's views and wishes
- assess the needs of the adult for protection, support and redress and how they might be met
- protect from the abuse and neglect, in accordance with the wishes of the adult
- make decisions as to what follow-up action should be taken with regard to the person or organisation responsible for the abuse or neglect
- enable the adult to achieve resolution and recovery

The overriding priority of any safeguarding enquiry is to ensure the safety and wellbeing of the individual concerned.

In determining how to respond to a safeguarding concern, the Council will consider;

- the adult's needs for care and support
- the adult's risk of abuse or neglect
- the adult's ability to protect themselves or the ability of their networks to increase the support they offer
- the impact on the adult, their wishes

- the possible impact on important relationships
- potential of action and increasing risk to the adult
- the risk of repeated or increasingly serious acts involving children, or another adult at risk of abuse or neglect
- the responsibility of the person or organisation that has caused the abuse or neglect
- research evidence to support any intervention

Although the Council is the lead agency for safeguarding enquiries, other persons or agencies may be used to carry out the enquiry. The Council retains the responsibility for ensuring that the enquiry is referred to the right place and acted upon. The Council retains the right to challenge the individual or agency carrying out the safeguarding enquiry if it considers that the process or outcome is unsatisfactory.

The Council has a duty to determine what further action is necessary. Where the Council determines that we ourselves should take further action (eg a protection plan) then the council is under a duty to do so.

In accordance with the Mental Capacity Act, the Council will presume that an adult has the capacity to make a decision unless there is a reason to suspect that capacity is in some way compromised. Where the individual may lack capacity to make decisions about managing an abusive situation, their capacity must be assessed and any decision made in their best interests. If the adult has capacity to make decisions in this area of their life and they decline assistance, this limits the range of interventions the Council or its partners can make. In such cases the focus will be on harm reduction. However this will not limit any action that may be required to protect others at risk of harm. Also if the adult suspected of being abused or neglected is thought to be refusing assistance on the grounds of duress then action will be taken.

Once enquiries are completed, the Council will decide with the adult who has been the subject of concern, what, if any, further action is necessary and acceptable. One outcome might be the development of an agreed plan of action for the adult which should be recorded on their care and support plan. This will set out:

- what steps are to be taken to assure their safety in future
- the provision of any support, treatment or therapy including advocacy
- any modifications needed in the way services are provided
- how best to support the adult through any action they take to seek justice or redress
- any on-going risk management strategy
- any action to be taken in relation to the person or organisation that has caused the concern.

## **8.9 Working with partners and sharing information**

The Council is committed to working with all relevant partners in relation to adult safeguarding, and via the Care Act 2014 those partner organisations have a legal requirement to cooperate with the Council in relation to adult safeguarding. Depending on the specifics of the reported incident, these relevant partner organisations are likely to include;



- NHS England
- Clinical Commissioning Groups (CCGs)
- NHS trusts and NHS Foundation Trusts
- Department for Work and Pensions
- the Police
- Prisons
- Probation services

The Council will work to ensure that partner organisations have the required mechanisms in place that enable early identification and assessment of risk through timely information sharing and targeted multi-agency intervention.

The Council is committed to ensuring all relevant actions are accurately recorded, and kept in such a way that the information can be easily collated for local analysis and national data collections.

The Council recognises the importance of sharing relevant information with partner organisations in order to reduce and prevent instances of abuse and neglect. The Council is committed to maintaining common agreements between partner organisations relating to confidentiality and setting out the principles governing the sharing of information. These agreements will be consistent with the principles set out in the Caldicott Review published 2013 ensuring that:

- information will only be shared on a 'need to know' basis when it is in the interests of the adult
- confidentiality must not be confused with secrecy
- informed consent should be obtained but, if this is not possible and other adults are at risk of abuse or neglect, it may be necessary to override the requirement; and
- it is inappropriate for agencies to give assurances of absolute confidentiality in cases where there are concerns about abuse, particularly in those situations when other adults may be at risk

Where an adult has refused to consent to information being disclosed for these purposes, then the adult safeguarding lead will consider whether there is an overriding public interest that would justify information sharing (e.g. because there is a risk that others are at risk of serious harm). Wherever possible, the appropriate Caldicott Guardian will be involved.

## **8.10 Safeguarding Adults Board**

The Council has a well-established Safeguarding Adults Board (SAB) to provide oversight and assurance that the local safeguarding arrangements and partner organisations act to help protect adults with care and support needs from abuse and neglect.

The Safeguarding Adults Board oversees and leads on adult safeguarding across the county, and is focussed on all matters that contribute to the prevention of abuse and neglect. This includes;

- The safety of patients receiving local health services
- The quality of local care and support services

- The effectiveness of prisons and approved premises in safeguarding offenders
- Awareness and responsiveness of further education services

The Safeguarding Adults Board has a duty to challenge other organisations where it believes that their actions or inactions are increasing the risk of abuse and neglect.

The Safeguarding Adults Board has three core duties. These are;

- to publish an annual strategic plan for each financial year setting out how it will meet its main objective, and what the members will do to achieve this
- to publish an annual report detailing what the Safeguarding Adults Board has done during the year to achieve its main objective
- to conduct Safeguarding Adults Reviews

The Council is the lead agency for the Safeguarding Adults Board and therefore will coordinate all adult safeguarding activity in the county.

The Safeguarding Adults Board is also attended by the local health Clinical Commissioning Group and the chief officer of police within the county. Other organisations, agencies and partners are involved on a discretionary basis.

### **8.11 Safeguarding Adult Reviews**

The Safeguarding Adults Board will instigate a Safeguarding Adult Review if an adult in the county dies as a result of abuse or neglect, whether known or suspected, and there is concern that partner agencies could have intervened to protect the adult.

A Safeguarding Adult Review may also be instigated if an adult has not died, but where the Safeguarding Adults Board knows or suspects that the adult has experienced serious abuse or neglect. An incident can be considered serious abuse or neglect if the individual would have been likely to have died but for intervention, or has suffered permanent harm or has reduced capacity or quality of life as a result of the abuse or neglect.

Depending on the circumstances leading to the Safeguarding Adult Review, The Safeguarding Adults Board will consider the process should dovetail with any other relevant investigations that are running in parallel, such as a criminal investigation, a child serious case review, or an inquest.

The findings of any Safeguarding Adult Review will be included in the Safeguarding Adults Board annual report, detailing any actions that have been taken in relation to those findings. Where the Safeguarding Adults Board decides not to implement an action, the reason will be stated in the annual report.

### **8.12 Local roles and responsibilities**

The Council is committed to ensuring that all relevant staff have a clear awareness of the need to safeguard vulnerable adults from abuse and neglect, and a sound understanding as to how their particular role and duties can support the safeguarding process. This includes;

- operational staff

- supervisory line managers
- Designated Adult Safeguarding Managers (DASMs)
- senior management staff
- corporate/cross authority staff
- Chief officers and chief executives
- local authority members and local police and crime commissioners
- commissioners
- service providers of services
- voluntary organisations
- regulated professionals

The Safeguarding Adults Board will also ensure that relevant partners provide training for staff and volunteers on the policy, procedures and professional practices that are in place locally, which reflects their roles and responsibilities in safeguarding adult arrangements.

### **8.13 Adult safeguarding and carers**

The Council recognises that there are a number of circumstances in which a carer could be involved in a situation that could lead to a safeguarding response.

Situations of this nature include;

- a carer may witness or report abuse or neglect;
- a carer may experience intentional or unintentional harm from the adult they are trying to support or from professionals and organisations they are in contact with;
- a carer may unintentionally or intentionally harm or neglect the adult they support on their own or with others.

The exact response will be specific to the circumstances of the safeguarding concern; however it may include;

- Undertaking a safeguarding enquiry
- Providing support to the carer to mitigate the risk of abuse re-occurring
- Involving other agencies as appropriate, including the police where a criminal offence is suspected

Other key considerations in relation to carers will include:

- involving carers in safeguarding enquiries relating to the adult they care for, as appropriate;
- whether or not joint assessment is appropriate in each individual circumstance;
- the risk factors that may increase the likelihood of abuse or neglect occurring; and whether a change in circumstance changes the risk of abuse or neglect occurring.
- A change in circumstance should also trigger the review of the care and support plan and, or, support plan

### **8.14 Equalities**

The Council is committed to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

[http://www.cambridgeshire.gov.uk/info/20086/communities\\_and\\_localism/480/equality\\_and\\_diversity](http://www.cambridgeshire.gov.uk/info/20086/communities_and_localism/480/equality_and_diversity)

### 8.15 Policy review

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

### 8.16 What does this mean for me?

**As a local resident:** The Council has an adult safeguarding policy and procedure in place to help protect you from neglect and abuse and to promote your quality of life, wellbeing and safety.

**As someone who may need care and support:** The Council has an adult safeguarding policy and procedure in place to help protect you from neglect and abuse and promote your quality of life, wellbeing and safety. Depending on your circumstances, you may receive preventative advice on how to recognise abuse and how to seek help and have help and support to report abuse and neglect. In the event of an adult safeguarding enquiry or review being triggered, you will be supported by professionals who will work in your interest to promote your wellbeing, towards the outcomes you have identified. Any sensitive and personal information will be treated with confidence.

**As a carer of someone receiving care and support:** The Council has an adult safeguarding policy and procedure in place to help protect you - and the person you care for - from neglect and abuse and promote quality of life, wellbeing and safety. Depending on your circumstances, you may receive preventative advice on how to recognise abuse and how to seek help and have help and support to report abuse and neglect. In the event of an adult safeguarding enquiry or review being triggered, you will be included in any discussions about the person you care for. The person cared for will be supported by professionals who will work in their interest to promote wellbeing, towards the outcomes they have identified. Any sensitive and personal information will be treated with confidence.

**As a care and support professional:** In order to respond appropriately where abuse or neglect may be taking place, anyone in contact with the adult, whether in a volunteer or paid role, will be supported to understand their own role and responsibility and have access to practical and legal guidance, advice and support. You will be supported with adult safeguarding policies and procedures that reflect statutory guidance and are for used to support the reduction or removal of safeguarding risks as well as to secure any support to protect the adult and, where necessary, to help the adult recover and develop resilience.

## 8.17 Useful links

<b>Care Act legislation – clauses 42-47:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/42/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/42/enacted</a>
<b>Care Act Guidance – sections 4-5:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"> <li>• Wellbeing</li> <li>• Information &amp; advice</li> <li>• Assessment of care and support needs</li> <li>• Advocacy</li> <li>• Support planning</li> <li>• Transitions to adult services</li> <li>• Prisoners</li> </ul>

## 9.0 Assessment of care and support needs

### 9.1 Assessment of care and support needs

The assessment process is one of the most important elements of the care and support system. The assessment is one of the key interactions between a local authority and an individual, whether an adult needing care or a carer. The process must be person-centred throughout, involving the person and supporting them to have choice and control.

### 9.2 Key policy statements: Assessment of care and support needs

- What is an assessment?
- Assessment for care and support
- First contact
- Appropriate and proportionate assessments
- Cases where a person lacks capacity
- Needs assessment
- Carers assessments
- Refusal of assessment
- Safeguarding
- Focus on preventing needs
- Considering the person's strengths and capabilities
- A whole family approach
- Young carers
- Supported self-assessment
- Combining assessments
- Integrated assessments
- NHS continuing healthcare
- Assessing people who have visual and hearing impairment
- Record keeping
- Delegating assessments
- Eligibility criteria – adults
- Eligibility criteria – carers
- Next steps
- Equalities
- Policy review
- Transition to the new legal framework
- What does this mean for me?

### 9.3 What is an assessment?

The assessment process provides a framework to identify any level of need for care and support so that local authorities can consider how to provide a proportionate response at the right time, based on the individual's needs.

The assessment process starts from when local authorities begin to collect information about the person, and will be an integral part of the person's journey through the care and support system as their needs change. It should not just be seen as a gateway to care and support, but should be a critical intervention in its own right, which can help people to understand their situation and the needs they have, to reduce or delay the onset of greater needs, and to access support when they require it.

#### **9.4 Assessment for care and support**

The aim of the assessment is to identify what needs a person may have and what outcomes they are looking to achieve to maintain or improve their wellbeing. The outcome of the assessment is to provide a full picture of an individual's needs so that a local authority can provide an appropriate response at the right time to meet a person's needs. This might range from offering guidance and information to arranging for services to meet those needs.

The Council's assessment process will ensure that prevention and early intervention are placed at the heart of the care and support system, and even if a person has needs that are not eligible at that time, the Council will consider;

- providing information and advice or other preventative services
- the person's own strengths or if any other support might be available in the community to meet those needs

The Council's assessment will be appropriate and proportionate. It may come in different formats and can be carried out in various ways, including but not limited to:

- A face-to-face assessment
- A supported self-assessment
- An online or phone assessment
- A joint assessment with other agencies (such as the NHS and housing agencies)
- A combined assessment (covering an adult and a carer)

The Council's assessment process will seek to identify how a person's support network and the wider community can contribute towards the outcomes a person wants to achieve.

#### **9.5 First contact**

The assessment process starts from when local authorities start to collect information about the person. From this early stage the Council will consider whether the individual would have substantial difficulty in being involved in the assessment process and if so consider the need for independent advocacy. The Council will also consider whether the person may have difficulty communicating (for example those with Autistic Spectrum Disorder or Profound and Multiple Learning Disabilities), and whether a specialist or interpreter may be needed to support communication.

Depending on the circumstances of the individual concerned, the assessment process may be paused to allow any preventative interventions to take place and for any benefit to the adult to be determined.

The Council is committed to giving the individual an indicative timescale over which their assessment will be conducted, and to keep the person informed throughout the assessment process.

## **9.6 Appropriate and proportionate assessments**

In order to ensure the assessment is appropriate, the Council will be clear and transparent with the person being assessed, so that that the individual is able to;

- Understand the assessment process
- understand the implications of the assessment process
- understand their own needs, the outcomes they want to achieve and the impact of their needs on their own wellbeing in order to engage effectively with the assessment process
- identify the options that are available to them to meet those outcomes and to support their independence and wellbeing
- understand the basis on which decisions are reached

To support this, the Council will give consideration to the preferences of the individual with regards to the timing, location and format of the assessment.

In ensuring the assessment is proportionate, the Council will consider;

- the person's wishes and preferences and desired outcomes
- the severity and overall extent of the persons needs
- the potential fluctuation of a person's needs, both adults and carers

## **9.7 Cases where a person lacks capacity**

Putting the person at the heart of the assessment process is crucial to understanding the person's needs, outcomes and wellbeing, and delivering better care and support. The Council will involve the person being assessed in the process as they are best placed to judge their own wellbeing.

The Council recognises that an individual may be unable to request an assessment or may struggle to express their needs.

In these situations the Council will carry out "supported decision making", helping the person to be as involved as possible in the assessment. The Council will seek to find someone appropriate and independent to support and represent the person, for the purpose of facilitating their involvement.

Where there is a family member or friend who is willing and able to facilitate the person's involvement effectively, and who is acceptable to the individual and judged appropriate by the Council, they may be asked to support the individual in the assessment process.

Where there is no one thought to be appropriate for this role – either because there is no family member or friend willing and available, or if the individual does not want them to be a part of the assessment – the Council will appoint an independent advocate.



## **9.8 Needs assessment**

The Council will seek to identify an individual's care and support needs via the assessment process. In doing so, the Council will consider whether the individual's needs impact on their wellbeing beyond the ways identified by the individual.

During the assessment process the Council will seek to identify and record where any needs are being willingly met by a carer, although the Council is not required to meet those needs.

## **9.9 Carers assessments**

Where an individual provides or intends to provide care for another adult and it appears that the carer may have any level of needs for support, the Council will offer to carry out a carer's assessment.

A carers' assessment will seek to establish not only the carer's needs for support, but also the sustainability of the caring role itself, which includes both the practical and emotional support the carer provides to the adult. This will allow the Council to make a realistic evaluation of the carer's present and future needs for support and whether the caring relationship is sustainable.

The carer's assessment will consider the outcomes that the carer wants to achieve in their daily life, their activities beyond their caring responsibilities, and the impact of caring upon those activities.

There may be circumstances where an adult providing care, either under contract or through voluntary work, is also providing care for an individual outside of those arrangements. In such a circumstance, the Council will consider whether to carry out a carer's assessment for that part of the care they are not providing on a contractual or voluntary basis.

## **9.10 Refusal of assessment**

An adult with possible care and support needs or a carer may choose to refuse to have an assessment. In such circumstances the Council is not required to carry out an assessment. However, where it is identified that an adult lacks mental capacity and that carrying out a needs assessment would be in the adult's best interests, the Council is required to do so. The same applies where the local authorities identifies that an adult is experiencing, or is at risk of experiencing, abuse or neglect.

In instances where an individual or a carer has refused an assessment but at a later time requests one, the Council will ensure one is carried out.

## **9.11 Safeguarding**

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

The decision to carry out a safeguarding enquiry does not depend on the person's eligibility, but will be taken wherever there is reasonable cause to think that the person is experiencing, or is at risk of, abuse or neglect.

Where the actions required to protect the adult can be met by the Council, appropriate action will be taken. In the majority of cases the response will involve other agencies, such as the police, a change of accommodation or action by the CQC.

#### **9.12 Focus on preventing needs**

The assessment and eligibility process underpins the Council's preventative agenda. Throughout the assessment process the Council will seek to identify needs that could be reduced, or where escalation could be delayed through the use of specific preventive services, or relevant information and advice.

#### **9.13 Considering the person's strengths and capabilities**

During the assessment process, the Council will consider what else other than the provision of care and support might assist the person in meeting the outcomes they want to achieve. This will include the person's own strengths and capabilities, and what support might be available from their wider support network or within the community to help.

#### **9.14 A whole family approach**

During the assessment process, the Council will consider the impact of the person's needs for care and support on family members or other people the authority may feel appropriate. This will require the Council to identify anyone who may be part of the person's wider network of care and support.

In considering the impact of the person's needs on those around them, the Council will consider whether or not the provision of any information and advice would be beneficial to those people they have identified.

#### **9.15 Young carers**

During the assessment process, the Council will seek to identify any children who are involved in providing care. Identification of a young carer in the family will result in an offer of a needs assessment for the adult requiring care and support and, where appropriate, the Council will consider whether the child or young carer should be referred for a young carer's assessment or a needs assessment under the Children Act 1989 or a young carer's assessment under the Care Act 2014.

When assessing the young carer, the Council will consider;

- The impact of the person's needs on the young carers wellbeing, welfare, education and development
- Whether any of the caring responsibilities the young carer is undertaking are inappropriate

#### **9.16 Supported self-assessment**

A supported self-assessment is an assessment carried out jointly by the adult with care and support needs or carer and the Council. It places the individual in control of the assessment process to a point where they themselves complete their assessment form.

Whilst it is the person filling in the assessment form, the duty to assess the person's needs, and in doing so ensure that they are accurate and complete, remains with the Council. This may involve the Council seeking consent to obtain the views of those who are in regular contact with the person self-assessing.

Before offering a supported self-assessment, the Council will first ensure that the individual has capacity to fully assess and reflect on their own needs. If a person is felt to lack capacity, the Council will carry out a capacity assessment. If this shows that the individual lacks capacity, a self-assessment will not be offered.

Where an individual lacking capacity does not have the support required from a carer or family member who is willing and able to facilitate the person's involvement effectively and who is acceptable to the individual and judged appropriate by the Council, an independent advocate will be arranged to assist them in their self-assessment.

Once assured that the self-assessment has accurately captured the person's needs, the Council will decide whether the individual meets the national eligibility criteria. Although the Council and the individual are working jointly to ascertain needs and eligibility, the final decision regarding eligibility will rest with the local authority.

In all cases, the Council will inform the person of their eligibility judgement and why the local authority has reached the eligibility determination that it has.

### **9.17 Combining assessments**

The assessment of an adult and a carer may be combined, where both parties agree. If either of the individuals concerned does not agree to a combined assessment, then the assessments must be carried out separately.

### **9.18 Integrated assessments**

The Council may carry out an assessment jointly with another organisation in relation to the person concerned, provided that person agrees. The exact form of integrated assessment will depend on the individual's circumstances, it may involve working together with relevant professionals on a single assessment or it may include putting processes in place to ensure that the person is referred to another agency for assessment.

### **9.19 NHS continuing healthcare**

Where it appears that a person may be eligible for NHS continuing healthcare, the Council will notify the local Clinical Commissioning Group, as the ultimate responsibility for arranging and monitoring these services rests with the NHS.

### **9.20 Assessing people who have visual and hearing impairment**

If a person has full or partial visual and hearing impairment that causes "difficulties with communication, access to information and mobility" a specialist assessment will be carried out by a trained assessor.

### **9.21 Record keeping**

Once completed, the Council will provide a copy of the assessment to the person being assessed.

### 9.22 Delegating assessments

The Council may choose to delegate responsibility for the majority of its care and support duties to other organisations. If an assessment is carried out by another organisation, it should be treated as having been carried out by the Council.

### 9.23 Eligibility criteria - adults

The Council will comply with the national eligibility criteria which establishes a minimum threshold for adult care and support needs and transparency on what level of need is eligible.

The assessment will be used to identify how a person's needs affect their ability to achieve relevant outcomes, and how this impacts on their wellbeing. In considering whether an adult with care and support needs has eligible needs, the Council will 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 following outcomes
  - managing and maintaining nutrition
  - maintaining personal hygiene
  - managing toilet needs
  - being appropriately clothed
  - being able to make use of the adult's home safely
  - maintaining a habitable home environment
  - developing and maintaining family or other personal relationship
  - accessing and engaging in work, training, education or volunteering
  - making use of necessary facilities or services in the local community including public transport, and recreational facilities or services
  - carrying out any caring responsibilities the adult has for a child
- 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

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

The Council has developed an assessment tool and a risk matrix which will be used by staff during the assessment process to ascertain an individual's eligibility.

### 9.24 Eligibility criteria – carers

Carers can be eligible for support in their own right. The Council will comply with the national eligibility criteria which sets a minimum threshold for carer support, and provides transparency on what level of need is eligible.

The assessment will be used to identify how a person's needs affect their ability to achieve relevant outcomes, and how this impacts on their wellbeing. In considering whether an adult with care and support needs has eligible needs, the Council will consider whether:

In carrying out an assessment to determine a carer's eligible needs, the Council will consider whether:

- the needs arise as a consequence of providing necessary care for an adult
- the carer is **unable** to do **any** of the following as a result of their caring duties;
  - carrying out any caring responsibilities the carer has for a child
  - providing care to other persons for whom the carer provides care
  - maintaining a habitable home environment in the carer's home (whether or not this is also the home of the adult needing care)
  - managing and maintaining nutrition
  - developing and maintaining family or other personal relationships
  - engaging in work, training, education or volunteering
  - making use of the necessary facilities or services in the local community, including recreational facilities or services
  - engaging in recreational activities.
- as a consequence of that fact there is, or there is likely to be, a significant impact on the carer's wellbeing.

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

The Council has developed an assessment tool and a risk matrix which will be used by staff during the assessment process to ascertain an individual's eligibility.

## 9.25 Next steps

The Council will provide the outcome of the eligibility determination to the individual who has been assessed.

Where the individual has no eligible needs, the Council may still provide relevant information and advice about what can be done to meet or reduce the person's needs, and what can be done to prevent or delay the development of needs in the future.

If a person is found to have some eligible needs, the Council will;

- Agree with the adult which of their needs are being met through other support networks, such as a carer or a local support group
- Agree with the adult which of their needs are to be met by the Council and begin the support planning process
- Arrange for a financial assessment to determine whether the person should contribute towards their care and support services

## 9.26 Equalities

The Council is committed to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

[http://www.cambridgeshire.gov.uk/info/20086/communities\\_and\\_localism/480/equality\\_and\\_diversity](http://www.cambridgeshire.gov.uk/info/20086/communities_and_localism/480/equality_and_diversity)

## 9.27 Policy review

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

## 9.28 Transition to the new legal framework

This policy relates to duties established under the Care Act 2014 and comes into effect from the 1<sup>st</sup> April 2015.

Individuals who have received an assessment under the previous legislation will not be required to be re-assessed purely because of the new legal framework, however any assessments or re-assessments started on or after the 1<sup>st</sup> April 2015 will be carried out in line with the new duties and responsibilities established in the Care Act 2014.

This applies equally to individuals with care and support needs and carers.

## 9.29 What does this mean for me?

**As a local resident:** The Council will provide information about the way assessments for care and support needs are undertaken.

**As someone who may need care and support:** Depending on your circumstances, you may be offered an assessment to help identify your eligible care and support needs. The assessment process should be viewed as a critical intervention in its own right and will help you understand your individual situation, the needs you have and what steps you can take to help reduce, delay or prevent these needs from increasing, and how to access the type of support you require. This process will take into account your own strengths and capabilities, and any support you are receiving from family, friends and other support networks. When undertaking a needs assessment, the Council will apply the national eligibility criteria to ensure a consistent and transparent approach. There will be a range of assessment methods available to suit your preference.

**As a carer of someone who might need care and support:** Depending on your circumstances, your views may be sought to help complete an assessment of an individual who is undergoing a needs assessment. You may also be offered an assessment to help identify your eligible care and support needs.

**As a care and support professional:** You will need to have a general awareness of this policy and the implications when being asked to undertake a needs assessment

### 9.30 Useful links

<b>Care Act legislation – clauses 9-13:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/9/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/9/enacted</a>
<b>Care Act Guidance – section 1:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366048/437382902999_Regs_Affirmative_Accessible.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366048/437382902999_Regs_Affirmative_Accessible.pdf</a> <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf</a>
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"> <li>• Wellbeing</li> <li>• Prevention</li> <li>• Information &amp; advice</li> <li>• Safeguarding</li> <li>• Advocacy</li> <li>• Support planning</li> <li>• Direct payments</li> <li>• Ordinary residence rules</li> <li>• Transitions to adult services</li> <li>• Prisoners</li> <li>• Charging and financial assessments</li> </ul>



## 10.0 Advocacy

### 10.1 Advocacy

Local authorities should involve people in decisions made about them and their care and support. No matter how complex a person's needs, local authorities are required to help people express their wishes and feelings, support them in weighing up their options, and assist them in making their own decisions. Where someone has substantial difficulty in being involved in the decision-making process, the Care Act 2014 establishes a duty for local authorities to provide an independent advocate to support their involvement as fully as is possible.

### 10.2 Key policy statements: advocacy

- What is advocacy?
- Advocacy and the duty to involve
- Judging 'substantial' difficulty in being involved
- When the duty to provide independent advocacy applies
- Judgements made by the Council
- Input from friends and family
- Exceptions and special circumstances
- Who can act as an independent advocate
- The role of the independent advocate
- Representing
- The Council's role in supporting an independent advocate
- Availability of advocacy services in Cambridgeshire
- Equalities
- Policy review
- What does this mean for me?

### 10.3 What is advocacy?

The role of the independent advocate is to support and represent the individual and to facilitate their involvement in the key processes and interactions with the local authority and other organisations as required.

The ultimate aim is for people's wishes feelings and needs to be at the heart of the assessment, care planning and review processes.

### 10.4 Advocacy and the duty to involve

The Council will arrange an independent advocate to facilitate the involvement of a person in their assessment, in the preparation of their care and support plan and in the review of their care plan, as well as in safeguarding enquiries and SARs if two conditions are met. These are;

- That if an independent advocate were not provided then the person would have substantial difficulty in being fully involved in these processes



- There is no appropriate individual available to support and represent the person's wishes who is not paid or professionally engaged in providing care or treatment to the person or their carer

Many of the people who qualify for advocacy under the Care Act will also qualify for advocacy under the Mental Capacity Act 2005. The Council supports the view that the same advocate can provide support as an advocate under the Care Act and under the Mental Capacity Act.

### 10.5 Judging 'substantial' difficulty in being involved

The Council will comply with the Care Act 2014 guidance which states a "substantial difficulty" might be found in anyone of the following areas;

- Understanding relevant information
- Retaining information
- Using or weighing the information as part of the process of being involved
- Communicating their views, wishes and feelings

### 10.6 When the duty to provide independent advocacy applies

The duty to provide independent advocates applies to the following;

- Assessing needs for care and support
- Adult safeguarding
- Care and support reviews

**Assessing needs for care and support:** From the point of first contact, request or referral (including self-referral) for an assessment, the Council will involve the person in the process. The Council will initially consider the best way of involving the person in the assessment processes, which is appropriate and proportionate to the person's needs and circumstances.

Where the Council considers that a person has "**substantial difficulty**" in engaging with the assessment process, then they must consider whether there is anyone appropriate who can support the person be fully involved. This might for example be a carer, family member or friend. If there is no one appropriate, then the Council will arrange for an independent advocate. This applies equally to;

- A needs assessment
- A carer's assessment
- The preparation of a care and support plan or support plan
- A review of care and support plan or support plan
- A child's needs assessment
- A child's carer's assessment
- A young carer's assessment
- Adult safeguarding

As part of the assessment and the care and support plan, the Council will have regard to the need to help protect people from abuse and neglect, and will assist the person to identify any risks and ways to manage them.

The Council will also have regard to ensuring that any restriction on the person's rights or freedom is kept to the minimum necessary. Restrictions will be carefully considered and frequently reviewed. Any potential deprivation of liberty will be authorised, either by a Deprivation of Liberty Authorisation by the local authority or the Court of Protection under the Deprivation of Liberty Safeguards in the Mental Capacity Act.

Where it appears that a person may be eligible for NHS Continuing Health Care (NHS CHC) the Council will notify the local Clinical Commissioning Group (CCG). Where an individual is deemed not eligible for NHS CHC, the Council retains the duty to carry out an assessment of needs where a person has an appearance of needs and a duty to meet those eligible. In doing so, the Council will consider the need for an independent advocate to support the person's involvement in that assessment.

Under the Mental Health Act 1983 (MHA) certain people, known as 'qualifying patients', are entitled to the help and support from an Independent Mental Health Advocate (IMHA). Section 117 of the MHA places a duty on the NHS and the Council to provide aftercare, which will usually involve a joint assessment.

Those people who do not retain a right to an IMHA, whose care and support needs are being assessed, planned or reviewed will be considered for an advocate under the Care Act 2014.

**Adult safeguarding:** Effective safeguarding is about seeking to promote an adult's rights as well as about protecting their physical safety and taking action to prevent the occurrence or reoccurrence of abuse or neglect. It enables the adult to understand both the risk of abuse and actions that she or he can take, or ask others to take, to mitigate that risk.

The Council will arrange, where necessary, for an independent advocate to support and represent an adult who is the subject of a safeguarding enquiry or a safeguarding adult review (SAR). Where an independent advocate has already been arranged under the Care Act 2014 or the Mental Capacity Act 2005 then, unless inappropriate, the same advocate should be used.

The Council recognises It is critical in this particularly sensitive area (whether an enquiry or a SAR) that the adult is supported in what may feel a daunting process which may lead to some very difficult decisions.

**Care and support reviews:** The Council will involve the person, their carer and any other individual that the person wants to be involved in any review of their care and support plan, and take all reasonable steps to agree any changes. In doing so, the Council will consider whether an advocate is required to facilitate the person's involvement in the review of a care and support plan and, if appropriate, appoint an advocate.

## 10.7 Judgements made by the local authority

The Council will consider whether there is an appropriate individual (or individuals) who can facilitate a person's involvement in the assessment, planning or review processes, and this includes three specific considerations. These are;

- It cannot be someone who is already providing the person with care or treatment in a professional capacity or on a paid basis (regardless of who employs or pays for them).
- The person's wish not to be supported by a particular individual should be respected. In such a case the Council must be satisfied that it is in the person's best interest in order to overrule this wish.
- The appropriate individual is expected to support and represent the person and to facilitate their involvement in the process.

## **10.8 Input from friends and family**

The council will consider the most appropriate action, dependent on the specific circumstances of the individual in question.

If the Council decides that they are required to appoint an independent advocate as the person does not have friends or family who can facilitate their involvement, the Council will still consult with those friends or family members when the person asks them to.

There may be some cases where the local authority considers that a person needs the support of both a family member and an advocate.

It is the Council's decision as to whether a family member or friend can act as an appropriate person to facilitate the individual's involvement.

It is the Council's responsibility to communicate this decision to the individual's friends and family where this may have been in question and whenever appropriate. The overall aim should be for people who need advocacy to be identified and when relevant, receive consistent support as early as possible and throughout the assessment, the care and support planning and the review processes.

The Council may be carrying out assessments of two people in the same household. If both people agree to have the same advocate, and if the Council considers there is no conflict of interest between the individuals or either of the individuals and the advocate, then the same advocate may support and represent the two people.

## **10.9 Exceptions and special circumstances**

In general, a person who has substantial difficulty in being involved in their assessment, plan and review, will only become eligible for an advocate where there is no one appropriate to support their involvement. The exceptions are:

- Where the exercising of the assessment or planning function might result in placement in NHS-funded provision in either a hospital for a period exceeding four weeks or in a care home for a period of eight weeks or more and the Council believes that it would be in the best interests of the individual to arrange an advocate
- Where there is a disagreement, relating to the individual, between the Council and the appropriate person whose role it would be to facilitate the individual's involvement, and the Council and the appropriate person agree that the involvement of an independent advocate would be beneficial to the individual

## 10.10 Who can act as an independent advocate

The Care Act 2014 contains some specific regulations and guidance relating to independent advocates, which is endorsed by the Council, as detailed below.

An independent advocate must not be working for the Council, or for an organisation that is commissioned to carry out assessments, care and support plans or reviews for the local authority.

In certain circumstances, in addition to their role under the Care Act, an advocate **may** assist an individual to develop their own care or support plan if requested to by the individual, but they cannot be the person to authorise the support plan or to approve care and support plans or reviews on behalf of the Council.

Nor can an advocate be appointed if they are providing care or treatment to the individual in a professional or a paid capacity.

The Council recognises that an advocate's must have the following attributes, in order to comply with the legal requirements outlined in the Care Act 2014;

- A suitable level of appropriate experience:
- Appropriate training
- Competency in the task
- Integrity and good character
- The ability to work independently of the local authority or body carrying out assessments, planning or reviews on the local authority's behalf
- Arrangements for regular supervision

## 10.11 The role of an independent advocate

The Council recognises that acting as an independent advocate for a person with a substantial difficulty in engaging with care and support or safeguarding processes includes;

- Assisting a person to understand the assessment, care and support planning and review and safeguarding processes.
- Assisting a person to communicate their views, wishes and feelings
- Assisting a person to understand how their needs can be met by the local authority or otherwise
- Assisting the person to make decisions about their care and support arrangements
- Assisting the person to understand their rights under the Care Act
- Assisting a person to challenge a decision or process made by the local authority

In line with the Care Act 2014 guidance, the Council will support this by allowing independent advocates to examine and take copies of relevant records in certain circumstances. This mirrors the powers of an Independent Mental Capacity Advocate (IMCA).

In terms of safeguarding there are some particular important issues for advocates to address. These include assisting a person to;

- Decide what outcomes/changes they want

- Understand the behaviour of others that are abusive/neglectful
- Understand which actions of their own may expose them to avoidable abuse or neglect
- Understand what actions that they can take to safeguard themselves
- Understand what advice and help they can expect from others, including the criminal justice system
- Understand what parts of the process are completely or partially within their control
- Explain what help they want to avoid reoccurrence and also recover from the experience

### **10.12 Representing**

The advocate must write a report outlining their concerns for the Council, and the Council has a duty to convene a meeting with the advocate to consider the concerns and provide a written response to the advocate following the meeting.

The ultimate goal of this representation is to secure a person's rights, promote the individual's well-being and ensure that their wishes are taken fully into account.

### **10.13 The Council's role in supporting an independent advocate**

The Council recognises that an advocate's duty is to support and represent a person who has substantial difficulty in engaging with Council processes.

The Council will take into account any representations made by an advocate, and provide a written response to a report from an advocate which outlines concerns about how the Council has acted or what decision has been made or what outcome is proposed. The Council agrees that the advocate's role incorporates 'challenge' on behalf of the individual.

### **10.14 Availability of advocacy services in Cambridgeshire**

The Council is committed to ensuring sufficient provision of independent advocacy services in the county, in order to meet the obligations established under the Care Act 2014.

### **10.15 Equalities**

The Council is commitment to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it

- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

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## 10.16 Policy review

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

## 10.17 What does this mean for me?

**As a local resident:** This policy only applies to people with care and support needs

**As someone who may need care and support:** Peoples wishes, feelings and needs should be at the heart of the assessment, care and support planning, and review process. Depending on your circumstances, an independent advocate may be appointed by the Council to support your involvement in the process.

**As a carer of someone who might need care and support:** The Council will consider the most appropriate action dependent on the specific circumstances of the individual in question, however the Council will seek to consult with friends and family members when the person with care and support needs asks for their involvement.

**As a care and support professional:** You should have a general awareness of this policy, paying particular attention to the circumstances which require an independent advocate.

## 10.18 Useful links

<b>Care Act legislation – clauses 67-68:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/67/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/67/enacted</a>
<b>Care Act Guidance – section 7:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Care Act Regulations:</b>	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"> <li>• Wellbeing</li> <li>• Prevention</li> <li>• Information &amp; advice</li> <li>• Safeguarding</li> <li>• Assessment of care and support needs</li> </ul>

	<ul style="list-style-type: none"> <li>• Support planning</li> <li>• Direct payments</li> <li>• Transitions to adult services</li> <li>• Prisoners</li> <li>• Charging and financial assessments</li> </ul>
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## 11.0 Support planning

### 11.1 Support planning

A vital part of the care and support process for people with ongoing needs is the “care and support plan” or “support plan” in the case of carers.

The individual concerned will be given every opportunity to take joint ownership of the development of the plan. The plan ‘belongs’ to the person it is intended for, with the local authority role to ensure the production and sign-off of the plan to ensure that it is appropriate to meet the identified needs.

### 11.2 Key policy statements: support planning

- What is support planning?
- Meeting needs
- Changing the way needs are met
- Producing care and support plans
- Care and support plan - sign-off and assurance
- What is a personal budget?
- Carers personal budgets
- Reviewing the care and support plan
- Revising the care and support plan
- Equalities
- Policy review
- Transition to the new legal framework
- What does this mean for me?

### 11.3 What is support planning?

Once an individual has been assessed as having eligible needs, and ordinary residence established, a period of support planning will take place which will detail how that person’s needs will be met.

The plan should contain an indication as to the personal budget that’s been identified to give everyone involved clear information regarding the care and supports costs and the amount that the local authority will make available. Including the personal budget helps people to make better informed decisions as to how needs will be met.

The guiding principle in the development of the plan is that the process should be person-centred and person-led, in order to meet the needs and outcomes of the person in ways that works for them as an individual and their family.

### 11.4 Meeting needs

The concept of “meeting needs” is intended to be broader than a duty to provide or arrange a particular service. Because a person’s needs are specific to them, there are many ways in which their needs can be met. The purpose of the care and



support planning process is to agree **how** a person's needs should be met, and therefore how the Council will discharge its duty, or its power, to do so.

**How needs can be met:** There are a number of broad options for how needs could be met, and the use of one or more of these will depend on the individual's specific circumstances. These are;

- The Council directly providing some type of support
- The Council arranging for a care and support provider to provide some type of support
- The Council making a direct payment, to enable the person to purchase their own care and support
- Some combination of the above
- The Council 'brokering' a service on behalf of the individual in specific cases, for example with people who are financially assessed as being able to pay for their own care. This would involve the Council supporting the individual to select and enter into a contract with a provider. The contract would be held with the individual, not by the Council.

When determining how to meet someone's needs, The Council will take into consideration the individual's preferences and consider the person's goals in approaching the authority for support, and the level or nature of support desired.

The Council recognises that eligible needs can sometimes be met by services or arrangements beyond the provision or arrangement of services by local authorities. Needs may be met via a carer, a community provision or another institution, other than the Council. In such a case, the eligible needs will be included in the support plan, but these services may not be included in any support arrangements commissioned or arranged by the Council. However, they will be regularly reviewed by the Council alongside the other arrangements to ensure their continued suitability.

Whilst the Council is committed to joint working with the NHS and housing partners, the Council will not directly provide or arrange any services that these organisations are legally obliged to provide.

**Non-eligible needs:** Under certain circumstances, the Council may choose to meet some non-eligible needs. Where the Council chooses not to meet any non-eligible needs, the Council will provide a written explanation for this decision.

## **11.5 Changing the way needs are met**

The Council is committed to meeting the eligible needs of the people receiving care and support. In recognising the importance of family and community networks, where eligible needs can be met by support from family carers or engagement with community networks and activities, these will be reflected in the support plan and will reduce the need for support funded and/or arranged by the Council.

The way that eligible needs are met can change over time as new and innovative ways of working are developed and examples of national and local best practice are shared and adopted across the county. The Council will take decisions on a case-by-case basis and will balance assessed risk against the total costs of different

potential options for meeting needs, and will include cost as a relevant factor in deciding between suitable alternative options for meeting needs. This does not mean choosing the cheapest option; but the one which delivers the outcomes desired for the best value. As a consequence, the way that needs are being met can change over time.

Changes being introduced currently are:

- **Undertaking an assessment of night time activity using assistive technology equipment to reduce reliance on waking night staff.** If waking night staff may be required, an assessment of night time activity using assistive technology equipment will be undertaken to determine if the level of need and any risks can be met using specific assistive technology. For example equipment could be used to alert a sleep-in member of staff that support is required. This would remove the need for more expensive waking night staff. Other opportunities to use assistive technology to support people will also be considered and where possible assistive technology will be the preferred option of meeting identified needs.
- **Reviewing the support provided to reduce social isolation.** Some people have eligible needs around reducing or preventing social isolation. These needs can be met in a variety of different ways and it may be that one activity or service to meet a need around employment for example simultaneously meets a need around preventing social isolation. A clearer distinction will need to be made between activities that address social isolation and leisure activities, where the cost of the activity should fall to the person rather than to the Council.
- **Clarifying when a single housing and support arrangement would be considered appropriate by the Council rather than more cost effective shared housing arrangements.** Shared housing arrangements, particularly for younger people with learning disabilities, offer a sociable setting for people to live and is a cost effective option, with some of the staff support being shared between the group. In some circumstances a single person housing and support arrangement will be necessary to meet the specific needs of the individual but this is expected to be in exceptional cases only.

## 11.6 Producing care and support plans

The Council is committed to ensuring care and support plans are person-centred, and to ensuring the individual has every reasonable opportunity to be involved in the planning. The Council will involve the person the plan is intended for, the carer (if there is one) and any other person the adult requests to be involved.

The Council is committed to including the following key elements in a care and support plan;

The needs identified by the assessment;

- Whether, and to what extent, the needs meet the eligibility criteria
- The needs that the authority is going to meet, and how it intends to do so
- For a person needing care, for which of the desired outcomes care and support could be relevant

- For a carer, the outcomes the carer wishes to achieve, and their wishes around providing
- care, work, education and recreation where support could be relevant
- The personal budget
- Information and advice on what can be done to reduce the needs in question, and to prevent or delay the development of needs in the future
- Where needs are being met via a direct payment, the needs to be met via the direct payment and the amount and frequency of the payments

During the support planning process, the Council will give consideration to the extent to which the needs or a person's other circumstances may mean that they are at risk of abuse or neglect. The planning process may bring to light new information that suggests a safeguarding issue, and therefore lead to a requirement to carry out a safeguarding enquiry.

**Carer involvement:** The person may have assessed eligible needs which are being met by a carer at the time of the plan – in these cases the Council will seek to involve the carer in the planning process. Provided the carer remains willing and able to continue caring, the local authority is not required to meet those needs. However, the Council will record the carer's willingness to provide care and the extent of this in the plan of the person and also the carer, so that the authority is able to respond to any changes in circumstance more effectively.

Where the carer also has eligible needs, the Council may suggest the production of a joint support plan. Both parties will need to agree with this approach before a joint plan is undertaken.

**Direct payments:** In developing the plan, the local authority must inform the person which, if any, of their needs may be met by a direct payment. More detail can be found in policy statement "10.0 Direct payments".

**Mental capacity:** The Mental Capacity Act 2005 (MCA) requires local authorities to assume that people have capacity and can make decisions for themselves, unless otherwise established. Every adult has the right to make his or her own decisions in respect of his or her care and support plan, and must be assumed to have capacity to do so unless it is proved otherwise.

The Council endorses the view that a person must be given all practicable help to make the specific decision before being assessed as lacking capacity to make their own decisions.

Where an individual has been assessed as lacking capacity to make a particular decision, then the Council will commence care and support planning in the person's best interests under the meaning of the MCA.

Where individuals have difficulty in being actively involved with the planning process, the Council will seek to involve any person who appears to the authority to be interested in the welfare of the person. Where individuals have no family or friends who are able to facilitate the person's involvement in the plan, the Council will

arrange for an independent advocate to represent and support the person's involvement.

This duty arises if the person would, without the representation and support of an independent advocate, experience substantial difficulty in any of the following;

- Understanding relevant information
- Retaining relevant information
- Using or weighing that information as part of the process of being involved
- Communicating their views, wishes or feelings

**Combined care and support plans:** Depending on the specific circumstances of the individual concerned, the Council may recommend the production of a joint care and support plan. The plan can only be combined if all parties to whom it is relevant agree and understand the implications of sharing data and information. The combination of plans should aim to maximise outcomes for all involved. The Council is legally obliged to obtain consent from all parties involved before undertaking a joint care and support plan. During this process, the Council will work with partners to establish a lead organisation for the combined plan.

### 11.7 Care and support plan - sign-off and assurance

The Council will take all reasonable steps to agree with the person concerned the manner in which the plan details how needs will be met, before signing-off the plan.

Where a care and support plan is created by the person, a third party or jointly with other organisations, The Council's role includes overseeing and providing guidance for the completion of the plan; and ensuring that the plan sufficiently meets needs, is appropriate and represent the best balance between value for money and maximisation of outcomes for the person

In the event that the Council prepares the plan on behalf of the person or delegating this to a third-party, it will reflect the best interests of the person throughout.

Where possible sign-off should occur when the person, any third party involved in the preparation of the plan and the Council have agreed on the factors within the plan, including the final personal budget amount and how the needs in question will be met.

Where an independent advocate has been used, they will not be asked to sign-off the plan, as this remains the responsibility of the Council.

The Council recognises the importance of the care and support plan and will ensure timely completion, proportionate to the needs that are to be met. The Council is also committed to ensuring that the planning process does not unduly delay needs being met.

Upon completion of the plan, the Council will give a copy of the final plan to the person for whom the plan is intended and any other person they request to receive a copy, including their independent advocate if they have one and the person agrees.

### 11.8 What is a personal budget?

The personal budget calculation forms a key part of the care and support planning process.

The personal budget sets out the overall sum of money that will be available to meet a person's eligible needs. The individual can then exercise choice and control over the way their eligible needs are met through their care and support plan.

Some, or all, of the personal budget can be taken as a direct payment to enable the individual to directly purchase care and support services. See the Direct Payment Policy Statement for further details.

Key benefits of a personal budget are;

- Knowing, before care and support planning begins, an estimate of how much money will be available to meet a person's assessed needs and, with the final personal budget, having clear information about the total amount of the budget, including proportion the local authority will pay, and what amount (if any) the person will pay
- Being able to choose from a range of options for how the money is managed, including direct payments, the local authority managing the budget and a provider or third party managing the budget on the individual's behalf (an individual service fund), or a combination of these approaches
- Having a choice over who is involved in developing the care and support plan for how the personal budget will be spent, including from family or friends
- Having greater choice and control over the way the personal budget is used to purchase care and support, and from whom

The Council is committed to ensuring the personal budget calculation is transparent and robust so people have confidence that their allocation is correct and therefore sufficient to meet their eligible care and support needs.

The personal budget will contain;

- The cost to the Council of meeting a person's eligible needs
- Any financial contributions the individual must make towards the cost of their care and support services

The personal budget will not contain;

- Any preventative services deemed to be 'free at point of delivery' (such as occupational therapy and assistive telecare equipment and re-ablement services)
- Any top-up fees paid by the individual or a third-party
- Any administration charges applicable for the arranging of care and support services for people who have financial resources above the financial limit

These items will be presented separate but alongside the personal budget. This ensures that the personal budget remains transparent, timely and sufficient to meet the individual's eligible needs.

## **11.9 Personal budgets for carers**

In line with the principles of the Care Act 2014, the Council has a duty to promote wellbeing, and will support carers to look after their own physical and mental health and emotional wellbeing, social and economic wellbeing and to spend time with other family members and personal relationships.

To support this objective, carers will receive a personal budget. The personal budget calculation forms a key part of the carers support planning process.

The personal budget sets out the overall sum of money that will be available to meet the carers eligible needs. The carer can then exercise choice and control over the way their eligible needs are met through support plan.

Some, or all, of the personal budget can be taken as a direct payment to enable the carer to directly purchase support services. See the Direct Payment Policy Statement for further details.

### **11.10 Reviewing the care and support plan**

Keeping care and support plans under review is an important part of the process, and is essential to ensure the plan remains relevant to their goals and aspirations.

A care and support plan review will cover these broad elements, as appropriate;

- Have the person's circumstances and/or care and support or support needs changed?
- What is working in the plan, what is not working, and what might need to change?
- Have the outcomes identified in the plan been achieved or not?
- Does the person have new outcomes they want to meet?
- Could improvements be made to achieve better outcomes?
- Is the person's personal budget enabling them to meet their needs and the outcomes identified in their plan, and
- Is the current method of managing it still the best one for what they want to achieve, e.g. should direct payments be considered?
- Is the personal budget still sufficient to meet the person's needs?
- Are there any changes in the person's informal and community support networks which might impact negatively or positively on the plan?
- Has there been any changes to the person's needs or circumstances which might mean they are at risk of abuse or neglect?
- Is the person, carer, independent advocate satisfied with the plan?

A review of a care and support plan might be triggered by;

- A planned review – where a date is agreed with the individual during the care and support planning process
- An unplanned review – instigated due to a change in need or circumstances of the individual concerned, such as an unplanned hospital admission
- A requested review – where the individual or their carer or other interested party requests a review of the persons care and support plan

It will be a 'light-touch' review designed to ensure that the care and support plan is working as intended and help identify any minor adjustments needed.

The Council is committed to ensuring that reviews are proportionate to the needs and circumstances of the individual concerned. Where conditions are progressive and a person's health is deteriorating, frequent reviews may be scheduled.

The right to request a review applies to all parties interested in a person's wellbeing, not just the person receiving care.

In considering whether to undertake a review the Council will involve the person, carer and anyone else the person requests to be involved where feasible. The Council will seek to identify those who may have significant difficulty in being fully involved in the decision to review and when there is no appropriate person who can represent or support their involvement and consider the duty to provide independent advocacy.

Where a decision is made not to conduct a review following a request, the Council will set out the reasons for not accepting the request in a format accessible to the person, along with details of how to pursue the matter if the person remains unsatisfied.

#### **11.11 Revising the care and support plan**

Where a decision has been made following a review that a revision is necessary, the Council will inform the person, or a person acting on their behalf of the decision and what this will involve. Where the person has substantial difficulty in being actively involved with the review, and where there are no family or friends to help them being engaged, an independent advocate must be involved.

When revising the plan the Council will involve the person, their carer and any other persons the adult may want involved, and their advocate where the person qualifies for one. The Council will take all reasonable steps to agree the revision. The revision will wherever possible follow the process used in the assessment and care planning stages. Indeed, the Council will, if satisfied that the circumstances have changed in a way that affects a care and support or support plan, carry out a needs or carer's assessment and financial assessment, and then revise the plan and personal budget accordingly.

In some cases the review will confirm that the care and support plan remains relevant and represents the best and most effective way of meeting a person's eligible needs.

In other cases the review will result in changes to the plan, either because a person's needs have changed, or because there are new and more effective ways of meeting an individual's needs.

The review process will be fundamentally the same as the one followed to establish the initial care and support plan. This will include the following

- The person's wishes and feelings should be identified as far as possible and they should be supported to be involved
- The revision should be proportionate to the needs to be met



- Where the plan was produced in combination with other plans, this should be considered at the revision stage
- The person, carer or person acting on their behalf should be allowed to self-plan in conjunction with the local authority where appropriate
- The development of the revised plan must be made with the involvement of the adult/carer, and any person the adult asks the authority to involve
- Any additional elements that were incorporated into the original plan should be replicated in the revised plan where appropriate and agreed by all parties
- There needs to be clarity on the sign-off process, especially where the revised plan is prepared by the person and the local authority

Particular attention will be taken if the revisions to the plan propose increased restraints or restrictions on a person who has not got the capacity to agree them. This may become a deprivation of liberty, which requires appropriate safeguards to be in place.

In all cases, the Council will consider whether an independent advocate may be required to facilitate the person's involvement in the revision of the care and support plan.

Where there is an urgent need to intervene, the Council will consider implementing interim packages to urgently meet needs while the plan is revised. In doing so, the Council will endeavour to work with the person to avoid such circumstances arising wherever possible by ensuring that any potential emergency needs are identified as part of the care and support planning stage and planned for accordingly.

## 11.12 Equalities

The Council is committed to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

[http://www.cambridgeshire.gov.uk/info/20086/communities\\_and\\_localism/480/equality\\_and\\_diversity](http://www.cambridgeshire.gov.uk/info/20086/communities_and_localism/480/equality_and_diversity)



### 11.13 Policy review

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

### 11.14 Transition to the new legal framework

This policy relates to duties established under the Care Act 2014 and comes into effect from the 1<sup>st</sup> April 2015.

Individuals who have received an assessment under the previous legislation will not be required to be re-assessed purely because of the new legal framework, however any re-assessments started on or after the 1<sup>st</sup> April 2015 will be carried out in line with the new duties and responsibilities established in the Care Act 2014.

Equally, any care and support plans created prior to the 1<sup>st</sup> April 2015 will only be revised following a re-assessment brought about by a change to an individual's needs or circumstances.

This applies equally to individuals with care and support needs and carers.

### 11.15 What does this mean for me?

**As a local resident:** This policy only applies to people with care and support needs.

**As someone who may need care and support:** The Council will use your assessment to identify your personal budget, and work with you to agree how your needs might be met, which will be recorded in your care and support plan. The personal budget which will detail the cost to the Council of meeting your needs, as well as an indication of the level of financial contributions you will be expected to make as a result of your financial assessment. Depending on your circumstances, you will be the option or taking some or all your personal budget via a direct payment. More detail on direct payments can be found in the Direct Payment Policy Statement. Planned reviews will be regularly undertaken to ensure that the care and support plan remains appropriate, however in the event that your circumstances change you can request a review, and in certain circumstances, such as an unplanned hospital admission, an unplanned review may be required. Any significant changes will be reflected in a revised care and support plan. The way in which your needs are met may change over time through the introduction of new technology and as the Council responds to examples of national and local best practice.

**As a carer of someone who might need care and support:** Depending on the specific circumstances of the individual you care for, you will be involved in the creation and regular review of their care and support plan. If you are supported as a carer by the Council, you will have your own support plan and personal budget, and you will have the option of taking some or all your personal budget via a direct payment. More detail on direct payments can be found in the Direct Payment Policy Statement.

**As a care and support professional:** As someone who works with individuals to assess their care and support needs, create care and support plans and / or

undertakes reviews you will need a general awareness of this policy.

### 11.16 Useful links

<b>Care Act legislation – clauses 24-30:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/24/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/24/enacted</a>
<b>Care Act Guidance – sections 10,11, 13:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf</a>
<b>Care Act Factsheets:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"><li>• Wellbeing</li><li>• Prevention</li><li>• Information &amp; advice</li><li>• Integration</li><li>• Safeguarding</li><li>• Assessment of care and support needs</li><li>• Advocacy</li><li>• Direct payments</li><li>• Ordinary residence rules</li><li>• Transitions to adult services</li><li>• Prisoners</li><li>• Charging and financial assessments</li><li>• Deferred payments</li></ul>

## 12.0 Direct payments

### 12.1 Direct payments

Direct payments have been in use in adult care and support since the mid-1990's and remain the government's preferred mechanism for personalised care and support, and are integral to a modern care and support system. They provide independence, choice and control by enabling people to purchase their own care and support in order to meet their assessed eligible social care needs.

### 12.2 Key policy statements: direct payments

- What is a direct payment?
- Promoting direct payments in Cambridgeshire
- Who can receive direct payments
- Direct payment exceptions
- Administering direct payments
- Employment and direct payments
- Terminating direct payments
- Equalities
- Policy review
- What does this mean for me?

### 12.3 What is a direct payment?

A direct payment is a monetary payment made to individuals who request one in order to meet part or all of their eligible care and support needs. Direct payments enable people to take control over their care planning, giving them choice over the way their needs are met.

### 12.4 Promoting direct payments in Cambridgeshire

The Council will ensure that information about direct payments is universally available. The information will cover;

- What direct payments are
- How to request one including the use of nominated and authorised persons to manage the payment
- Explanation of the direct payment agreement and how the local authority will monitor the use of the direct payment
- The responsibilities involved in managing a direct payment
- The responsibilities involved in being an employer
- Making arrangements with social care providers
- Signposting to local organisations (such as user-led organisations and micro-enterprises) and the local authority's own internal support, who offer support to direct payment holders, and information on local providers
- Case studies and evidence on how direct payments can be used locally to innovatively meet needs

A request to receive a direct payment can be made at any time, and the Council will ensure a timely response.

The steps taken after a request for a direct payment depends on whether the person making the request has been assessed as having capacity to make a decision about direct payments or not.

## 12.5 Who can receive direct payments

The steps taken after a request for a direct payment depends on whether the person making the request has been assessed as having capacity to make a decision about direct payments or not.

**Adults with capacity:** The Council will ensure that the person requesting a direct payment meets all four of the following conditions;

- The adult has capacity to make the request, and where there is a nominated person, that person agrees to receive the payments
- The Council is not prohibited by regulations from meeting the adult's needs by making direct payments to the adult or nominated person (for example prisoners are disbarred from receiving direct payments)
- The Council is satisfied that the adult or nominated person is capable of managing direct payments either by himself or herself, or with whatever help the authority thinks the adult or nominated person will be able to access
- The Council is satisfied that making direct payments to the adult or nominated person is an appropriate way to meet the needs in question

**Adults lacking capacity:** When an adult with eligible needs lacks the capacity to request a direct payment, an authorised person may request that the Council meets some or all of the needs by making a direct payment to the authorised person. A person is authorised for this purpose if;

- They are authorised under the Mental Capacity Act 2005 to make decisions about the adult's needs for care and support
- A person authorised under the Mental Capacity Act 2005 agrees with the Council that another person is a suitable person to receive the direct payment
- Where there is no person authorised under the Mental Capacity Act 2005, the Council considers that the person is suitable to receive the direct payment

The Council will ensure the following:

- The authorised person will act in the adult's best interests in arranging for the provision of care and support for which the direct payments under this section would be used
- The authorised person is capable of managing the direct payment by himself or herself, or with whatever help the authority thinks the authorised person will be able to access
- Making direct payments to the authorised person is an appropriate way to meet the needs in question

Where accepted, the decision to provide direct payments will be recorded in the care plan or support plan. The individual will be asked to sign a direct payment

agreement with the Council outlining the appropriate use of the payment, to ensure effective use of public money.

Where declined, the person or persons making the request will be notified by the Council in writing, explaining why the request was declined. The Council will also provide information about how the decision can be appealed through the local complaints process.

Where a request has been declined, the Council will continue the care planning process so it can seek to agree with the individual concerned how best to meet their needs without the use of direct payments.

**Carers:** Carers who have had an assessment and are eligible to receive social care support have a right to request some or all of their needs are met by direct payments.

Carers can also request to administer a direct payment on behalf of the person they care for, provided that they have given consent.

## **12.6 Direct payment exceptions**

Direct payments are designed to be used flexibly and innovatively and there should be no unreasonable restriction placed upon the use of this payment, as long as it's being used to meet eligible care and support needs, with the following exceptions.

A direct payment cannot be used to pay for care from a close family member or partner living in the same household, although the Care Act 2014 allows people to pay a close family member living in the same house to provide management or administrative support to the direct payment holder, in cases where the Council deems this necessary. This recognises that the management and administration of a large direct payment can be complex and time consuming, although it is not intended that this be seen as income replacement. The family member receiving this payment will have significant tax and employment implications and may impact on any other benefits received.

Direct payments cannot be made to people subject to a court order for a drug or alcohol treatment program or similar schemes.

Direct payments are not available to people serving a custodial sentence. This includes people residing in prison, approved premises and other bail accommodation.

A Direct Payment cannot currently be used to pay for long-term care home placements, although they can be made to enable people to purchase for themselves a short stay in care homes, provided that the stay does not exceed a period of four consecutive weeks in any 12-month period.

Direct payments should not be used to pay the Council for in-house provider services, such as day care. However they can be used to pay for services provided by other local authorities.

## **12.7 Administering direct payments**

The individual receiving direct payments will be required to set up a dedicated bank account that will only be used for receiving the direct payment and making appropriate payments. The Council will pay direct payments net of any assessed financial contribution. Any contribution due as a result of a financial assessment must be paid into the dedicated direct payment bank account.

The Council is accountable for the effective use of public money, and will therefore periodically review how direct payments are being used to ensure it's in keeping with the agreed care and support plan. The Council will require evidence to be submitted to show how the direct payment is being spent. In most cases, this will be a request for bank statements and records of payments to and from the direct payment account.

The initial review is likely to be a 'light touch' review, to take place within the first six months of the first payment, to ensure that the individual is able to manage direct payments effectively, and experiencing no initial issues. If this review raises concerns or requires actions that impact on the care and support plan, a full review would be initiated.

The Council will seek to recover any unspent direct payments.

## **12.8 Employment and direct payments**

Where direct payments are used to employ a personal assistant, or other staff, the Council will work with the individual to ensure that there are adequate contingency plans in place to ensure their needs are met in the event of the personal assistant being absent. These will be detailed in the the care and support plan.

Where an individual chooses to use direct payments to employ someone, they will be responsible for all costs of employment, including redundancy payments. To facilitate the employment of personal assistants and other staff, the Council has a commissioned support and payroll organisation to assist people with using their Direct Payment and becoming employers. A personal assistant register is available for Cambridgeshire residents to assist in finding care staff.

The Council will ensure that the individual has sufficient information and guidance in regards to having the correct insurance cover in place. The Council will therefore factor these costs into the direct payment calculation.

Becoming an employer carries with it certain responsibilities and obligations, in particular to HMRC. The Council will provide the individual with relevant information about this so they can make an informed choice when deciding to take up a direct payment.

The Council retains the right to make periodic checks to make sure any PAYE income tax and National Insurance contributions are deducted from an employee's pay is in turn paid over to HMRC, and that employment payments do not breach the national minimum wage and conform to pension requirements if eligible.

The government has designated certain types of work in the care sector as 'regulated activity'. The vast majority of care assistants employed via direct payments will be doing 'regulated' work. People who are employed via direct payments must be prepared to apply for a Disclosure and Barring certificate if they are undertaking 'regulated activity'. This is a legal requirement. The responsibility for this lies with the employee.

## **12.9 Terminating direct payments**

The decision to terminate direct payments can be taken by either the Council or the individual receiving them. There are a number of reasons why direct payments may be terminated. These reasons include, but are not limited to;

- The person to whom direct payments are made, whether to purchase support for themselves or on behalf of someone else, may decide at any time that they no longer wish to continue receiving direct payments
- The person no longer appears to be capable of managing the direct payments or of managing them with whatever support is necessary
- Direct payments should be discontinued when a person no longer needs the support for which the direct payments are made
- There may be circumstances in which the Council discontinues direct payments temporarily. The Council will discuss with the person, their carer, and any other person how best to manage this
- The Council will discontinue payments if the person fails to comply with a condition imposed under regulations to which the direct payments are subject or if for some reason the Council no longer believes it is appropriate to make the direct payments
- The deliberate misuse of direct payments by the person to whom direct payments are made, or their representative

In the event that direct payments are terminated, the Council will work with the individual concerned to agree an arranged care and support provision. The Council will conduct a revision of the care and support plan to ensure that it remains appropriate to meet the needs in question.

If direct payments are discontinued, some people may find themselves with ongoing contractual responsibilities or having to terminate contracts for services (including possibly making employees redundant). The Council will take reasonable steps to make people aware of the potential consequences if direct payments end, and any obligations they may have.

Where the person has lost the capacity to manage the direct payment and there is no-one else to manage the payment on their behalf, or where a person needs additional support to terminate arrangements, the Council will consider whether it needs to step in or provide support to ensure that any contractual arrangements are appropriately terminated to ensure that additional costs are not incurred.

## **12.10 Equalities**

The Council is committed to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:



- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

[http://www.cambridgeshire.gov.uk/info/20086/communities\\_and\\_localism/480/equality\\_and\\_diversity](http://www.cambridgeshire.gov.uk/info/20086/communities_and_localism/480/equality_and_diversity)

## 12.11 Policy review

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

## 12.12 What does this mean for me?

**As a local resident:** The Council will provide information about the range of services that it provides and how they can be requested. A direct payment is one way of receiving a social care service and is available for people who are eligible for social care.

**As someone who may need care and support:** Direct payments are the preferred mechanism for delivering care and support services. Depending on your circumstances, you will be able to request a direct payment for most types of support if you have been assessed as eligible for social care.

**As a carer of someone who might need care and support:** As a carer you can request a direct payment for the person you look after provided the person has given authorisation. If you are eligible for support from the Council as a carer, you can request that all or part or all your needs are met via direct payments.

**As a care and support professional:** A general understanding of this policy is required, paying particular reference to the situations where direct payments cannot be provided.

## 12.13 Useful links

Care Act legislation – clause 31-33:

<http://www.legislation.gov.uk/ukpga/2014/31/section/1/enacted>



<b>Care Act Guidance – section 12:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf</a>
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"> <li>• Wellbeing</li> <li>• Information &amp; advice</li> <li>• Safeguarding</li> <li>• Assessment of care and support needs</li> <li>• Advocacy</li> <li>• Support planning</li> <li>• Direct payments</li> <li>• Ordinary residence rules</li> <li>• Continuity of care</li> <li>• Transitions to adult services</li> <li>• Prisoners</li> <li>• Charging and financial assessments</li> </ul>

## 13.0 Ordinary residence

### 13.1 Ordinary residence

It is critical to the effective operation of the care and support system that local authorities understand for which people they are responsible; and that people themselves know who to contact when they need care and support.

When it comes to determining which individuals have needs which a local authority is required to meet, the local authority is only required to meet needs in respect of an adult who is “ordinarily resident” in their area, or is present there but has no settled residence elsewhere.

### 13.2 Key policy statements: Ordinary residence

- What is ordinary residence?
- Ordinary residence throughout the care and support function.
- People who arrange and fund their own care
- People with more than one home
- Temporary absences
- Mental health after-care
- NHS accommodation
- Ordinary residence when arranging accommodation in another area
- People with no settled residence
- Cases where a person lacks capacity
- Ordinary residence throughout the care and support function
- Equalities
- Policy review
- What does this mean for me?

### 13.3 What is ordinary residence?

Ordinary residence is one of the key tests which must be met to establish whether a local authority is required to meet a person’s eligible needs.

For adults with care and support needs, the local authority in which the adult is ordinarily resident will be responsible for meeting their eligible needs. For carers, however, the responsible local authority will be the one where the adult for whom they care is ordinarily resident.

There may be some cases where the carer provides care for more than one person in different local authority areas. Where there is more than one local authority involved, those authorities should consider how best to cooperate on and share the provision of support.

Ordinary residence is not a new concept – it has been used in care and support for many years. However, there have been in the past and will continue to be cases in which it is difficult to establish precisely where a person is ordinarily resident. The

Care Act 2014 seeks to provide clarity and limit such situations occurring. The Act contains all the necessary powers for joint assessments and support planning, plus the duties to co-operate to provide a mechanism for one of the authorities in a case like this, to require the cooperation of the other, if needed.

The concept of ordinary residence has been tested in the courts. The leading case is that of *Shah v London Borough of Barnet* (1983) which established that an ordinary resident “*abode[s] in a particular place or country which he has adopted voluntarily and for settled purposes as part of the regular order of his life for the time being, whether of short or long duration*”

### **13.4 Ordinary residence throughout the care and support function**

The Council will determine whether an individual is ordinarily resident in their area following the needs or carer's assessment, and after determining whether a person has eligible needs.

In cases where ordinary residence is not certain, the Council will meet the individual's needs first, and then resolve the question of residence subsequently.

In most cases, establishing a person's ordinary residence is a straightforward matter. However, this may not always be the case. There will be circumstances in which ordinary residence is not as clear cut, for example when a person spends their time in more than one local authority area, or moves between areas. Where uncertainties arise, the Council will always consider each case on its own merits, but will ensure that the person's needs are met, whilst seeking to resolve the question of residence.

### **13.5 Cases where a person lacks capacity**

All issues relating to mental capacity should be decided with reference to the Mental Capacity Act 2005, under which it must be assumed that adults have the capacity to make their own decisions, including decisions relating to their accommodation and care, unless it is established to the contrary.

The test for capacity is specific to each decision at the time it needs to be made, and a person may be capable of making some decisions but not others.

For people who lack capacity to make decisions about their accommodation, an alternative approach is appropriate because a person's lack of mental capacity may mean that they are not able to voluntarily adopt a particular place. In light of this, any decision the Council undertakes for someone who lacks capacity will be done in the 'best interests' of the person in question. All the facts of the person's case must be considered, including physical presence in a particular place and the nature and purpose of that presence but without requiring the person have voluntarily adopted the place of residence.

### **13.6 People with no settled residence**

It should only be in rare circumstances that local authorities conclude that someone is of no settled residence. The Care Act 2014 make clear that local authorities have a duty to meet the eligible needs of people if they are present in its area but of no settled residence. In this regard, people who have no settled residence, but are

physically present in the local authority's area, will be treated by the Council as the same as those who are ordinarily resident.

### **13.7 Ordinary residence when arranging accommodation in another area**

There may be some cases where the Council considers it appropriate for an individual's care and support needs to be met by the provision of accommodation in the area of another authority. In line with the Care Act 2014 guidance, the Council abides by the principle that the person placed 'out of area' is deemed to continue to be an ordinarily resident, and does not acquire an ordinary residence in the 'host' or second authority. The Council therefore retains responsibility for meeting the person's needs.

Further to the Care Act 2014 guidance, the Council recognises that this applies to the following types of accommodation:

- nursing and residential care homes
- supported living and extra care housing
- shared living schemes

Depending on the specifics of the case, the Council may choose to initiate an agreement to allow the authority where the accommodation is located to carry out functions on its behalf. This may particularly be the case where the accommodation is located some distance away, as some functions can be performed more effectively locally.

Should the accommodation provider change the type of care which it provides, in the event of the person remaining living at the same property and their needs continue to be met by the new service, then ordinary residence will not be affected and the duty to meet those needs will be retained by the Council.

In the event that the individual moves accommodation of their own volition, without the Council making the arrangements, their ordinary residence would be where the new accommodation is situated.

### **13.8 NHS accommodation**

A person for whom NHS accommodation is provided is to be treated as being ordinarily resident in the local authority where they were ordinarily resident before the NHS accommodation was provided. This means the Council retains responsibility for the person's care, and support does not transfer to the area of the hospital, if this is different from the area in which the person lived previously.

### **13.9 Mental health after-care**

After-care services must have both the purposes of "meeting a need arising from or related to the person's mental disorder" and "reducing the risk of a deterioration of the person's mental condition and, accordingly, reducing the risk of the person requiring admission to a hospital again for treatment for mental disorder." The range of services which can be provided is broad. The duty to commission or provide mental health after-care rests with the Council in the event that the person concerned was ordinarily resident in Cambridgeshire immediately before they were detained under the 1983 Act.

### **13.10 Temporary absences**

Having established ordinary residence in a particular place, this should not be affected by the individual taking a temporary absence from the area. The Council will therefore retain responsibility for meeting the care and support needs of an individual, even in the event of a temporary absence.

The Council also recognises that in certain circumstances an individual may be temporarily residing in the county when experiencing an urgent need for care and support. In such a situation, the Council will work with the individual in question to ensure their eligible needs are met, and will work with the local authority where the person is ordinary resident to ensure continuity of care.

### **13.11 People with more than one home**

The purpose of the ordinary residence test in the Act is to determine which single local authority has responsibility for meeting a person's eligible needs, and this purpose would be defeated if a person could have more than one ordinary residence.

If a person appears genuinely to divide their time equally between two homes, the Council would work with the other local authority to establish (from all of the circumstances) to which of the two homes the person has the stronger link. If this is found to be the Council, it would provide or arrange care and support to meet the needs during the time the person is temporarily away at their second home, as well as when they are residing in Cambridgeshire.

### **13.12 People who arrange and fund their own care**

People who self-fund and arrange their own care and move to Cambridgeshire, and then find that their funds have depleted, can apply to the Council to have their needs assessed. If it is decided that they have eligible needs for care and support, the person's ordinary residence will be Cambridgeshire, and not their previous local authority.

Resolving ordinary residence disputes: The Council will take all reasonable steps to resolve a dispute with another local authority. In doing so, the Council will continue to work with the individual in question to ensure that their eligible care and support needs are met.

### **13.13 Equalities**

The Council is committed to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

[http://www.cambridgeshire.gov.uk/info/20086/communities\\_and\\_localism/480/equality\\_and\\_diversity](http://www.cambridgeshire.gov.uk/info/20086/communities_and_localism/480/equality_and_diversity)

### 13.14 Policy review

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

### 13.15 What does this mean for me?

**As a local resident:** In line with the duties established via the Care Act 2014, the Council will make available a range of universal services that relate to the entire population, such as information and advice or preventative services.

**As someone who may need care and support:** Ordinary residence is one of the key tests which must be met to establish whether the Council is required to meet your eligible needs. If you are a county resident and have eligible care and support needs the Council will be responsible for meeting those eligible needs. Subject to financial assessment, you may be required to contribute towards the costs of meeting those care and support needs.

If you have been placed in accommodation located in Cambridgeshire by another local authority, they will remain responsible for meeting your eligible care and support needs.

Equally, if you are placed in accommodation located outside of Cambridgeshire, the Council remains responsible for meeting your eligible carer and support needs.

**As a carer of someone who might need care and support:** If the person you care for is a Cambridgeshire resident you may be eligible for a carers assessment and carers support from the Council - even if you are not a Cambridgeshire resident yourself. If you do not live in Cambridgeshire, depending on your specific circumstances, the Council may choose to work with your local authority to provide you with carers support.

**As a care and support professional:** You will need to consider a person's ordinary residence when determining whether they are eligible for care and support.

### 13.16 Useful links

Care Act legislation – clauses

<http://www.legislation.gov.uk/ukpga/2014/23/se>

<b>39-41:</b>	<a href="#">ction/39/enacted</a>
<b>Care Act Guidance – section 19:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf</a>
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"> <li>• Wellbeing</li> <li>• Prevention</li> <li>• Information &amp; advice</li> <li>• Safeguarding</li> <li>• Assessment of care and support needs</li> <li>• Advocacy</li> <li>• Transitions to adult services</li> <li>• Prisoners</li> <li>• Charging and financial assessments</li> </ul>

## 14.0 Continuity of care

### 14.1 Continuity of care

People with care and support needs may decide to move home just like anyone else. Where they do decide to move to a new area it is important to ensure that care and support is in place during the move, so the person's wellbeing is maintained.

Where the person chooses to live in a different local authority area, the local authority that is currently arranging care and support and the authority to which they are moving must work together to ensure that there is no interruption to the person's care and support. This duty equally applies where the person's carer is receiving support, and will continue to care for the adult after they have moved.

The overriding principle is that the person with care and support needs will be able to move with the confidence that arrangements to meet their care needs will be in place the day of the move. Close cooperation between local authorities is key to achieving this.

### 14.2 Key policy statements: Continuity of care

- **Moving out of Cambridgeshire**
- **Moving into Cambridgeshire**
- **When the adult does not move, or the move is delayed**
- **Equalities**
- **Policy review**
- **What does this mean for me?**

### 14.3 Moving out of Cambridgeshire

The continuity of care process begins when someone receiving care and support services notifies the Council that they intend to move to another local authority area. Once notification is received, the Council will work with the new local authority to begin transferring responsibility for managing the person's care and support needs.

The Council recognises there will be situations where a person may lack capacity to make a decision about a move, but the individual's family may wish to move the adult closer to where they live. In such situations, the Council will support the individual to be involved in the decision-making process, which will involve a capacity assessment, and where necessary take 'best interest' decisions. An independent advocate may be appointed to help the individual participate in the decision-making process.

Once the intention to move has been verified as genuine, the Council will provide the new local authority area with;

- A copy of the person's most recent care and support plan
- A copy of the most recent carers support plan if the person's carer is moving with them



- Where relevant, a copy of the persons transitional assessment and associated transition plan
- Any other information relating to the person or the carer (whether or not the carer has needs for support), that the second authority may request

Where the Council has funded specialist equipment or adaptations, this equipment may be taken to the new location by the individual, should it still be required, if this is the persons preference, and the Council and the other local authority agree this is the most cost effective solution. Otherwise, arrangements will be made for recycling or disposal on the day of the move.

#### **14.4 Moving into Cambridgeshire**

The Council will make information about care and support services available individuals who are considering moving into the county, to help inform the decision.

On receiving notification from another local authority that someone with care and support needs intends to move to Cambridgeshire, the Council may undertake steps to verify that the intention is genuine. This might include;

- Establish and maintain contact with the person and their carer to keep abreast of their intention to move
- Continue to liaise with the other local authority to get their views on the persons intention
- Liaise with family members, carers and other relevant parties to confirm their intention

Once intention has been verified, the Council will provide the individual with information about the care and support options available in Cambridgeshire. This may include;

- Support for carers
- Information about the local care market and organisations that could meet their needs
- The Council's charging policy, highlighting any charges that might be relevant to the individual

The Council will work with the other local authority and the individual in question to begin a new needs assessment. Where a person lacks capacity to be fully involved in the assessment or care planning process, and there is no suitable person that can assist, the Council will provide an independent advocate to assist.

The Council will also consider whether the person might be moving to be close to a new carer. If so, the carer will be offered an assessment.

The Council will keep the other local authority, the individual and their carer abreast of steps being taken to arrange the necessary care and support from the day of the move.

In line with other policy statements, the Council's needs assessment will consider where information and advice and preventative services can help prevent, reduce or delay the individuals needs from escalating.

On completing the needs assessment and determining whether the individual or carer has eligible needs, the council will involve the individual or carer in the development of the care and support plan, taking all reasonable steps to agree the plan.

The Council recognises that local market conditions and ways of meeting need can mean personal budgets vary significantly between local authorities. An explanation for any variation will be explained during the support planning process

The Council's care and support plan will include arrangements starting on the day of the move, and will need to be agreed between the individual and/or carer, the Council and the other local authority to ensure continuity of care.

Any requirements for specialist equipment or adaptations will be identified in the support planning process. Where equipment has been provided by the other local authority, the Council will work with the other local authority and the individual to ascertain whether the most cost effective and practical option would be to use the existing equipment or to organise and install new equipment.

Equally, if the individual has a piece of equipment on long-term loan from the NHS, the Council will notify the relevant NHS organisation and discuss the best and most practical option for ensuring the person's needs continue to be met.

If the person also has health needs, the Council will make relevant arrangements with the local Clinical Commissioning Group (CCG) to ensure that those needs are appropriately assessed. Depending on the specific circumstances of the individual, this may be via a joint assessment.

In the event that the Council has been unable to carry out a needs assessment prior to the move into Cambridgeshire, it is committed to meeting the needs and outcomes identified in the adult's care and support plan, carried out by the local authority previously responsible for. The Council will involve the individual and/or the carer and any relevant independent advocate, as well as any other individual that either person requests, in deciding how to meet the care and support needs in the interim period.

When meeting an individual's needs ahead of carrying out an assessment, the Council will have regard to the following matters;

- Their care and support plan provided by the other local authority
- The outcomes the individual wants to achieve
- The individual's preferences and views

In the event of the individual's circumstances being significantly different as a result of the move, the Council will consider the impact on their wellbeing of the following;

- Any carer support
- The suitability of the new accommodation
- Any existing requirements for equipment and adaptations
- Access to services and facilities
- Access to other types of support

- Where the person makes use of universal services

Where a Deprivation of Liberty has been authorised for a person who is moving to Cambridgeshire, then the Council will submit a new referral for a Deprivation of Liberty to the appropriate authority.

#### **14.5 When the adult does not move or the move is delayed**

Where there has been a delay because of unforeseen circumstances, the Council will maintain contact with the person to ensure that arrangements are in place for the new date of the move. This applies to people moving in and out of Cambridgeshire.

If the person's move is delayed and they remain resident in Cambridgeshire, the Council will remain responsible for meeting the person's and the carer's needs, until such time as they move.

If the individual does not move out of Cambridgeshire, the Council will remain responsible for meeting the persons care and support needs.

If the person does not move into Cambridgeshire, they remain the responsibility of the other local authority.

#### **14.6 Equalities**

The Council is commitment to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

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#### **14.7 Policy review**

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

#### **14.8 What does this mean for me?**

**As a local resident:** This policy only applies to people with care and support needs.

**As someone who may need care and support:** If you are moving into Cambridgeshire, the Council will work with you and your current local authority to ensure continuity of care when you move. If you are moving out of Cambridgeshire, the Council will work with the other local authority to transfer the responsibility for meeting your care and support needs.

**As a carer of someone who might need care and support:** If you begin to provide care for someone as a result of them moving into Cambridgeshire, you may be eligible for a carers assessment and support from the Council - even if you are not a Cambridgeshire resident yourself. If you continue to reside in Cambridgeshire and the person you care moves to another local authority area, depending on your specific circumstances, the Council may continue to provide you with carers support, on behalf of other local authority.

**As a care and support professional:** You will need to have an awareness of this policy and the implications when someone indicates they plan to move into or out of the county.

## 14.9 Useful links

<b>Care Act legislation – clauses 37-38:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/37/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/37/enacted</a>
<b>Care Act Guidance – section 20:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf</a>
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"><li>• Information &amp; advice</li><li>• Support planning</li><li>• Direct payments</li><li>• Prisoners</li></ul>

## 15.0 Transition to adult care and support (Preparation for Adulthood)

### 15.1 Transition to adult care and support

Effective person-centred transition planning is essential to help young people and their families prepare for adulthood. Transition to adult care and support comes at a time when a lot of change can take place in a young person's life. It can also mean changes to the care and support they receive from education, health and care services, or involvement with new agencies such as those who provide support for housing, employment or further education and training.

### 15.2 Key policy statements: Transition to adult care and support

- What are transitional assessments?
- When transitional assessments should be carried out
- Adult and young carers
- Key features of a transitional assessment
- Capacity and consent
- Cooperating with partner organisations and other professionals
- What happens after the transitional assessment
- Carrying out a financial assessment
- After the young person or carer turns 18
- Safeguarding after the age of 18
- Ordinary residence and the transition to Higher Education
- Transition from children's to adult NHS Continuing Health Care
- Equalities
- Policy review
- Transition to the new legal framework
- What does this mean for me?

### 15.3 What are transitional assessments?

The purpose of carrying out transitional assessments is to provide young people and their families with information so that they know what to expect in the future and can prepare for adulthood. Transitional assessments will also allow local authorities to better understand the needs of people in their population, and to plan resources and commission services for young people and carers accordingly. The transitional assessments carried out by the Council will be completed using the adult assessment process.

Transitional assessments are applicable to three specific groups of people;

- Children and young people with care and support needs approaching adulthood
- Young carers who are approaching adulthood
- Adult carers of children and young people with care and support needs approaching adulthood

#### **15.4 When transitional assessments should be carried out**

The transitional assessment will help a young person and their family with information so they know what to expect in the future and can prepare for adulthood.

Transitional assessments will take place at the right time for the young person or carer and at a point when the Council can be reasonably confident about what the young person's or carer's needs for care or support will look like after the young person in question turns 18. This will normally happen within a young person's 16th year and before they turn 17½ although the Council recognises that every young person and their family are different, and as such, transitional assessments should take place when it is most appropriate for them.

The Council will carry out a transitional assessment of anyone in the three groups when there is a "significant benefit" to the young person or carer in doing so, and if they are likely to have needs for care or support after turning 18.

This applies equally to those who are already receiving children's services, and to anyone who is likely to have needs for adult care and support after turning 18.

In establishing a "significant benefit" to the individual, the Council will consider whether the young person or carer is likely to have a need for care and support as an adult.

Factors that may contribute to establishing a significant benefit to assess includes, but is not limited to the following;

- The stage they have reached at school and any upcoming exams
- Whether the young person or carer wishes to enter further/higher education or training;
- Whether the young person or carer wishes to get a job when they become a young adult
- Whether the young person is planning to move out of their parental home into their own accommodation
- Whether the young person will have care leaver status when they become 18
- Whether the carer of a young person wishes to remain in or return to employment when the young person leaves full time education
- The time it may take to carry out an assessment
- The time it may take to plan and put in place the adult care and support
- Any relevant family circumstances
- Any planned medical treatment
- Whether services provided by Children's social care prior to 18 are planned to continue even if the funding and case responsibility changes

For young people with special educational needs (SEN) who have an Education, Health and Care (EHC) plan under the Children and Families Act, preparation for adulthood must begin from year 9. The transitional assessment will be undertaken as part of one of the annual statutory reviews of the EHC plan, and will inform a plan for the transition from children's to adult care and support.

For care leavers, the Council will consider using the statutory Pathway Planning process as the opportunity to carry out a transitional assessment where appropriate.

The Council will seek to minimise the disruption to the child and their family when undertaking a transitional assessment, for example by combining multiple appointments where possible and avoiding stressful times, such as exam periods.

A young person or carer, or someone acting on their behalf, has the right to request a transitional assessment.

The Council will consider such requests and whether the likely need and significant benefit conditions apply – and if so it must undertake a transitional assessment.

Where this does not apply, the Council may refuse to undertake a transitional assessment on that basis, and will provide the reasons for this in writing in a timely manner. It may also provide supporting information and advice on what can be done to prevent or delay the development of needs for support.

Where someone is refused (or they themselves refuse) a transitional assessment, but at a later time makes a request for an assessment, the Council will again consider whether the likely need and significant benefit conditions apply, and carry out an assessment if so.

## **15.5 Adult and young carers**

Preparation for adulthood will involve not only assessing how the needs of young people change as they approach adulthood but also how carers', young carers' and other family members' needs might change. The Council will assess the needs of an adult carer where there is a likely need for support after the child turns 18 and it is of significant benefit to the carer to do so.

The Council also has a duty to offer to assess the needs of young carers as they approach adulthood. Transitional assessments and planning will be used to consider how to support young carers to prepare for adulthood and how to raise and fulfil their aspirations.

The transitional assessment will consider the impact on other members of the family (or other people the Council may feel appropriate) of the person receiving care and support. This will require the Council to identify anyone who may be part of the person's wider network of care and support.

Young carers' assessments should include an indication of how any care and support plan for the person(s) they care for would change as a result of the young carer's change in circumstances.

## **15.6 Key features of a transitional assessment**

In line with other policy areas, transitional assessments will take into account the following;

- Current needs for care and support and how these impact on wellbeing
- Whether the young person or carer is likely to have needs for care and support after the child in question becomes 18

- If so, what those needs are likely to be, and which are likely to be eligible needs
- The outcomes, views and wishes that matter to the young person or carer in question
- The needs of the individual to ensure the transitional assessment remains proportionate
- As assessment of the persons strengths and capabilities
- Where joint assessments might be undertaken with input from a range of professionals and interest groups to help the person achieve the outcomes that matter to them
- Where relevant information and advice can be provided to support the transition process, including general information about adult care and support, as well as more specific information relevant to the individuals circumstances

Transitional assessments of young and adult carers will also consider whether the carer;

- Is able to care now and after the young person in question turns 18
- Is willing to care now and will continue to after 18
- Works or wishes to do so
- Is or wishes to participate in education, training or recreation

Where possible, the Council will look to use existing assessments and related information to inform the transitional assessment. For example, a young person with special educational need (SEN) may have an Education, Health and Care (EHC) plan under the Children and Families Act 2014. This could be used to inform the transitional assessment.

## **15.7 Capacity and consent**

The Council will require the consent of the young person or carer in question to undertake a transitional assessment, where they have mental capacity and are competent to agree.

Where a young person or carer lacks mental capacity or is not competent to agree, the Council must be satisfied that an assessment is in their best interests. Everyone has the right to refuse a transitional assessment, however the Council will undertake an assessment regardless if it suspects that a young person is experiencing or at risk of abuse or neglect.

The right of young people to make decisions is subject to their capacity to do so as set out in the Mental Capacity Act 2005. The underlying principle here is to ensure that those who lack capacity are supported to make as many decisions for themselves as is possible, and that any decision made or action taken on their behalf, is done so in their best interests. This is a necessity if the transitional assessment is to be person-centred.

For young people below the age of 16, the Council will need to establish a young person's competence using the test of 'Gillick competence' (whether they are able to understand a proposed treatment or procedure). Where the young person is not competent, a person with parental responsibility will need to be involved in their



transitional assessment, – or an independent advocate provided if there is no one appropriate to act on their behalf (either with or without parental responsibility).

The Council will provide an independent advocate to facilitate the involvement in the transitional assessment where the person in question would experience substantial difficulty in understanding the necessary information or in communicating their views, wishes and feelings – and if there is nobody else appropriate to act on their behalf. This duty applies for all young people or carers who meet the criteria, regardless of whether they lack mental capacity as defined under the Mental Capacity Act.

## **15.8 Cooperating with partner organisations and other professionals**

The Council will cooperate with relevant partners, and the Care Act 2014 makes this duty reciprocal. Children's services and adults' services will work together to pass on relevant knowledge and to help build new relationships in advance of transition.

The Council will cooperate with relevant external agencies and partner organisations including local GP practices, housing providers and educational institutions. Again, this duty is reciprocal. This cooperation is crucial to help ensure that assessments and planning are person-centred. Furthermore, local health services or schools are vital to identifying young people and carers who may not already be in contact with local authorities.

The Council will consult with the young person and their family to discuss what arrangements they would prefer for assessments and reviews, and will seek to ensure that all relevant partners are involved in transition planning where they are involved in the person's care and support.

Equally, the Council is committed to ensuring involvement in transition planning led by another organisation, for example a child and adolescent mental health service, where there are also likely to be needs for adult care and support.

Where possible, and of benefit to the individual, a transitional assessment may be combined with any other assessment carried out jointly with, or on behalf of, another body.

Often there is a natural lead professional involved in a young person's care. The Council may consider formalising this by designating a named person to coordinate the transitional assessment and planning across different agencies.

## **15.9 What happens after the transitional assessment**

Having carried out a transition assessment, the Council will give an indication of which needs are likely to be eligible needs (and which are not likely to be eligible) once the young person in question turns 18, to ensure that the young person or carer understands the care and support they are likely to receive and can plan accordingly.

The different systems and legislative frameworks for children's and adult care and support mean that there will be circumstances in which needs that were being met by children's services may not be eligible needs under the adult system.

The Council will therefore ensure that families are able to understand what support they are likely to receive when the young person or carer is in the adult system, and that the transition period is planned and managed as far in advance as is practical and useful to the individual to ensure that there is not a sudden gap in meeting the young person's or carer's needs.

Where the transitional assessment identifies needs that are likely to be eligible, the Council will provide an indicative personal budget, so that young people, carers and their families are able to plan their care and support before entering the adult system.

For any needs that are not eligible under the adult statute, the Council will provide information and advice on how those needs can be met, and how they can be prevented from getting worse. Information and advice must be accessible and proportionate to whoever needs it and must consider individual circumstances.

Where a person has eligible needs, the Council will work with the individual to create a person-centred transition plan that sets out the information in the assessment, along with a plan for the transition to adult care and support.

The Council will ensure that the transitional assessment and plans should be reviewed regularly to take into account changes both in circumstances and desired outcomes.

In the case of an adult carer, where the Council has identified needs through a transitional assessment which could be met by adult services, it may meet these needs under the Care Act 2014 in advance of the child being cared for turning 18.

If the Council decides to meet the adult carer's needs through adult services, as for anyone else under the adult legislation, the adult carer will receive a support plan and a personal budget.

#### **15.10 Carrying out a financial assessment**

Care and support services are not always provided free, and charging for some services is vital to ensure affordability. The Care Act 2014 continues to allow local authorities to make a charge for the provision of certain services, facilities or resources. Where transitional assessment identifies that a person has eligible needs under the Care Act 2014, a financial assessment will be undertaken to determine their ability to contribute towards the cost of their care. Further details can be found in the Charging and Financial Assessment policy statement.

#### **15.11 After the young person or carer turns 18**

There is no obligation on the Council to implement the move from children's social care to adult care and support as soon as someone turns 18. The exact point of transition will be decided by the Council, taking into account the specific circumstances of the individual. It might be that the move to adult services will begin at the end of a school term or another similar milestone. In many cases, planning will be a staged process over several months or years.

If the Council is to meet the young person's or carer's needs under the Care Act 2014 after they have turned 18 the Council will undertake the care planning process as for other adults – including creating a care and support plan and producing a personal budget. The Council will ensure that this happens early enough that a package of care and support is in place by the time a young person is 17 1/2, ready for the time of transition, ensuring that there is no gap or disruption in care and support when young people and carers move from children's to adult services.

The Council will continue to provide services until the relevant steps have been taken. These steps are;

- Concluding that the individual **does not** have needs for adult care and support
- Concluding that the person **does** have such needs and begins to meet some or all of them
- Concluding that the person does have such needs but decides they are **not eligible** for adult care and support

The Council will use the transitional assessment to reach the appropriate conclusion.

In certain circumstances, the Council may conclude that the young person should continue to receive support from children's services.

Where a young person or carer is not deemed to have needs or meets eligibility criteria, the Council will state the reasons in writing.

### **15.12 Safeguarding after the age of 18**

Where someone is over 18 but still receiving children's services and a safeguarding issue is raised, the matter will be dealt with as a matter of course by the adult safeguarding team. Where appropriate, they will involve the local authority's children's safeguarding colleagues as well as any relevant partners (e.g. police or NHS) or other persons relevant to the case.

### **15.13 Ordinary residence and the transition to Higher Education**

It is an important aspect of transition planning to confirm as early as possible where someone will be ordinarily resident as an adult.

Where a young person is intending to move to a higher or further education institution which is out of the area where they were receiving children's services, they will usually remain ordinarily resident in the area where their parents live (or the local authority area which had responsibility for them as a child).

Where a young person or carer wishes to attend a higher or further education institution, the Council will help them identify a suitable institution as part of transition planning (if they have not done so already). Once an offer has been accepted, the Council will ensure the relevant institution is made aware as soon as possible of the young person's or carer's needs and desired outcomes and discuss a plan for meeting them.

The objective should be to ensure that there will be an appropriate package of care and support in place from the day the young person or carer starts at the institution.

#### **15.14 Transition from children's to adult NHS Continuing Health Care**

The Council will work with the local Clinical Commissioning Group (CCG) to have systems in place to ensure that appropriate referrals are made whenever either organisation is supporting a young person who, on reaching adulthood, may have a need for services from the other agency.

The Council will comply with national best practice for the timing of transition steps, as follows:

- Children's services should identify young people with likely needs for NHS CHC and notify the relevant CCGs when such a young person turns 14
- There should be a formal referral for adult NHS CHC screening at 16;
- There should be a decision in principle at 17 so that a package of care can be in place once the person turns 18 (or later if agreed more appropriate).

Where a young person has been receiving children's continuing health care from a relevant CCG, it is likely that they will continue to be eligible for a package of adult NHS CHC when they reach the age of 18. The Council will seek to involve the CCG to ensure and appropriate and timely transfer of responsibility.

#### **15.15 Equalities**

The Council is commitment to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

[http://www.cambridgeshire.gov.uk/info/20086/communities\\_and\\_localism/480/equality\\_and\\_diversity](http://www.cambridgeshire.gov.uk/info/20086/communities_and_localism/480/equality_and_diversity)

#### **15.16 Policy review**

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

#### **15.17 Transition to the new legal framework**

This policy relates to duties established under the Care Act 2014 and comes into effect from the 1<sup>st</sup> April 2015.

The Council will assume that any transition assessments conducted before the 1<sup>st</sup> April 2015 comply with the new legal framework. However, the Council may seek to review and update any transition assessments to ensure compliance with the new legal framework on an individual basis.

Any assessments or re-assessments started on or after the 1<sup>st</sup> April 2015 will be carried out in line with the new duties and responsibilities established in the Care Act 2014.

This applies equally to individuals with care and support needs and carers.

### 15.18 What does this mean for me?

**As a local resident:** This policy only applies to people with care and support needs.

**As someone who may need care and support:** The Council has a policy and procedure to ensure that the transition from children to adult care is person-centred and transparent. You will be offered a transitional assessment that will help in the planning of adult care and support and minimise the impact on you and your family.

**As a carer of someone who might need care and support:** Your views will be sought as part of the transitional assessment process. Depending on your circumstances, you may be eligible for support as a carer. If this is the case, you will be offered a carers assessment to identify your support needs.

**As a care and support professional:** All staff will need to have a general awareness of this policy. Specialist staff involved in supporting young people in the transition from children to adult services will need to pay particular attention to this policy statement.

### 15.19 Useful links

<b>Care Act legislation – clauses 58-66:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/58/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/58/enacted</a>
<b>Care Act Guidance – section 16:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"><li>• Wellbeing</li><li>• Prevention</li><li>• Information &amp; advice</li><li>• Integration</li><li>• Safeguarding</li><li>• Assessment of care and support needs</li></ul>

	<ul style="list-style-type: none"> <li>• Advocacy</li> <li>• Support planning</li> <li>• Ordinary residence rules</li> <li>• Prisoners</li> <li>• Charging and financial assessments</li> </ul>
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## 16.0 Prisoners

### 16.1 Prisoners

People in custody or custodial settings who have needs for care and support should be able to access the care they need, just like anyone else. In the past, the responsibilities for meeting the needs of prisoners have been unclear, and this has led to confusion between local authorities, prisons and other organisations. This has created difficulties in ensuring people's eligible needs are met.

Prisoners can often have complex health and care needs and experience poorer health and mental health outcomes than the general population. Evidence demonstrates higher prevalence among the adult prison population of mental illness, substance misuse and learning disabilities than in the general population.

This policy relates to people in prisons, approved premises and other bail accommodation.

### 16.2 Key policy statements: prisoners

- **New statutory duties established under the Care Act 2014**
- **Who this applies to**
- **Assessment of need**
- **Charging and assessing financial resource**
- **Next steps after assessment**
- **Disapplied provisions**
- **Continuity of care and support when an adult moves**
- **People leaving prison – ordinary residence**
- **Information sharing**
- **End of life care**
- **NHS Continuing Healthcare**
- **Safeguarding adults at risk of abuse and neglect**
- **Transitions from children's to adult care and support**
- **Independent advocacy support**
- **Equalities**
- **Policy review**
- **What does this mean for me?**

### 16.3 New statutory duties established under the Care Act 2014

The Care Act 2014 the Council a new duty to ensure that people in custody or custodial settings who have needs for care and support should be able to access the care they need.

The council is committed to providing the same level of care and support to all adults in custody, as the rest of the population. The Council recognises the principle of equivalence of care, which forms the basis for this policy. This is critical in ensuring that those in need of care and support achieve the outcomes that matter to them,

and that will support them to live as independently as possible at the end of their detention. In addition to ensuring that an individual's needs are met, this will contribute to the effectiveness of rehabilitation and improve community safety.

#### **16.4 Who this applies to**

The Council is responsible for the assessment of all adults who are in custody in their area and who appear to be in need of care and support, regardless of which area the individual came from or where they will be released to. If an individual is transferred to another custodial establishment in a different local authority area this responsibility will transfer to the new area.

People bailed to a particular address in criminal proceedings are, like those in prison or approved premises, treated as ordinarily resident in Cambridgeshire; therefore the Council has a duty to assess for eligible needs, care planning including the establishment of a personal budget, and the provision or arrangement of relevant care and support.

Where prisoners have previously been detained under sections 47 and 48 of the Mental Health Act 1983 and transferred back to prison, their entitlement to section 117 aftercare will be dealt with by the Council in the same way as it would be in the community, apart from any provisions which are disapplied in custodial settings, which are set out in more detail below.

If the person was ordinarily resident in Cambridgeshire immediately before being detained in hospital, the Council will be responsible for the after-care while the person is in prison and upon their release from prison. If the person was not ordinarily resident in any area immediately before detention, the Council will become responsible for that individual if they are discharged to, or choose to reside in, Cambridgeshire. The Council will be jointly responsible for after-care with NHS England while the person is in prison.

#### **16.5 Assessment of need**

Where the Council is made aware that an adult in a custodial setting may have care and support needs, it will carry out an assessment as it would for someone in the community.

The Council will identify and consider the extent and nature of need before taking into account the environment in which the individual lives.

Where practical, the Council may choose to combine a needs assessment with any other assessment it is carrying out, or it may carry out assessments jointly with, or on behalf of another body, for example prisoners' health assessments.

The Council will aim to conduct assessments of those who appear to have care and support needs promptly following receipt of the referral from managers of custodial settings or the prison's health providers. The Council recognises that people in a custodial setting have a right to self-refer for an assessment and the Council will work with the managers of the custodial setting to consider how to facilitate and respond to self-referrals.



The council will provide appropriate types of care and support prior to completion of the assessment where it is clear the person has urgent needs.

If someone in a custodial setting refuses a needs assessment the local authority is not required to carry out the assessment, subject to the same conditions as in the community.

That is, this does not apply if;

- the person lacks the capacity to refuse and the local authority believes that the assessment will be in their best interests
- the person is experiencing, or is at risk of, abuse or neglect

Once the council has assessed an individual in custody as needing care and support it will then determine if some or all of these needs meet the eligibility criteria.

Where an individual does not meet the eligibility criteria, the Council will provide written information about;

- What can be done to meet or reduce needs and what services are available
- What can be done to prevent or delay the development of needs for care and support in the future

Where non-eligible needs are identified the Council will provide information and advice to the individual on how those needs can be met, and how they can be prevented from getting worse. The Council recognises that it is good practice to copy this information to managers of custodial settings (with the person's consent) as this may be relevant to how the individual is managed in the custodial setting.

The Council recognises that prisoners, especially those serving long sentences, may develop eligible needs over time. Individuals in custodial settings, like people in the community, may benefit from low level preventative support and information and advice that will help them maintain their own health and wellbeing. The Council will consider how best to provide information and advice to both individuals and establishments on what can be done to prevent or delay the development of care and support needs.

While it may not always be possible or appropriate to involve family members directly in assessment or care planning, the Council will ask the individual being assessed whether they would like to involve others in their assessment or care planning.

Where it is not possible to involve families directly, the Council will ask the individual concerned whether they would like others to be informed that an assessment is taking place, the outcome of that assessment and whether they should see the care and support plan.

## **16.6 Charging and assessing financial resources**

Those in custodial settings will be subject to a financial assessment to determine how much they may pay towards the cost of their care and support, as they would be in the community.

The Council will consider the use of “light touch” assessments where a person is unlikely to be required to contribute towards the cost of their care and support.

Should the person not meet the eligibility threshold for support by the council, but they wish to purchase care services, this request should be referred for decision to NOMS.

## **16.7 Next steps after assessment**

The Council will ensure that all relevant partners are involved in care and support planning and take part in joint planning with health partners.

Where the Council is required to meet needs it must prepare a care and support plan for the person concerned and involve the individual to decide how to have their needs met.

The Council will speak to others concerned with the person’s health and wellbeing, as appropriate, including enabling access to regime services such as libraries and education.

During the support planning process the Council will make it clear to the individual in question the range of care options available, paying regard to those provisions which are specifically disapplied under the Care Act 2014. The plan will contain the elements defined in the Care Act 2014, including the allocated personal budget. This will ensure that the person is clear about the needs to be met, the cost attributed to meeting those needs and how, if applicable, the custodial regime limited the individual’s choice and control.

The Council will request that consent is given so that individual care plans are shared with other relevant providers of custodial and resettlement services including custodial services, probation service providers including Community Rehabilitation Companies, prison healthcare providers and managers of approved premises. For residents of approved premises, the Council will liaise with the responsible Offender Manager in probation services.

For those assessed as being in need of equipment or adaptations to their living accommodation to meet their needs, the council will discuss with their partners in prisons, approved premises and health care services where responsibility lies.

Where this relates to fixtures and fittings (for instance a grab rail or a ramp), it will usually be for the prison to deliver this. But for specialised and moveable items such as beds and hoists, then it may be the Council that is responsible. Aids for individuals are the responsibility of the Council, whilst more significant adaptations would be the responsibility of the custodial establishment.

The Council will regard and confirm with the specialist guidance on responsibility of custodial services for equipment aids and adaptations issued by NOMS.

The Council may commission or arrange for others to provide care and support services, or delegate the function to another party, in line with the duties established under the Care Act 2014. In doing so, the Council will make sure that any other

party commissioned to provide care and support is aware of the policies and procedures to be followed when working in a custodial environment.

The Council will ensure that care and support plans for those in custodial settings will be subject to the same review processes as all other plans, and will seek to review an individual's care and support plan each time they enter custody from the community, or are released from custody.

The Council will co-operate with hospital staff and prison health service providers and commissioners to prevent delays in discharge from hospital and support a timely return to custody.

### **16.8 Disapplied provisions**

The right to a choice of accommodation does not apply to those in a custodial setting except when an individual is preparing for release or resettlement in the community. Release into an approved premises amounts to moving from one custodial setting to another.

Direct payments may not be made to people in custodial settings. Individuals in bail accommodation and approved premises who have not yet been convicted are entitled to direct payments, as they would have been whilst in their own homes.

It is not the intention of the Care Act that any prisoner, resident of approved premises or staff in prisons or approved premises should take on the role of carer as defined by the Care Act 2014 and should therefore not in general be entitled to a carer's assessment.

### **16.9 Continuity of care and support when an adult moves**

Individuals may be moved between different custodial settings. In such cases, the Council will be notified by the Governor of the prison or a representative that the adult is to be moved or is being released to a new area as soon as practicable.

If this is a move to a custodial setting or release into the community in Cambridgeshire, then the Council will remain responsible for meeting the individual's care and support needs. Where the new custodial setting or the community, if being released, is in a different local authority area, the Council will inform the second authority of the move once it has been told by the prison.

In the event that this is a move from another local authority into Cambridgeshire, the Council will continue to meet the needs of the individual via their existing care and support plan, until such time as it is able to carry out its own assessment of need.

### **16.10 People leaving prison – ordinary residence**

The council will start from a presumption that they remain ordinarily resident in the area in which they were ordinarily resident before the start of their sentence.

In situations where an offender is likely to have needs for care and support services on release from prison or approved premises and their place of ordinary residence is

unclear and/ or they express an intention to settle in Cambridgeshire, the Council will take responsibility for carrying out the needs assessment.

Given the difficulties associated with determining some offenders' ordinary residence on release, the Council will work with the probation provider (NPS or CRC) to initiate joint planning for release in advance.

#### **16.11 Information sharing**

The Council will ensure the security of information held on people who are in custodial settings, and will develop agreements consistent with policies and procedures of Ministry of Justice and the National Offender Management Service (NOMS) and with relevant legislation to enable appropriate information sharing on individuals, including the sharing of information about risk to the prisoner and others where this is relevant.

Where the Council is providing care and support for a person in the community and that person is subsequently remanded or sentenced to custody, or bailed to an approved premises, or required to live in approved premises as part of a community sentence, the Council will share details of the most recent assessment and care and support plan to the relevant custodial setting and the local authority in which it is based so that care and support may continue.

The council will work with prisons and or prison health services to develop timely referrals for needs assessment, when someone they believe has care and support needs arrives at their establishment. Either party may use this information sharing mechanism to request co-operation to support working in an individual case.

#### **16.12 End of life care**

The Council will work with the prison healthcare provider to ensure that the care and support needs of the prisoner are met throughout the period of end of life care.

#### **16.13 NHS Continuing Healthcare**

NHS Continuing Healthcare is a package of support that is wholly funded by the NHS. If during the needs assessment, care planning or review process someone appears eligible for NHS Continuing Healthcare, the Council will ensure a referral to the local Clinical Commissioning Group for assessment.

#### **16.14 Safeguarding adults at risk of abuse and neglect**

The Care Act 2014 establishes that prisons, approved premises and other bail accommodation is responsible for ensuring that it has clear safeguarding policies and procedures that are explained to all visiting staff.

The Council is committed to providing support and guidance to prison and probation staff in individual cases, although it does not have the legal duty to lead enquiries in any custodial setting.

#### **16.15 Transitions from children's to adult care and support**

The Council will ensure that appropriate arrangements are in place to identify young people who have, or are likely to have eligible needs for care and support residing in

Young Offender Institutions, Secure Children's Homes, Secure Training Centres or other places of detention, and provide a transitional assessment when appropriate.

If a young person was receiving Council support and services as a care leaver, this status remains unchanged whilst they are in custody. The Council retains responsibility for providing leaving care services during his/her time in custody and on release.

### 16.16 Independent advocacy support

Adults in custody are entitled to the support of an independent advocate during needs assessments and care and support planning and reviews of plans if they would have significant difficulty in being involved in the process. The Council has a duty to arrange an independent advocate, as they would for an individual in the community.

### 16.17 Equalities

The Council is commitment to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

[http://www.cambridgeshire.gov.uk/info/20086/communities\\_and\\_localism/480/equality\\_and\\_diversity](http://www.cambridgeshire.gov.uk/info/20086/communities_and_localism/480/equality_and_diversity)

### 16.18 Policy review

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

### 16.19 What does this mean for me?

**As a local resident:** This policy only applies to people with care and support needs.

**As someone who may need care and support:** Depending on your circumstances, the Council may work with you to assess your needs for care and support. In the event of any non-eligible needs being identified, you will be provided

with information and advice aimed at delaying, reducing or preventing those needs from escalating. If the assessment determines that you have eligible needs, the Council will work with you and the relevant establishment or authority to develop a care and support plan, and arrange care and support that is relevant to those needs. In the event that you are moved to another custodial setting outside of Cambridgeshire, the Council will transfer the care and support plan to the new local authority that will become responsible for meeting your care and support needs. On release, if you move to another local authority area, the Council will transfer the care and support plan to the new local authority that will become responsible for meeting your care and support needs. Under the Care Act 2014 you will not have the option to receive direct payments as part of your care and support plan, nor will you be able to exercise choice over your accommodation.

**As a carer of someone who might need care and support:** Under the Care Act 2014 prisoners and staff in prisons and approved premises are not eligible for support as a carer. As a family member or friend, the Council will seek to involve you as much as is appropriate to the circumstances of person with needs for care and support.

**As a care and support professional:** All staff will need to have a basic awareness of this policy. Specialist staff involved in assessment, planning and service provision to those people residing in a custodial setting will need to know the policy in detail, paying particular attention to the provisions disapplied under the Care Act 2014, the steps to be undertaken when someone moves between custodial settings– either into or out of the county - as well as the responsibilities relating to ordinary residence that apply when someone is released from custody.

## 16.20 Useful links

<b>Care Act legislation – clause 76:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/76/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/76/enacted</a>
<b>Care Act Guidance – section 17:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"> <li>• Wellbeing</li> <li>• Prevention</li> <li>• Information and advice</li> <li>• Assessment &amp; eligibility</li> <li>• Care and support planning</li> <li>• Ordinary residence</li> <li>• Continuity of care</li> </ul>

## 17.0 Charging and financial assessments

### 17.1 Charging and financial assessments

The Care Act 2014 provides a single legal framework for charging for care and support. Where a local authority arranges care and support to meet a person's needs, it may charge the adult, except where the local authority is required to arrange care and support free of charge. The new framework is intended to make charging fairer and more clearly understood by everyone.

### 17.2 Key policy statements: Charging and financial assessments

- Carrying out a financial assessment
- General charging rules
- General charging rule exemptions
- Light-touch financial assessments
- Deprivation of assets
- Charging for care and support delivered in a person's own home
- Charging for care and support delivered in a residential or nursing home
- Residential and nursing home 'top-up' fees
- Choice of accommodation and mental health after care
- Charging for carers support
- Equalities
- Policy review
- Transition to the new legal framework
- What does it mean for me?

### 17.3 Carrying out a financial assessment

The Council has a duty to arrange care and support for those people with eligible needs. Care and support services are not always provided free, and charging for some services is vital to ensure affordability. The Care Act 2014 continues to allow local authorities to make a charge for the provision of certain services, facilities or resources.

The Council is committed to ensuring that people should only be required to pay what they can afford. To this end, it will;

- ensure that people are not charged more than it is reasonably practicable for them to pay
- be clear and transparent, so people know what they will be charged
- promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control
- support carers to look after their own health and wellbeing and to care effectively and safely
- be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs



- apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings
- encourage and enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so
- ensure there is sufficient information and advice available in a suitable format to make sure a person, or their representative can understand any contributions they are asked to make
- make the person and/or their representative aware of the availability of independent financial information and advice

#### **17.4 General charging rules**

Following a person's needs assessment, a financial assessment will be offered. The financial assessment will be used to determine an individual's ability to contribute towards the costs of their care and support services. The financial assessment process requires the individual being assessed to provide some key financial information which is used to determine a person's ability to pay towards the costs of care and support services.

If an individual is financially assessed as being above the "upper capital limit" (see the County Council website for current capital limits) they will be required to pay the full cost of their care and support services - less any exclusions listed in the section below. The Council also reserves the right to charge an administrative fee to cover costs incurred in arranging the care and support services (see County Council website for current administrative fees)

If an individual has capital below the upper capital limit they will be financially assessed to determine how much they can afford to contribute towards the cost of their care and support services.

If the individual receiving a financial assessment fails to provide the necessary financial information, the Council will assume that they are above the "upper capital limit" and they will be charged accordingly.

To promote openness and transparency, the Council will provide a copy of the completed financial assessment to the individual who has been assessed.

The financial assessment will be regularly reviewed in conjunction with the individual who has been assessed. This is likely to be on an annual basis, but will depend on the circumstances of the individual concerned, and may be brought forward at the request of the Council or the individual as a result of a change in circumstances.

The Council will ensure that local charging mechanisms do not exceed the maximums established under the Care Act 2014.

The Council has no power to assess couples or civil partners according to their joint resources. Each person will therefore be treated individually



The financial assessment will seek to establish a person's capital (predominantly property and savings, although the Care Act 2014 confirms there are specific rules for certain types of financial asset).

The financial assessment will also seek to establish a person's level of income, although earnings from any current employment will be disregarded in order to encourage people to take up or remain in employment. The financial assessment is different depending on whether the person being financially assessed is receiving care in their own home or in a residential or nursing home. This is covered in the relevant sub-sections of this policy.

Once a financial assessment has been completed and a person's ability to contribute towards some or all the costs of their care and support has been determined, the Council reserves the right to begin charging from the date service commenced. This may involve retrospective charging; however the Council is committed to timely financial assessment to keep this to a minimum.

Following the pension reforms that take effect from April 2015, where a person chooses to withdraw funds from their pension pot and manage this directly, the Council may treat this as capital, under the rules established under the Care Act 2014.

## **17.5 General charging rule exemptions**

The Care Act 2014 specifically exempts the following services from the Council's financial charging policy:

- Minor aids and adaptations, up to the value of £1,000
- Up to 6 weeks of re-ablement care
- Care and support provided to anyone with Creutzfeldt-Jacob Disease
- After-care services and / or support provided under section 117 of the Mental Health Act 1983
- Any service or part of service which the NHS is under a duty to provide, including Continuing Healthcare and the NHS contribution to Registered Nursing Care
- More broadly, any services which a local authority is under a duty to provide through other legislation may not be charged for under the Care Act 2014
- Assessment of needs and care planning may also not be charged for, since these processes do not constitute "meeting needs"

## **17.6 Establishing capacity**

The Council will establish whether a person has capacity to take part in the financial assessment. If the person lacks capacity, the Council will seek to find out whether the person due to be financially assessed has any of the following appropriate people to be involved;

- Enduring Power of Attorney (EPA)
- Lasting Power of Attorney (LPA) for Property and Affairs
- Lasting Power of Attorney (LPA) for Health and Welfare
- Property and Affairs Deputyship under the Court of Protection

- Any other person dealing with that person's affairs (e.g. someone who has been given Appointee-ship by the Department for Work and Pensions (DWP) for the purpose of benefits payments)

If the person lacks capacity and does not have an appropriate person with authority to be involved in their affairs, it may be appropriate to appoint a Property and Affairs Deputyship. This can be applied for by family members or the local authority (if there are no family members) to the Court of Protection. While this may take some weeks, it can then enable the person appointed to access information about bank accounts and financial affairs

## **17.7 Light-touch financial assessments**

In certain circumstances, the Council may opt to offer a 'light-touch' rather than a full financial assessment. These circumstances would include, but are not limited to, the following:

- Where a person has significant financial resources, and does not wish to undergo a full financial assessment for personal reasons, but wishes nonetheless to access local authority support in meeting their needs. In these situations the local authority may accept other evidence in lieu of carrying out the financial assessment and consider the person to have financial resources above the upper limit
- Where the local authority charges a small or nominal amount for a particular service (e.g. for subsidised services) which a person is clearly able to meet and would clearly have the relevant minimum income left, and carrying out a financial assessment would be disproportionate
- When an individual is in receipt of benefits which demonstrate that they would not be able to contribute towards their care and support costs. This might include income from Jobseeker's Allowance

There are a number of circumstances in which the Council would be satisfied that there is sufficient evidence that a person is able to afford any charges due, including but not limited to;

- The individual owning property clearly worth more than the upper capital limit, where they are the sole owner or it is clear what their share is
- The individual having savings clearly worth more than the upper capital limit
- The individual having sufficient income left following the charge due

Before offering a 'light-touch' financial assessment, the Council will take steps to ensure that the individual concerned is willing, and will continue to be willing, to pay all charges due. Where a person does not agree to this, a full financial assessment will be offered.

When deciding whether or not to undertake a light-touch financial assessment, the Council will consider both the level of the charge it proposes to make, as well as the evidence or other certification the person is able to provide. It will inform the person when a 'light-touch' assessment has taken place and make clear that the person has the right to request a full financial assessment should they so wish, as well as making sure they have access to sufficient information and advice, including the option of independent financial information and advice.

## **17.8 Deprivation of assets**

Deprivation of assets refers to a situation where an individual has *intentionally* deprived or decreased their overall assets in order to reduce the level of financial contribution paid towards their care and support services.

If, whilst undertaking a financial assessment, the Council identifies a situation where deprivation of assets may have occurred, the Council will decide how best to proceed. Depending on the individual's circumstances, options may include;

- Charging the individual concerned as if this deprivation has not occurred
- Treating the individual concerned as possessing the notional difference between the two asset values, and charging accordingly
- Recovering care costs from the individual(s) who received the asset

## **17.9 Charging for care and support in a person's home**

These charging arrangements apply to any setting for meeting care and support outside of a residential or nursing home.

The Council recognises that a person who receives care and support outside of a residential or nursing home will also need to pay their daily living costs (such as rent, food and utilities). This means that after charging, a person will be left with the minimum income guaranteed amount), equivalent to Income Support plus a buffer of 25%.

In addition, where a person receives benefits to meet their disability needs that do not meet the eligibility criteria for local authority care and support, the charging arrangements should ensure that they keep enough money to cover the cost of meeting these disability-related costs.

Where someone requiring care and support in their own home has the financial means to fully fund their own support, depending on their specific circumstances, the Council will offer to broker the individual's care, or may provide information and advice in order to help them arrange the care themselves. In line with national Care Act guidance, the Council reserves the right to charge an administration fee to recoup costs incurred in arranging care for self-funders (see County Council website for current administrative fees). The administration fee will be based on the average cost incurred by the Council in arranging care. The Council will not make a profit from this service.

## **17.10 Charging for care and support in a residential or nursing home**

Where a local authority is responsible for meeting an individual's needs by arranging a residential or nursing care placement, the Council is responsible for contracting with the relevant provider.

The Council is committed to working with providers to promote quality, choice and value for money. Where market capacity allows, the Council will offer a choice of accommodation options. Depending on the individual's circumstances and wishes, this may involve a more expensive setting, which in the majority of cases, would require a 'top-up' fee from the person requiring care, or a third party.

In the event that the individual receiving the care is required to make a financial contribution, the Council will support the individual to identify options of how best to pay any appropriate charges, which will be collected via a specific arrangement between the Council and the individual receiving care. The Council will be responsible for paying the provider.

Where someone requiring residential or nursing care has the financial means to fully fund their own support, depending on their specific circumstances the Council will either offer to broker the individual's care, or may provide information and advice in order to help them arrange the care themselves.

### **17.11 Residential and nursing home 'top-up' fees**

In the event of a 'top-up' fee being required to obtain the person's choice of accommodation, the Council will ensure that the person paying is willing and able to meet this additional cost for the duration of the agreement, recognising that this may be some time in the future.

The Council will provide the person paying the 'top-up' with sufficient information and advice to ensure that they understand the terms and conditions of the arrangement. This may include the promotion of guidance from an independent financial advisor.

The person paying the 'top-up' fee will be required to enter into a written agreement with the Council, which will include confirmation of;

- the additional amount to be paid
- the amount specified for the accommodation in the person's personal budget
- the frequency of the payments
- to whom the payments are to be made
- provisions for reviewing the agreement
- a statement on the consequences of ceasing to make payments
- a statement on the effect of any increases in charges that a provider may make
- a statement on the effect of any changes in the financial circumstances of the person paying the 'top-up'

The 'top-up' fee agreement will be periodically reviewed, in light of expected provider fee increases for example, in order to assess continuing affordability.

The person whose needs are to be met by the accommodation may themselves choose to make a 'top-up' payment only in the following circumstances;

- where they are subject to a 12-week property disregard
- where they have a deferred payment agreement in place with the local authority. Where this is the case, the terms of the agreement should reflect this arrangement
- where they are receiving accommodation provided under S117 for mental health aftercare

### **17.12 Choice of accommodation and mental health after care**

Section 117 of the Mental Health Act 1983 enables a person who qualifies for after-care support to express a preference for particular accommodation, where accommodation forms part of their after-care package of support.

The Council is committed to involving the individual concerned in the care planning process. An adult has the right to choose accommodation provided;

- the preferred accommodation is of the same type that the local authority has decided to provide or arrange
- it is suitable for the person's needs
- it is available
- where the accommodation is not provided by the local authority, the provider of the accommodation agrees to provide the accommodation to the person on the local authority's terms

Under section 117 of the Mental Health Act 1983, after-care support is provided free of charge to the recipient, however in the event that the cost of the person's preferred accommodation is more than the local authority would normally pay to meet the person's needs, the Council will still arrange the care provided that the person or a third party is willing and able to pay the additional cost.

#### **17.13 Charging for carers support**

The Council will not charge a carer for services provided to the person they care for. However, in certain circumstances, a partner organisation may charge a carer to cover the costs of services provided.

#### **17.14 Equalities**

The Council is committed to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

[http://www.cambridgeshire.gov.uk/info/20086/communities\\_and\\_localism/480/equality\\_and\\_diversity](http://www.cambridgeshire.gov.uk/info/20086/communities_and_localism/480/equality_and_diversity)

#### **17.15 Policy review**

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

## 17.16 Transition to the new legal framework

This policy relates to duties established under the Care Act 2014 and comes into effect from the 1<sup>st</sup> April 2015.

Individuals who have received an assessment under the previous legislation will not be required to be re-assessed purely because of the new legal framework, however any re-assessments started on or after the 1<sup>st</sup> April 2015 will be carried out in line with the new duties and responsibilities established in the Care Act 2014.

Equally, any care and support plans created prior to the 1<sup>st</sup> April 2015 will only be revised following a re-assessment brought about by a change to an individual's needs or circumstances.

This applies equally to individuals with care and support needs and carers.

## 17.17 What does this mean for me?

**As a local resident:** This policy only applies to people with care and support needs.

**As someone who may need care and support:** Once you have been assessed as having eligible care and support needs, you will be financially assessed. Depending on your financial circumstances, you may be asked to make a contribution to the costs of your care and support.

**As a carer of someone receiving care and support:** You will not be charged for any services that the person receives as a result of their needs assessment, however partner organisations may levy a small charge to you to cover any costs incurred of the provided service.

**As a care and support professional:** Whilst the financial assessments will be carried out by specialist staff, you need to have a general understanding of this policy.

## 17.18 Useful links

<b>Care Act legislation – clauses 14-17:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/14/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/14/enacted</a>
<b>Care Act Guidance – section 8:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf</a>
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Related policy statements:</b>	<ul style="list-style-type: none"><li>• Prevention</li><li>• Market shaping</li></ul>

	<ul style="list-style-type: none"> <li>• Safeguarding</li> <li>• Assessment of care and support needs</li> <li>• Advocacy</li> <li>• Support planning</li> <li>• Direct payments</li> <li>• Ordinary residence rules</li> <li>• Continuity of care</li> <li>• Transitions to adult services</li> <li>• Prisoners</li> <li>• Deferred payments</li> </ul>
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## 18.0 Deferred payments

### 18.1 Deferred payments

A Deferred Payment Agreement can provide additional flexibility for when and how someone pays for their care and support. The establishment of the universal deferred payment scheme will mean that people should not be forced to sell their home in their lifetime to pay for their care. By entering into a Deferred Payment Agreement, a person can 'defer' or delay paying the costs of their care and support until a later date.

The scheme is universally available throughout England and all local authorities are required to offer such a scheme to people who meet certain key criteria.

### 18.2 Key policy statements: Deferred payments

- What is a deferred payment?
- Information and advice on deferred payments
- Mental Capacity for deferred payments
- Who to offer deferred payments to
- Refusing a deferred payment
- Where we may stop deferring care costs
- Overview of the deferred payment process
- How much can be deferred
- The equity limit
- Property valuation
- Financial contribution
- Care home costs (top-ups)
- Obtaining security
- Interest rate and administration charge
- Deferred Payment Agreements
- Contractual responsibilities for the Council
- Contractual responsibilities for the customer
- Monitoring Deferred Payment agreements
- Ending Deferred Payment agreements
- Appeals and complaints
- Equalities
- Policy review
- Transition to the new legal framework
- What does it mean for me?

### 18.3 What is a deferred payment?

A deferred payment is a financial arrangement which allows an individual who requires permanent residential or nursing care to delay the costs of their care until a later date.



The Deferred Payment Agreement is a contractual arrangement between the Council and the individual, where the Council agrees to meet the costs of their care on a temporary basis, secured against the value of the person's home.

The care costs are then paid back to the Council by the individual (or a third party on their behalf) at a later date once the property is sold. This offers flexibility for the person by allowing them to sell their home when they choose to do so.

Deferred payments are available to anyone who meets the deferred payment eligibility criteria as detailed within this policy.

#### **18.4 Information and advice on deferred payments**

The Council recommends that independent financial advice is sought before an individual makes a decision about their financial future, which includes the consideration of a deferred payment scheme. The Council will offer guidance on how to access independent financial advice and inform individuals of the existence of regulated financial advice.

Carers and families will often assist a person in making decisions about how they pay for their care. The Council will provide carers and families with the same information on deferred payments as would be provided to the person they care for. The Council will also, where appropriate, invite carers and/or families to participate in discussions on deferred payments, subject to the consent of the person with social care needs or someone else with appropriate authorisation. The Council, where appropriate, will provide a person with information and advice on options for deputyship, legal power of attorney and advocacy.

Further information on the deferred payment scheme provided by the Council is available through the Council's website. This information will also be available in alternative formats on request.

#### **18.5 Mental Capacity for deferred payments**

The law works on the principle that everyone is assumed to have capacity to make decisions for themselves if they are given enough information, support and time. It protects their right to make their own decisions and to be involved in any decisions that affect them.

A customer's capacity must be judged according to the specific decision that needs to be made, even though someone may be making what seems to be an unwise decision (even if they have an illness or disability) this does not necessarily mean they lack capacity. There are legal safeguards that must be followed when making a decision on behalf of someone who lacks the capacity to make the decision and it must be done in their 'best interest'.

A person is unable to make a decision if they cannot:

- understand the information relevant to the decision,
- retain that information,
- use that information as part of the process of making the decision, or communicate the decision

If Mental Capacity is in doubt, then if a person who has a Lasting Power of Attorney (or an Enduring Power of Attorney), which includes authority to make such decisions for them, they may request a deferred payment on behalf of the customer.

Where a family member requests a deferred payment and they do not have the legal power to act on behalf of the client, the Council will signpost the client and family members to appropriate information and advice on how to obtain this legal power, which can be through Lasting Power of Attorney (LPA) and Deputyships.

If a person, who may be a family member or carer, cannot act as an advocate for the client and where there is no intention to register for a LPA, or the holder of the LPA can no longer undertake the role, then an independent advocate must be provided and a Court of Protection order considered.

### **18.6 Who to offer deferred payments to**

The Council must offer a deferred payment to an individual who has their permanent residential or nursing care arranged by the Local Authority and also an individual who arranges and pays for their own care at the point of applying for the deferred payment subject to the following criteria:

- Where an individual's assessed social care eligible needs are to be met by the provision of permanent residential or nursing care
- Where an individual has less than £23,250 in assets (excluding the value of their home) i.e. savings and other non-housing assets
- Where the home is not occupied by a spouse or dependent relative as defined in regulations on charging for care and support. i.e. someone whose home is taken into account in the Council's financial assessment and might need to be sold
- Where the Council is satisfied that there is adequate security in order to secure the deferred payment debt. i.e. 1st charge on the property, and the property is registered at Land Registry

The Council can also exercise its discretion and may offer deferred payments to individuals in permanent residential/nursing care, who do not meet all of the deferred payment eligibility criteria above. Examples of when the Council may exercise its discretion on a case-by-case basis:

- Where a person has assets which cannot be realised quickly and converted to cash
- Where a person would like to use the wealth tied up in their property to fund more than just their core care costs and purchase affordable 'top-ups'
- Whether an individual has any other accessible means to help meet their care fees and/or they are narrowly not eligible given the criteria above
- The Council can also consider applications for deferred payments where a person is renting their Supported Living/Extra Care accommodation and they still own their previous main residence.

*(The above is not an exhaustive list of examples)*

### **18.7 Refusing a Deferred Payment**

The Council may refuse a request for a deferred payment, even if a person meets the deferred payment eligibility criteria and the Council would otherwise be required

to offer the person an agreement. The consideration to refuse is in accordance with the Care Act. This permission to refuse is intended to provide the Council with a reasonable safeguard against default or non-repayment of debt.

Circumstances where the Council may refuse a Deferred Payment Agreement include:

- Where the Council is unable to secure a first charge on the property e.g.:
  - unregistered property,
  - non-agreement by joint owners
  - mobile homes
  - some leasehold property
  - property abroad
  - uninsurable property
  - property with a mortgage charge attached*(The above is not an exhaustive list of examples)*
- where someone is seeking a top up
- where a person does not agree to the terms and conditions of the agreement, for example a requirement to insure and maintain the property
- a Deferred Payment Agreement cannot be entered into in order to finance mortgage payments on Supported Living /Extra Care accommodation
- where a person wishes to defer an amount larger than they can provide security for

## **18.8 Where we may stop deferring care costs**

There are also circumstances where the Council may refuse to defer any more charges for a person who has an active Deferred Payment Agreement. The Council cannot demand repayment of previously deferred charges in these circumstances, and repayment is still subject to the usual terms of termination, as set out in section 18.21 of this policy document.

Circumstances where the Council may refuse to defer any more charges may include;

- when a person's total assets fall below the level of the means-test, and the person becomes eligible for local authority support in paying for their care;
- where a person no longer has need for care in a care home (or where appropriate, supported living accommodation);
- if a person breaches certain predefined terms of their contract and the Council's attempt to resolve the breach is unsuccessful, the authority may stop making further payments in such a case as per the agreement; or
- if, under the charging regulations (see Chapter 8, Charging and financial assessment, of the Care Act Statutory Guidance), the property becomes disregarded for any reason and the person consequently qualifies for local authority support in paying for their care, including but not limited to:
  - where a spouse or dependent relative (as defined in Chapter 8, Charging and financial assessment, of the Care Act Statutory Guidance) has moved into the property after the agreement has been made, where this means the person is eligible for local authority support in paying for care and no longer requires a deferred payment agreement; and

- where a relative who was living in the property at the time of the agreement subsequently becomes a dependent relative (as defined in Chapter 8, Charging and financial assessment, of the Care Act Statutory Guidance). The local authority may cease further deferrals at this point.

The Council should not exercise these discretionary powers if a person would, as a result, be unable to pay any tariff income due to the local authority from their non-housing assets.

The Council must also cease deferring further amounts when a person has reached the 'equity limit' that they are allowed to defer (see section 18.10 of this policy document); or when a person is no longer receiving care and support in either a care home setting or in supported living accommodation. This also applies when the value of the security has dropped and so the equity limit has been reached earlier than expected.

The Council will provide a minimum of 30 days advance notice that further deferrals will cease; and should provide the person with an indication of how their care costs will need to be met in future.

## **18.9 Overview of the deferred payment process**

Usually during the financial assessment for a 12-week property disregard the deferred payment application process will be discussed and an application form provided to the customer for them to apply for this arrangement. The completed application will need to be returned to the Financial Assessment team within 14 days for consideration.

If the application is returned later than 14 days then the application may not be taken forward and the customer may be required to meet the full cost of their placement. As part of the application process, a formal valuation may be arranged by the Council for the property or proposed item of security.

If the application is not accepted, a letter will be sent to the customer stating the reasons for refusal. The Council operates an appeals process for decisions made by the local authority. See section 18.22 of this policy document for further information.

If the application is accepted, the customer will receive an agreement and acceptance letter for which they will need to sign and return to the Council. The customer must return the signed agreement within 14 days.

Once the signed agreement has been returned, a charge will be placed against the property with the Land Registry. The purpose of this charge is to ensure that the property cannot be sold without the knowledge of the Council.

## **18.10 How much can be deferred**

A person should in principle be able to defer the entirety of their care costs (subject to any contribution required from the person's income). The Council will need to consider both security and sustainability;

- Can adequate security be provided for the Deferred Payment Agreement?  
This requirement for 'adequate security' will normally be fulfilled by securing the Deferred Payment Agreement against a property.
- Is the amount or size of the weekly deferral requested sustainable given the intended length of deferral and equity available to repay i.e. will the care costs mount up over time to be more than the security available to repay?

Three elements will determine how much a person may need to defer:

- the amount of equity a person has available in their form of security
- the amount a person is contributing to their care costs from other sources, including income, savings or a third-party
- the total care costs a person will face, including any top-ups the person might be seeking.

### 18.11 The equity limit

In line with the Care Act Statutory Guidance, the Council sets an 'equity limit' for the agreed type of security (see section 18.5 for further information on obtaining security), for the total amount that can be deferred. The equity limit will ensure that some equity remains within the security to be used for the Deferred Payment Agreement, acting for both as a buffer to cover any subsequent interest payments and to provide a safeguard in case of any small variations in value of the security.

If the person intends to secure their deferred payment agreement with a property, the Council will undertake a valuation of the property. Customers may request an independent assessment of the property's value (in addition to the Council's valuation). If an independent assessment finds a substantially differing value to the Council's valuation, the Council and the person will discuss and agree an appropriate valuation prior to proceeding with the agreement.

Where a property is used as security for a deferred payment agreement, the equity limit is set at;

- the value of the property
- minus ten percent
- minus the lower capital limit

The Council will, when a person is approaching the point at which they have deferred 70% of the value of their security, review the cost of their care with the person. The Council will discuss;

- when the person might be eligible for any means tested support
- the implications for any top-up they might currently have
- consider jointly whether a Deferred Payment Agreement continues to be the best way for someone to meet these costs
- the possibility of re-valuing the security (see section 18.12 for further information).

The Council will not allow additional amounts to be deferred beyond the equity limit, and will refuse to defer care costs beyond this. Interest may still accrue beyond this point, and administrative charges may still be deferred.

### **18.12 Property valuation**

Where an individual intends to secure their deferred payment with a property, the Council will undertake a valuation of the property that will usually take place during the 12 week property disregard. The Council can instruct an appropriate professional to provide a current market valuation.

People may request an independent assessment of the property's value (in addition to the Council's valuation). If an appropriate independent assessment finds a substantially differing value to the Council's valuation, the Council and person will discuss and agree an appropriate valuation prior to proceeding with the agreement.

The value of the property or security will be reviewed/re-valued as follows;

- On an annual basis from the date of the original valuation and
- when the amount deferred is between 50%-70% of the value of the security to assess any potential change in the value (and consequently the person's 'equity limit' should be reassessed in turn). After this revaluation, the Council will revalue the security periodically to monitor any potential further changes in value. If in either case there has been any substantial change, the local authority should review the amount being deferred as well, as set out in the section 18.10 of this policy statement, or
- more frequently if individual circumstances deem necessary.

Where a property is being considered as the form of security for a deferred payment, the customer will need to consider how they plan to use, maintain and insure the property if they would like to take out a deferred payment agreement with the Council. Consideration should be made by the customer for how to rent out the property, prepare it for sale, or to leave it vacant for a period of time. The Council will signpost people to more specialist organisations who can provide further advice, for example, information about their legal responsibilities as landlords and their obligations to any potential tenants.

### **18.13 Financial contribution**

The share of care costs that a person intends to defer will be determined based on the amount they will be paying from income or other sources. A person may also contribute from payments by a third party (including any contributions available from a financial product) or from their savings. The sustainability of a person's contributions from their savings should be considered.

Contributing to care costs from another source would be beneficial for a person as it would reduce the amount they are deferring and this would reduce their overall debt to the local authority. However, the Council must not compel a person to contribute to their care costs from these sources.

The Council will require a contribution towards fees from a person's income, but will not leave the person with less than the disposable income allowance. A person may choose to keep less of their income than the disposable income allowance should they wish.



If a person decides to rent out their property during the course of their Deferred Payment Agreement, the Council may permit that person to retain a percentage of any rental income they possess.

#### **18.14 Care home costs (top-ups)**

Where a customer meets the deferred payment eligibility criteria and the Council is able to offer a Deferred Payment Agreement, the Council will allow someone the opportunity to defer their 'core' care costs.

Before considering the deferred payment scheme through the Council, a customer should have an understanding of what their likely care costs will be. If a customer is considering residential/nursing care accommodation, which is above the agreed rate with the commissioned providers for the Council (therefore above the Expected to Pay Rate - EPR), the customer may wish to consider a top-up (which can be through a third party payment) in order to meet their preferred accommodation option.

Therefore, in choosing to make a top-up to 'core' care costs, a customer would need to make additional payments in order to meet the costs of the preferred accommodation option.

The deferred payment scheme at the Council can consider the option for a customer to defer their full care costs, which can include any top ups for the preferred accommodation option.

The Council will consider requests for top-ups, but have the discretion whether or not to agree to and the amount of a given top-up. The Council should accept any top-up deemed to be reasonable given considerations of affordability, sustainability and available equity within the security for the deferred payment.

If the Council is satisfied that a third party, or the customer, is able and willing to pay the additional cost of the preferred accommodation option, for the period during which the Council expects to support the customer's needs, the person paying will enter into a written agreement with the Council in which the person paying agrees to pay the additional cost. This is separate agreement to the Deferred Payment Agreement.

When a top up is agreed, the Council will pay the full amount to the residential/nursing home provider and recover the top-up amount from the customer.

The Council will administer top-ups in accordance with the duties set out in the Care Act Statutory Guidance (Annex A: Choice of accommodation and additional payments).

#### **18.15 Obtaining security**

In order to enter into a Deferred Payment Agreement, the Council must have adequate security in place. In line with Care Act Statutory Guidance, the Council must accept the following form of security:

- \*A legal mortgage charge on a property via the Land Registry i.e. a 1st charge.

*\* Where a property is jointly owned, the Council will request all owners consent and agreement to place a charge on the property. All owners will need to be signature of the charge and the Deferred Payment Agreement. The agreement will require the co-owner(s) to agree to the sale of the property for the purpose of repaying the debt due to the Council.*

The Council can also use its discretion to agree other forms of adequate security for circumstance where a legal charge on a property cannot be secured. These may include:

- A 3rd party guarantor – subject to the guarantor offering an adequate form of security
- A solicitors undertaking letter
- A valuable object such as a painting/work of art
- An agreement to repay the amount deferred from the proceeds of a life insurance policy

The Council has full discretion on a case-by-case basis to refuse a Deferred Payment Agreement if it is not satisfied that adequate security is in place.

#### **18.16 Interest rate and administration charge**

The Council will recover the costs of administering the deferred payment scheme in line with the Statutory Guidance for the Care Act. This national guidance outlines how local authorities should intend to operate a cost neutral deferred payment scheme. Administration fees will be based on the average cost incurred by the Council in arranging care. The Council will not make a profit from this service.

The deferred payment scheme provided by the Council includes an administration charge for costs associated with the arrangement and on-going management of a Deferred Payment Agreement. The Council also applies a rate of interest to the agreed amount deferred to cover the cost of lending.

The administration charges and interest for a deferred payment can be added on to the total amount deferred as they are accrued, although a person can request to pay these separately if they choose. The Council's Deferred Payment Agreement explains that all fees deferred, including any interest and administrative charges incurred, must be paid in full by the person entering into the agreement.

Prior to entering into a Deferred Payment Agreement with the Council, information will be made available on the rate of interest that will be charged on a deferred amount. The person will also be informed of when interest rates are likely to change.

The rate of interest applied to deferred amounts will be reviewed on a regular basis and will be maintained in accordance with the guidance for the national maximum rate as detailed within the statutory guidance for the Care Act. The same rate of interest will be applied to all deferred payment agreements with the Council and on review, any changes to the rate of interest will be applied to all the agreements the Council has entered into.

The interest charged and added to the deferred amount will accrue on a compound basis. An interest charge that is compounded means that the interest is initially calculated on the agreed loan amount, but also then on the accumulated interest for



each period thereafter. Interest will continue to accrue on a compound basis until the deferred amount, along with all accrued interest and incurred administration charges, are repaid to the Council in full. The approach to charge interest on a compound basis for deferred payments is in line with the statutory guidance for the Care Act.

Interest can accrue beyond the point where the equity limit is reached. It can also accrue after the death of the customer up until the point at which the deferred amount is repaid to the Council. If the Council cannot recover a possible debt for an agreement and seeks to pursue this through the County Court system, The Council may consider charging the higher County Court rate of interest.

The administration charge a person will be liable to pay through entering into a Deferred Payment Agreement with the Council includes costs associated with the set up and on-going management of the agreement. These costs may include (but are not limited to) the following:

- registering a legal charge with the Land Registry against the title of the property, including Land Registry search charges and any identity checks required
- undertaking relevant postage, printing and telecommunications
- costs of time spent by those providing the service
- cost of valuation and re-valuation of the property
- costs for removal of charges against property
- overheads, including where appropriate (shares of) payroll, audit, management costs, legal service

A list and the details of the administration charges that a person can be liable to pay can be found on the through the Council's website.

### **18.17 Deferred Payment Agreements**

Where someone chooses to enter into a Deferred Payment Agreement, the Council will aim to have the agreement finalised and in place by the end of the 12-week disregard period (where applicable) or within 12 weeks of the person approaching the Council regarding deferred payments in other circumstances.

Decisions on a person's care and support package, the amount they intend to defer, the security they intend to use and the terms of the agreement, should only be taken into account following a discussion between the Council and the customer. Once the agreement in principle has been reached between the Council and the applicant, it is the Council's responsibility to transpose the details agreed into a deferred payment agreement, taking the legal form of a contract between the Council and the applicant.

The Council will provide a hardcopy of the Deferred Payment Agreement to the applicant, allowing the applicant 14 days to read and consider the agreement, which will be time period for the applicant to query any clauses and discuss the agreement further with the Council before signature and return.

### **18.18 Contractual responsibilities for the Council**

The Council will provide customers with six-monthly written statements with an update on the amount of fees deferred, interest and administrative charges accrued to date, the total amount due and the equity remaining in the security.

A written statement will be provided by the Council to the customer within 28 days if requested.

### **18.19 Contractual responsibilities for the customer**

The Deferred Payment Agreement sets out various contractual requirements for the individual.

The agreement requires the individual to notify the Council of any changes in their income. The agreement also contains provisions requiring the adult to notify the authority of changes in their need for care and support, if those changes are ones which will mean that the authority must or is entitled to stop making further instalments under the agreement or to alter the amount of the instalments.

The Council requires that appropriate arrangements are in place to maintain a person's home while they are in residential/nursing care. In particular, that their home is maintained adequately and that adequate insurance for their property is in place.

Additionally the agreement requires the customer to obtain the Council's consent before allowing someone to move into the property after the agreement has been made.

### **18.20 Monitoring Deferred Payment Agreements**

The Council will review the Deferred Payment Agreement and supporting information on a regular basis for the following reasons:

- Changes in need for care and support
- Check insurance of a property including those that are empty
- Property revaluations that will be required on an annual basis and will require a new valuation of the property to be submitted upon request
- Properties that are to be sold
- Properties that are rented out
- Payment schemes that are close to the maximum deferral amount allowed
- Insurance policies used as security
- Paperwork checks on items that are registered as security against care payments

Any breaches in terms and conditions may result in the termination of the Deferred Payment Agreement.

### **18.21 Terminating Deferred Payment Agreements**

A Deferred Payment Agreement can be terminated in three ways:

- At any time by the individual, or someone acting on their behalf, by repaying the full amount due (this can happen during a person's lifetime or when the agreement is terminated through the deferred payment agreement holder's death)

- When the property (or form of security) is sold and the authority is repaid
- When the person dies and the amount is repaid to the Council from their estate

On termination, the full amount due (including care costs, interest accrued and administrative or legal fees charged) must be paid to the Council.

If a person decides to sell their home, they should notify the Council during the sale process. The person will be required to pay the amount due to the Council from the proceeds of the sale and the council will be required to relinquish the charge on their property.

A person may decide to repay the amount due to the Council from another source, or a third party may elect to repay the amount due on behalf of the customer. In either case, the Council should be notified of the person's/the third party's intention in writing and the Council will relinquish the charge on the property on receipt of the full amount due.

If the deferred payment is terminated due to the person's death, the amount due to the Council must be either paid out of the estate or paid by a third party. A person's family or a third party may wish to settle the debt to the Council by other means of repayment and the Council will accept an alternative means of payment in this case, provided this payment covers the full amount due.

The Council will wait at least two weeks following the person's death before approaching the executor with a full breakdown of the total amount deferred (but a family member or the executor can approach the Council to resolve the outstanding amount due prior to this point).

Responsibility for arranging for repayment of the amount due (in the case of payment from the estate) falls to the executor of the will.

Interest will continue to accrue on the amount owed to the Council after the individual's death and until the amount due to the Council is repaid in full.

If the agreement is terminated through a person's death, the amount owed to the Council under a deferred payment agreement falls due 90 days after the person has died. After this 90 day period, if the Council concludes active steps to repay the debt are not being taken, for example, if the sale is not progressing and the Council has actively sought to resolve the situation (or the Council concludes the executor is willfully obstructing sale of the property), the Council may enter into legal proceedings to reclaim the amount due.

In whichever circumstance an agreement is terminated, the full amount due to the Council must be repaid to cover all costs accrued under the agreement, and the person (and/or the third party where appropriate) must be provided with a full breakdown of how the amount due has been calculated. Once the amount has been paid, the Council will provide the individual with confirmation that the agreement has been concluded, and confirm (where appropriate) that the charge against the property has been removed.

## **18.22 Appeals and complaints**

The Council promotes the right of its customers to raise a concern or make a complaint if they feel something has been undertaken incorrectly or if they feel it has been addressed poorly.

This policy explains how the Council's deferred payment scheme aligns with the Care Act Statutory Guidance and the mandatory criteria for a deferred payment. If a customer feels they would like to appeal an application decision for a deferred payment, they can do so by contacting the Council's feedback and complaints system.

If a person has a complaint concerning the deferred payment application process, this also should be directed to the Council's feedback and complaints system.

For further information how to contact the Council's feedback and complaints system please visit the County Council website.

## **18.23 Equalities**

The Council is commitment to providing fair and equally accessible services for everyone in Cambridgeshire, whether they are:

- Using our services, in need of our services, or may need our services in the future
- Living in, working in or visiting Cambridgeshire
- Employees or prospective employees, contractors supplying goods or services, or anyone working in the voluntary capacity, supported by us

Under the Equality Act 2010, The Council and its staff are fully committed to the public sector duty to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it
- Foster good relations between people who share a protected characteristic and people who do not share it

Further information about the Council's equality and diversity policies are available via the council's website:

[http://www.cambridgeshire.gov.uk/info/20086/communities\\_and\\_localism/480/equality\\_and\\_diversity](http://www.cambridgeshire.gov.uk/info/20086/communities_and_localism/480/equality_and_diversity)

## **18.24 Policy review**

This policy will be reviewed annually. An early review may be triggered by any national or local developments that impact on this policy.

## **18.25 Transition to the new legal framework**

This policy relates to duties established under the Care Act 2014 and comes into effect from the 1<sup>st</sup> April 2015.

Any Deferred Payment Agreements that have been created prior to the 1<sup>st</sup> April 2015 will remain in place until such time as the agreement expires.

Equally, any Deferred Payment Agreements created on or after the 1<sup>st</sup> April 2015 will be entered into using the new legal framework, in line with national guidance.

## 18.26 What does this mean for me?

**As a local resident:** This policy only applies to people with care and support needs.

**As someone who may need care and support:** Depending on your circumstances, you may be eligible for a deferred payment agreement, in which your residential or nursing care costs are temporarily met by the Council, secured against the value of your home. This means that you will not need to sell your home in order to pay for the costs of your care needs. The Council recommends that anyone interested in a deferred payment scheme seeks independent financial advice to help them understand the financial impact of this decision.

**As a carer of someone who might need care and support:** Carers are not eligible for deferred payments schemes, however you may wish to support the person you care for in seeking a deferred payment agreement.

**As someone who provides care and support:** All staff should have a general awareness of this policy. Specialist staff will need to be familiar with this policy statement, paying particular attention to the eligibility criteria, the need for ongoing monitoring and the reasons for termination.

## 18.27 Useful links

<b>Care Act legislation – clauses 34-36:</b>	<a href="http://www.legislation.gov.uk/ukpga/2014/23/section/1/enacted">http://www.legislation.gov.uk/ukpga/2014/23/section/1/enacted</a>
<b>Care Act Guidance – section 9:</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation">https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation</a>
<b>Care Act Regulations:</b>	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf</a>
<b>Care Act Factsheets</b>	<a href="https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets">https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets</a>
<b>Related policy statements:</b>	Information and advice Assessment of care and support needs Support planning Financial contributions