

# Adult Social Care policy for people with care and support needs

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## 1. Introduction

- 1.1 This policy is about the Adult Social Care services provided under the Care Act 2014 (the Care Act) by Gloucestershire County Council (we / the Council) for people who, as a result of a disability, illness or mental ill health, may need help with everyday activities to stay independent and safe.
- 1.2 For Adult Social Care services for carers, please see our Adult Social Care for Carers policy.
- 1.3 The Care Act allows local authorities to delegate certain social care duties to other individuals and organisations. The Council may delegate certain Adult Social Care duties to specialist partners (delegated organisations).
- 1.4 This policy applies to:
  - adults (18 years and over) with care and support needs. This includes adults who may self-fund their own care and support
  - people aged under 18 with care and support needs who are eligible for a child's needs assessment under section 58 of the Care Act (transition assessment)
  - staff in Adult Social Care, brokerage and commissioning teams
  - any delegated organisation authorised by the Council to provide its Adult Social Care assessment, planning and / or review functions. Delegated organisations must meet the requirements of this policy when acting on behalf of the Council

## 2. Promoting wellbeing

- 2.1 The Care Act puts wellbeing at the heart of care and support. The Council will promote individual wellbeing throughout Adult Social Care.

## 3. Safeguarding

- 3.1 Across all Adult Social Care services, the Council will follow:

- Gloucestershire's Multi Agency Safeguarding Adults policy and procedures whenever an adult with care and support needs appears to be experiencing or is at risk of abuse, neglect or exploitation and as a result of their needs is unable to protect themselves. We will continue to work with the adult while safeguarding enquiries are carried out so that there is no delay in identifying and / or meeting care and support needs
- Gloucestershire's Safeguarding Children procedures where it appears that a child or young person may be a child in need

#### 4. Providing information about care and support and supporting involvement

- 4.1 The Council will provide universal information about care and support on its website. We will provide personalised information to people involved with Adult Social Care.
- 4.2 We will actively support people to be involved in assessing, planning, and reviewing their care and support. We will make reasonable adjustments in line with our duties under the Equality Act 2010 and the Care Act to overcome barriers to involvement. Please see also our:
  - Adult Social Care Accessible Information Standard (AIS) policy
  - Independent Advocacy in Adult Social Care Policy

4.3 We will assume that people are able to make their own decisions about their care and support. Where this is not the case, we will follow the Gloucestershire Multi Agency Mental Capacity Act policy and guidance.

#### 5. Prevention and early intervention

- 5.1 The Council recognises that people want to remain independent for as long as possible.
- 5.2 Our first response from our first contact with an adult will be to consider what may help them to maintain, regain or improve their independence and / or to reduce or delay the onset of needs for care and support.
- 5.3 We also recognise the valuable contribution of unpaid carers and when working with an adult with care and support needs will consider whether they too may benefit from preventative or other support.

Please see our Adult Social Care for Carers policy.

#### 6. Assessment of needs

- 6.1 The Council will offer an assessment of needs to any adult who appears to need care and support. The Council may 'pause' the assessment process by providing or arranging support that may prevent, reduce, or delay the development of needs for care and support.
- 6.2 If the adult does not wish to have an assessment (or does not wish to complete a full Care Act assessment and proceed to an eligibility decision) we will respect their wishes except where they:
  - lack capacity to decline / withdraw from the assessment and we are satisfied that assessment is in their best interest, or
  - are experiencing / at risk of abuse and neglect.

- 6.3 People who decline / withdraw from an assessment retain the right to request a new assessment if they would like to have one.
- 6.4 Assessment will be appropriate and proportionate to the adult's needs and circumstances.
- 6.5 If all parties agree, the Council may combine an assessment of needs with another related assessment or offer a joint assessment where another authority also wishes to assess an adult's needs.
- 6.6 We will involve the adult's carer (if they have one) in their assessment and:
  - any suitable adult that the person wishes to involve
  - anyone needed to support the adult to take an active part in their assessment, such as an independent advocate or someone with relevant training and expertise if the adult is deafblind

We may also need to talk to someone involved in the adult's day to day care, or a health professional or another person who understands the impact of their condition on day-to-day life.

- 6.7 People with capacity to do so may complete a supported self-assessment with the Council if they wish. The Council will provide materials, information and support as needed.
- 6.8 Regardless of how the assessment is carried out, when a full needs assessment has been completed the Council will:
  - assure itself that assessment information is an accurate and complete reflection of needs, outcomes and how needs impact on the adult's wellbeing
  - provide a copy of the assessment to the adult and anyone that they wish to share it with
  - make the eligibility decision

## 7. Eligibility decision

- 7.1 The Council will make the eligibility determination in accordance with the Care and Support (Eligibility Criteria) Regulations 2015 (the Eligibility Regulations). Needs will be determined to be eligible when:
  - the adult's needs arise from or are related to a physical or mental impairment or illness

and

- as a result of their needs, the adult is unable to achieve two or more of the outcomes specified in the Eligibility Regulations. Being unable to achieve an outcome means that the person:

- is unable to achieve the outcome without assistance
- is able to achieve the outcome without assistance but doing so causes the adult significant pain, distress or anxiety
- is able to achieve the outcome without assistance, but doing so endangers or is likely to endanger the health or safety of the adult, or of others, or
- is able to achieve the outcome without assistance but takes significantly longer than would normally be expected

**and**

- as a consequence, there is or is likely to be a significant impact on the adult's wellbeing

7.2 The Council will advise the adult and / or their representative in writing of their eligibility decision. We will also provide advice about what help, and support may be available to meet, prevent, reduce or delay needs which do not meet eligibility criteria.

7.3 People who disagree with their eligibility decision should:

- first try to resolve the matter through discussion with the Council
- then if the matter remains unresolved use the Adult Social Care complaints about adult social care procedure

7.4 People should contact the Council to request a re-assessment if their needs and / or circumstances change.

## **8. After the eligibility decision**

8.1 The Council will:

- agree with the adult which of the eligible needs they would like the Council to meet
- confirm whether the adult is ordinarily resident in Gloucestershire as specified in the Ordinary Residence policy, and
- carry out a financial assessment (see section 9) if it appears that in order to meet eligible needs there may be services required for which there is a charge.

8.2 The Council may on a case-by-case basis meet needs in other circumstances where it considers it appropriate to do so and after taking into account all relevant circumstances. The Council may meet urgent care and support needs regardless of whether we have assessed the adult's needs or financial circumstances.

8.3 The Council may not meet needs which are being met by a carer who is willing and able to continue to meet needs **or** are the responsibility of other authorities, for example the NHS or a housing authority.

## 9. Personal budgets, best value, charging and financial assessment

### Care and Support Statutory Guidance

**10.27** In determining how to meet needs, the local authority may also take into reasonable consideration its own finances and budgetary position and must comply with its related public law duties. This includes the importance of ensuring that the funding available to the local authority is sufficient to meet the needs of the entire local population. The local authority may reasonably consider how to balance that requirement with the duty to meet the eligible needs of an individual in determining how an individual's needs should be met (but not whether those needs are met). However, the local authority should not set arbitrary upper limits on the costs it is willing to pay to meet needs through certain routes – doing so would not deliver an approach that is person-centred or compatible with public law principles. The authority may take decisions on a case-by-case basis which weigh up the total costs of different potential options for meeting needs and include the 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.

- 9.1 The Council has a duty to achieve best value when meeting care and support needs and will take cost effectiveness into account including using low or no cost options when deciding between suitable options for meeting needs.
- 9.2 Where the Council has agreed to meet an adult's needs for care and support, we will estimate the cost of meeting needs based on their assessment. This is known as an indicative budget.
- 9.3 The actual cost of meeting the adult's needs (their personal budget) will be agreed on a case-by-case basis. The adult's personal budget will:
  - be sufficient to meet their needs
  - take into account their reasonable preferences about how they wish their needs to be met
  - be reviewed if their needs or circumstances change
- 9.4 In most cases, the Council will apply means tested charges where it has agreed to meet care and support needs. This offsets some of the cost and helps to keep Adult Social Care services sustainable over the longer term.
- 9.5 Where the Council intends to apply a charge, we will ask the adult to have a financial assessment. This determines the amount they will have to pay towards the total cost of their care and support (their personal budget). The Council will fund any remaining balance.
- 9.6 The Council will assess adults who do not wish to have a financial assessment (or do not provide the information requested to complete their financial assessment) as able to pay for the full cost of their care and support.

## 10. Top ups

10.1 The Council will fund only what it considers necessary to meet needs.

10.2 People may be able to increase their options if someone (for example a family member) is able to provide additional support or is able to 'top up' what the Council will fund.

Please see our Choice of Accommodation and Top Ups policy for information about 'top ups' for care in a care home, Shared Lives Scheme or supported living accommodation.

## 11. Planning and reviewing care and support arrangements

### Care and Support Statutory guidance

10.12 Where the local authority provides or arranges for care and support, the type of support may itself take many forms. These may include more traditional 'service' options, such as care homes or homecare, but may also include other types of support such as assistive technology in the home or equipment/adaptations, and approaches to meeting needs should be inclusive of less intensive or service-focused options.

10.13 Needs may be met through types of care and support which are available universally, including those which are not directly provided by the local authority. For example, in some cases needs could be met by a service which is also made available as part of a local authority's plans for preventing or reducing needs for care and support (under Section 2 of the Act). Needs could also be met, for example, by putting a person in contact with a local community group or voluntary sector organisation.

11.1 When the Council has agreed to meet needs, we will support people to be as actively involved as they can be in planning and reviewing their care and support arrangements. We will involve the adult's carer (if they have one) and:

- any suitable adult the person wishes to involve
- anyone necessary to support the adult's involvement, for example an independent advocate

11.2 Planning and review will be appropriate and proportionate to the adult's needs and circumstances.

### Planning

11.3 We will on a case-by-case basis take all circumstances into account and make every effort to reach agreement with the adult about how they wish their needs to be met.

11.4 We will record agreed arrangements in the adult's support plan and provide a copy to them and / or their representative and others as appropriate.

11.5 People may prepare their own support plan if they wish but the Council must be satisfied that the plan will appropriately meet unmet eligible needs.

11.6 If the Council cannot reach agreement with the adult about how needs will be met, we will:

- explain the reason why the Council will not agree to the adult's preferred arrangements and what must happen before we can agree the support plan
- make arrangements to meet needs while matters are resolved
- provide information about how to use the Adult Social Care complaints procedure

#### Making arrangements - when the Council is helping to fund care and support

11.7 There are options about how care and support is arranged when the Council is helping to fund their care and support through care at home. People may:

- apply for direct payments if they would like to make some or all of their own care and support arrangements - see section 12 Direct Payments
- ask the Council to arrange their care and support for them
- choose a combination of the two

11.8 People may change their chosen options at any time by notifying the Council.

11.9 Where the Council is meeting needs through care in a care home, shared lives scheme or supported living accommodation, please see the Adult Social Care Choice of Accommodation and Top Ups policy. Making arrangements - people who self-fund their own care and support

11.10 Most people who are self-funding their own care and support make their own arrangements to meet needs as there is no need for Council involvement.

11.11 The Council will make arrangements which it considers to be appropriate to meet assessed unmet eligible needs for an adult who needs care and support:

- at home and asks the Council to make arrangements on their behalf, **or**
- in a care home and either:
  - lacks capacity to make their own arrangements and has no legally appointed representative to make decisions on their behalf, or
  - has capacity but is unable to make arrangements for themselves and has no-one to help them, **or**
  - for some other reason it is appropriate for the Council to make arrangements for the adult

11.12 Where the Council arranges care and support under paragraph 11.11, the adult will:

- be responsible for the total cost of their care and support and for any arrangement fee applied by the Council
- have a support plan which the Council will keep under review and will continue to be subject to annual financial assessment unless:

- they (or their representative) ask the Council to withdraw after making initial arrangements, and
- there is no good reason (for example safeguarding concerns) for the Council to remain involved

### Reviewing arrangements

11.13 In most cases, the Council will review care and support arrangements within 6 to 8 weeks of signing off a support plan to check that arrangements are meeting needs.

11.14 The Council will then review arrangements at regular intervals. We may align a review with the annual review of direct payments if the person chose this option for meeting needs.

11.15 The Council will also review care and support arrangements:

- on a reasonable request by or on behalf of an adult
- when it believes that a support plan is no longer effective or appropriate
- if needs and desired outcomes can be met and risks managed more cost effectively
- when a move between long term care homes is proposed - see section 14
- if a top up is / is to be discontinued - see section 10
- when a care home / care provider no longer meets the Council's quality expectations or is going to close as a result of deregistration or a change of registration with the Care Quality Commission

11.16 Where a review indicates that arrangements are no longer effectively meeting needs, we will work with the adult to amend or revise their plan. In some instances, it may be necessary to re-assess the adult's needs and agree a new plan.

## 12. Direct payments

12.1 When the Council is helping with care costs, adults who would like to arrange some / all of their own support may apply to the Council for direct payments.

12.2 When someone has direct payments, each month the adult pays their share of the cost of their care and support into a dedicated account set up by the Council. The Council adds its contribution and the adult then arranges their care and support using the combined funds.

Please see the Adult Social Care Direct Payment policies and procedures for conditions. Direct payments are not yet available for residential care.

## 13. Deferred payment agreements

13.1 A deferred payment agreement is a secured loan from the council to help homeowners with limited capital apart from their home pay their care home costs. The Council must be able to secure the loan against the person's home.

Conditions apply - please see the Adult Social Care Deferred Payment Agreements policy for more information.

#### **14. Moving between long term care homes**

14.1 Where for any reason a move between long term care home homes is anticipated, the Council will assess the adult's care and support needs and consider potential risks that the proposed move may pose to the adult's care, health and wellbeing before making a decision to move them.

#### **15. Protection of property**

15.1 The Council will take reasonable steps to secure an adult's property from loss or damage until such time as the adult / their representative is able to do so for themselves where:

- an adult with care and support needs is being cared for away from home, in a hospital or accommodation such as a care home and
- the adult is unable to make their own arrangements to protect their property and there is no-one such as family, a neighbour or friend who can help

15.2 The Council may recover any reasonable costs incurred in protecting the adult's property.

#### **16. Transition to adult care and support**

16.1 The Council will assess the needs of someone aged under 18 where:

- the young person appears likely to have care and support needs when they turn 18
- the assessment would be of significant benefit to the young person and
- the young person consents to assessment. If the young person does not consent, we will respect their wishes except where they:
  - lack capacity / are not competent to consent and we are satisfied that assessment is in their best interest, or
  - are experiencing /at risk of abuse or neglect

16.2 The purpose of the assessment is to provide advance information about whether or not the young person's needs are likely to meet Care Act eligibility criteria when they turn 18.

16.3 Young people aged under 18 with care and support needs (or their parents / carers) may request a child's needs assessment under Section 58 of the Care Act. Assessment should be requested in time for the Council to carry out the assessment and provide advice before the young person's 18<sup>th</sup> birthday.

16.4 If the Council declines a request for an assessment, we will provide:

- our written reasons for the decision, and
- information and advice about what might help to prevent, reduce or delay the development of needs for care and support.

- 16.5 Young people retain the right to request a new assessment even if they / the Council have previously declined one.
- 16.6 Assessment will be appropriate and proportionate to the young person's needs and circumstances.
- 16.7 If all parties agree, the Council may combine the assessment with another related assessment / plan / review, for example of the young person's health or educational needs.
- 16.8 We will actively support young people to be involved in assessment. We will involve anyone that the young person wishes to be involved or is needed to support involvement, such as an independent advocate or interpreter. We may involve the young person's parent(s) and / or anyone else who is significant in their life.
- 16.9 Young people with capacity and who are competent to do so may complete a supported self assessment with the Council provided that we agree that this is appropriate. The Council will provide materials, information and support as needed.

16.10 When the assessment process has been completed, the Council will:

- assure itself that assessment information is an accurate and complete reflection of the young person's likely needs, how needs are likely to impact on their wellbeing and what they wish to achieve
- write to the young person or their representative to give an indication of what the young person's needs are likely to be when they turn 18 and which if any needs are likely to meet Care Act eligibility criteria. We will also provide information about what support may be available to them if needs are likely to be ineligible

- 16.11 Depending on when the assessment occurred and whether or not the young person's needs and circumstances have changed, the Council may decide to use the information gathered during the assessment to inform an assessment of adult needs under the Care Act - see section 6 Assessment of Needs.

## **17. Social care records**

- 17.1 The Council has a duty to keep accurate and up to date records of all social care processes for each person using its Adult Social Care services.
- 17.2 We will keep information secure and use it in accordance with the Adult Social Care Privacy Notice and the GDPR and Data Protection Act 2018.

## 18. Emergency Planning

18.1 The Council will have contingency plans in place for emergencies. In exceptional circumstances and only where legal criteria are met, Adult Social Care services may not be delivered in accordance with this policy.

## 19. Concerns and complaints

19.1 As a first step, the Council encourages anyone who is dissatisfied with Adult Social Care services or with an Adult Social Care decision to:

- discuss their concerns with the staff member they are dealing with or
- ask to speak to the staff member's manager instead

The Council will try to resolve concerns quickly or explain why this is not possible.

19.2 If the concern is not resolved, or if preferred, people may use the Council's Adult Social Care complaint's procedure to make a complaint. We will provide information about how to use the complaints about adult social care procedure.

## 20. Implementing, monitoring and reviewing policy

20.1. This policy will be published on the Council's website.

20.2 The Council will advise staff and any delegated organisations that policy has been revised.

20.3 The Council will monitor compliance with this policy through routine quality assurance processes such as:

- manager / supervisor oversight of casework
- periodic independent reviews undertaken by the Council's internal auditors
- contract management and monitoring and other processes agreed with organisations authorised or commissioned by the Council to act on its behalf or provide services for the Council

20.4 The Council will review this policy by 30 June 2024.

## Appendix 1 – definition of terms

<b>Care home</b>	<p>Care homes provide accommodation and personal care, for example support with washing, dressing or moving around.</p> <p>Some homes can provide nursing care as well as personal care because they employ registered nurses. The term care home does not include NHS hospitals, private hospitals and clinics.</p> <p>Care homes are regulated by the <a href="#">Care Quality Commission</a> (CQC) who is responsible for regulating care and support in England.</p>
<b>Legally appointed representative</b>	<p>The Mental Capacity Act 2005 (MCA) applies throughout England and Wales to protect adults who lack mental capacity. Among other things, the MCA provides for adults who lack capacity to be legally represented either by:</p> <ul style="list-style-type: none"> <li>• someone they chose and appointed through a <a href="#">Lasting power of attorney</a> (an attorney) while they still had capacity, or</li> <li>• if the adult did not appoint an attorney, by a deputy appointed by the Court of Protection</li> </ul>
<b>Shared Lives Scheme</b>	<p>Shared Lives Schemes are an alternative to care in a care home or other more formal care arrangements.</p> <p>Schemes offer people who need care the opportunity to live in a family environment rather than a formal care setting.</p> <p>Schemes are regulated by the <a href="#">Care Quality Commission</a> (CQC) who are responsible for regulating care and support in England.</p>
<b>Significant benefit</b>	<p>In this context, 'significant benefit' means that the assessment should occur at a time when:</p> <ul style="list-style-type: none"> <li>• it is possible to predict the young person's care and support needs when they turn 18 with reasonable confidence</li> <li>• the assessment won't unnecessarily disrupt the young person's life (for example when they are in the middle of exams or undergoing medical treatment would not be the best time)</li> <li>• information will help the young person (or their family / carers) to consider options for meeting care and support needs when the young person turns 18</li> </ul>

<b>Supported Living Accommodation</b>	<p>Supported living accommodation is accommodation other than in a care home:</p> <ul style="list-style-type: none"> <li>• in premises which are specifically designed or adapted for occupation by adults with needs for care and support to enable them to live as independently as possible, or</li> <li>• which is provided in premises intended for occupation by adults with needs for care and support where personal care is available if required (but not premises which the adult owns or occupies other than as a tenant or licensee)</li> </ul> <p>The personal care elements of services delivered in supported living accommodation are regulated by the <a href="#">Care Quality Commission</a> (CQC)</p>
<b>Supported self assessment</b>	<p>Supported self-assessment is carried out jointly between the adult and a social worker from the Council. It gives adults the opportunity to complete some of the paperwork themselves in their own words.</p> <p>The Council's role in a supported self-assessment is to assure the information provided to us. This means ensuring we have a full picture of the adult's situation before making an eligibility decision or providing advice based on the information supplied.</p> <p>This may involve talking to someone involved in the adult's day to day care, or a health professional or another person who understands the impact of their condition on day-to-day life.</p>
<b>Wellbeing</b>	<p>Wellbeing under the Care Act relates to:</p> <ul style="list-style-type: none"> <li>• personal dignity and the right to be treated with respect</li> <li>• physical and mental health and emotional wellbeing</li> <li>• protection from abuse and neglect</li> <li>• the person's control over day-to-day life, including over any care and support provided and the way it is provided</li> <li>• participation in work, education, training or recreation</li> <li>• social and economic wellbeing</li> <li>• domestic, family and personal relationships</li> <li>• suitability of living accommodation</li> <li>• the person's contribution to society</li> </ul>

## Appendix 2 – legal context

Adult Social Care processes are governed in part by:

- The [Care Act 2014](#) and regulations under the Care Act including the [Care and Support \(Eligibility Criteria\) Regulations 2015](#).
- The [Care and Support Statutory Guidance](#) issued under the Care Act by the Department of Health in 2014 (as amended)

Local authority duties to achieve best value derive from:

- The [Local Government Act 1999](#) - section 3

Other legislation relevant to this policy includes but is not limited to:

- The [Data Protection Act 2018](#)
- The [Equality Act 2010](#)
- The [Human Rights Act 1998](#)
- The [Mental Capacity Act 2005](#) (MCA)
- The [Mental Capacity \(Amendment\) Act 2019](#)
- The [Mental Health Act 1983](#) (MHA)