

# Eligibility

## Introduction

The Care Act 2014 introduces a national eligibility threshold<sup>1</sup>, which consists of three criteria, all of which must be met for a person's needs to be eligible. The eligibility threshold is based on identifying:

- whether a person's needs are due to a physical or mental impairment or illness
- to what extent a person's needs affect their ability to achieve two or more specified outcomes
- and whether and to what extent this impacts on their wellbeing.

Local authorities can decide to meet needs that do not meet the eligibility criteria. Where they decide to do this, the same steps must be taken as would be if the person did have eligible needs (for example, the preparation of a care and support plan). Where local authorities choose to exercise this power to meet other needs, they must inform the person that they are doing so.

Where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there) is experiencing, or is at risk of, abuse or neglect, then under section 42 of the Act the authority must make enquiries. Where this is the case, a local authority must carry out (or request others to carry out) whatever enquiries it thinks are necessary in order to decide whether any further action is necessary. The decision to carry out a safeguarding enquiry does not depend on the person's eligibility, but should be taken wherever there is reasonable cause to think that the person is experiencing, or is at risk of, abuse or neglect.

## National eligibility threshold

Firstly, in considering whether a person's needs are eligible for care and support, local authorities must consider whether the person's needs are due to a **physical or mental impairment or illness**. This includes conditions such as physical, mental, sensory, learning or cognitive disabilities or illnesses, brain injuries and substance misuse. If they do have needs caused by physical or mental impairment or illness, the local authority must consider whether the effect of the adult's needs is that they are unable to achieve two or more of the following specified **outcomes**:

<sup>1</sup> This replaces 'Prioritising need in the context of Putting People First: A whole system approach to eligibility for social care: Guidance on Eligibility Criteria for Adult Social Care, England 2010' - usually referred to as the Fair Access to Care (FACS) guidance

**a) Managing and maintaining nutrition**

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

**b) Maintaining personal hygiene**

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

**c) Managing toilet needs**

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

**d) Being appropriately clothed**

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

**e) Being able to make use of the adult's home safely**

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

**f) Maintaining a habitable home environment**

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

**g) Developing and maintaining family or other personal relationships**

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

**h) Accessing and engaging in work, training, education or volunteering**

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

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

Local authorities should consider the adult's ability to get around in the community safely and consider their ability to use such facilities as public transport, shops or recreational facilities when considering the impact on their wellbeing. Local authorities do not have responsibility for the provision of NHS services such as patient transport, however they should consider needs for support when the adult is attending healthcare appointments.

#### **j) Carrying out any caring responsibilities the adult has for a child**

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

The regulations provide that 'being **unable to achieve**' specified outcomes includes circumstances where the person:

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

Finally, and crucially, local authorities must consider whether, as a consequence of the person being unable to achieve two or more of the specified outcomes there is, or is likely to be, a **significant impact** on the person's **wellbeing**. Local authorities should determine whether:

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

To do this, local authorities should consider how the adult's needs impact on the following nine areas of wellbeing in particular (but note that there is no hierarchy of needs or of the constituent parts of wellbeing):

- 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 relationships;
- suitability of living accommodation;
- the individual's contribution to society.

In making this judgement, the local authority should look to understand the adult's needs in the context of what is important to him or her. The **impact** of needs may be **different** for different individuals, because **what is important for the individual's wellbeing** may not be the same in all cases. Circumstances which create a significant impact on the wellbeing of one individual may not have the same effect on another.