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

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Prioritising need in the context of *Putting People First*: A whole system approach to eligibility for social care

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Prepared by Department of Health – Social Care Policy & Innovation

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Executive summary

Context

1. The Fair Access to Care Services (FACS) framework was introduced in 2003 to address inconsistencies across the country about who gets support, in order to provide a fairer and more transparent system for the allocation of social care services.[1] The principle behind FACS was that there should be one single process to determine eligibility for social care support, based on risks to independence over time. Its aim was to provide a framework to enable councils to stratify need for social care support in a way that is fair and proportionate to the impact it will have on individuals and the wider community, taking into account local budgetary considerations. Despite significant developments in social care policy since 2003, in this respect the original principles guiding the FACS framework still very much hold firm.

2. There is also parallel guidance for councils on the application of eligibility criteria for carers. This is contained in the Practice Guidance to the Carers and Disabled Children Act 2000[2]. This closely models the criteria for people in need of social care services and councils should consider how to ensure the effective interaction between both sets of guidance.

3. Public funding for social care will always be limited in the face of demand and such resources as are available should therefore be allocated according to individual need in a way that is as fair and transparent as possible. There is evidence that in recent years, financial pressures have influenced local authorities to shift their focus towards those groups with the highest needs. Many councils have raised the level of their eligibility threshold, leading to concerns that some people who ought to be receiving support are now being ruled as ineligible. This is despite evidence indicating that limiting access through raising eligibility criteria has only a modest and short-term effect on expenditure.[3]

4. At the same time as many councils have been seeking to manage their resources by tightening eligibility criteria, a programme for the significant transformation of social care services has been put into place. This reform programme is described in the cross-sector agreement *Putting People First: a shared vision and commitment to the transformation of Adult Social Care.*[4] *Putting People First* sets out a shared ambition for radical reform of public services, promoting personalised support through the ability to exercise choice and control against a backdrop of strong and supportive local communities. To broaden their focus beyond those with the highest needs, councils should ensure that the application of eligibility criteria is firmly situated within this wider context of personalisation, including a

[1] Department of Health, *Fair Access to Care Services – guidance on eligibility criteria for adult social care* (2003)
[2] Carers and people with parental responsibility for disabled children: practice guidance www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4005560

[3] Commission for Social Care Inspection and Audit Commission, *The effect of Fair Access to Care Services Bands on Expenditure and Service Provision* (2008) http://www.carestandards.gov.uk/PDF/Tracked%20Audit%20Commission%20report%20on%20FACS%2013%20August_typeset.pdf
[4] HM Government, *Putting People First: a shared vision and commitment to the transformation of Adult Social Care* (2007) http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_081118

strong emphasis on prevention, early intervention and support for carers. In practice, this may mean councils making adjustments where necessary to ensure a seamless approach between their personalisation programmes and the determination of eligibility for social care.

5. *Putting People First* makes it clear that personalisation will only flourish where investment is made in all aspects of support for individuals and their carers including:

   - *Universal services* – the general support available to everyone within their community including transport, leisure, education, employment, health, housing, community safety and information and advice.
   - *Early intervention and prevention* – helping people live at home independently, preventing them from needing social care support for as long as possible and potentially creating future cost efficiencies.
   - *Choice and control* – giving people a clear understanding of how much is to be spent on their care and support and allowing them to choose how they would like this funding to be used to suit their needs and preferences.
   - *Social capital* – fostering strong and supportive communities that value the contribution that each of their citizens can make.

6. At a time when resources are tight, it is recognised that it will not be possible for councils to invest large amounts in prevention and early intervention schemes. Rather it is hoped that that councils and those applying this eligibility guidance will be prompted to think about prevention and early intervention beyond just adult social services. Suitably adapted housing smart technology and equipment, improved health care and joint working, greater benefits take-up and community support can all help to delay or avoid the need for care completely.

7. *Carers at the heart of 21st century families and communities* (2008)[5], sets out a strategic vision that by 2018, carers should be universally recognised and valued as being fundamental to strong families and stable communities. Support should be tailored to meet individuals' needs, enabling carers to maintain a balance between their caring responsibilities and a life outside caring, whilst enabling the person they support to be a full and equal citizen.

8. It also says that children and young people should be protected from inappropriate caring and have the support they need to learn develop and thrive, to enjoy positive childhoods and to achieve against all the *Every Child Matters*[6] outcomes. This requires the support of adult services as well as children's services.

[5] Carers at the heart of 21st century families and communities: a caring system on your side, a life of your own www.dh.gov.uk/en/publicationsandstatistics/publications/publicationspolicyandguidance/DH_085345

[6] The Every Child Matters Green Paper identified the five outcomes that are most important to children and young people www.dcsf.gov.uk/everychildmatters/about/aims/outcomes/outcomescyp/

9. These themes from *Putting People First* and the Carers Strategy also run through the Care and Support Green Paper[7], *Shaping the Future of Care Together,* published in July 2009, which sets out a number of longer-term proposals to meet the challenges of rising demand and expectation facing the current system. Building on the programme for reform set out in *Putting People First,* the Care and Support Green Paper seeks to ensure that care is high quality and cost-effective; that people have choice and control over the care they receive and that the funding system is fair, sustainable, and affordable for individuals and the State. A Care and Support White Paper will be published shortly.

10. To effectively deliver the transformation envisaged in *Putting People First* and beyond, councils should have both a strong focus on the overall well-being of their communities and a recognition that people should be helped in a way that may prevent, reduce or delay their need for social care support. This shift in focus to community well-being and preventative approaches is also fundamental to the effective application of eligibility criteria. There is a growing evidence base that interventions can prevent or delay people entering the social care system and therefore produce better outcomes for people at a lower overall cost.

11. The development of accessible and universal services will be vital for those individuals and their carers whose needs do not meet the council's eligibility criteria but who still need access to support in order to maintain their independence and well-being. In particular, everyone should be able to access high-quality information and advice to point them in the right direction for help.

12. The Commission for Social Care Inspection (CSCI) *State of Social Care* report 2006-07 noted the trend for councils to raise their eligibility thresholds and the potential implications for people seeking support.[8] In light of these findings, CSCI was asked in January 2008 by the then Minister for Care Services to review the application of eligibility criteria and their impact on people. The subsequent report *Cutting the Cake Fairly: CSCI review of eligibility criteria for social care* was published in October 2008.[9]

13. Recognising that some method to prioritise the limited resources available will always be necessary, *Cutting the Cake Fairly* makes several recommendations for making the implementation of eligibility criteria more equitable and effective. The future reform of the care and support system, following the Care and Support Green Paper, may have significant implications for the way in which social care is delivered.[10] However, while longer-term options are being considered and debated, there are still important issues to address within the current system, as made very clear by CSCI's review, and it is for this reason that this guidance is now being issued.

[7] Shaping the future of care together
www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyandGuidance/DH_102338

[8] CSCI, *State of Social Care in England 2006-07*
http://www.carestandards.gov.uk/about_us/publications/state_of_social_care_07.aspx
[9] CSCI, *Cutting the Cake Fairly: CSCI review of eligibility criteria for social care* (2008)
http://www.cqc.org.uk/_db/_documents/FACS_2008_03.pdf
[10] http://www.careandsupport.direct.gov.uk/

Aim of this guidance

14. The aim of this guidance is to assist councils with adult social services responsibilities (CASSRs) to determine eligibility for adult social care, in a way that is fair, transparent and consistent, accounting for the needs of their local community as a whole as well as individuals' need for support.

15. This guidance is issued under section 7(1) of the Local Authority Social Services Act 1970 and replaces *Fair access to care services - guidance on eligibility criteria for adult social care* which was issued in 2003. It has been written in the light of recommendations made in CSCI's review *Cutting the Cake Fairly* to support fairer, more transparent and consistent implementation of the criteria. Practice guidance to support effective implementation of this guidance will be published separately by the Social Care Institute for Excellence.

16. The revised guidance aims to set social care eligibility criteria firmly within the context of both the new direction of policy established by *Putting People First*, and more generally within a broader theme of public service reform. Priorities for this reform include greater choice and control, better access to public services and information, empowerment of people using services and their carers at local level and the definition of user satisfaction as a key measure of success.[11] In this way, Government can work to support its citizens' aspirations for "public services to be on their side: fitting around their needs and lives, giving them security, control, information, and letting them know what they are entitled to."[12]

17. It is recognised that future decisions on the longer-term care and support system may have potential implications for how social care eligibility is determined in the future, including reconsideration of the balance between national and local responsibilities for assessment. However, this guidance reflects the current responsibility held by local authorities for identifying local priorities and allocating their own resources accordingly.

18. Councils should ensure that in applying eligibility criteria to prioritise individual need, they are not neglecting the needs of their wider population. Eligibility criteria should be explicitly placed within a much broader context whereby public services in general are well placed to offer all individuals some level of support. For example, people who do not meet the eligibility threshold should still be able to expect adequate signposting to alternative sources of support (as explained in *Place-shaping and promotion of well-being through universal services* section, at paragraph 36 of this guidance). Such arrangements will improve outcomes for the wider population and could help some individuals avoid or delay having to rely on health or social care services for support.

19. Local discretion means that there may be variation in the response of different councils to individuals with similar levels of need. However, if councils base their approach to needs on achieving outcomes rather than providing specific services, then people with similar needs within the same local authority area should expect to receive a similar quality of outcome, according to their individual circumstances and the aspirations of each individual. Councils should ensure that each decision about a person's eligibility for support is taken following an appropriate community care assessment (as explained in the *Assessment* section, in

[11] Cabinet Office Strategy Unit, *Excellence and Fairness: achieving world class public services* (2008) http://www.cabinetoffice.gov.uk/strategy/publications/excellence_and_fairness/report.aspx
[12] HM Government, *Working together: Public services on your side* (2009) http://www.hmg.gov.uk/workingtogether.aspx

paragraphs 78 to 89 of this guidance), involving both the person seeking support and the people around them assisting with their care and choices. This assessment should be based on the individual's needs, following which planning for support should be undertaken to identify what outcomes the individual would like to achieve and how they might use the resources available to them to do so.

Links to other legislation and guidance

The Mental Capacity Act

20. The Mental Capacity Act 2005 provides a statutory framework for acting and making decisions on behalf of people who lack capacity to make particular decisions for themselves, or who have capacity and want to make preparations for a time when they may lack capacity in the future. It sets out who can act and take decisions on behalf of a person who lacks capacity, in which situations, and how they should go about this.

21. The Act sets out five principles which must be adhered to when working with people who lack capacity to make certain decisions. Councils are expected to follow these principles carefully during assessment and supporting planning.[13]

22. Councils should also consider where the use of Independent Mental Capacity Advocates (IMCAs) and other advocates – such as dementia advocates or learning disability advocates – might be appropriate to ensure that as far as possible people are supported to be involved in the decision-making process.

Health

23. An individual aged over 18 who needs care to be provided over an extended period of time to meet physical or mental health needs which have arisen as a result of disability, accident or illness ("continuing care") may require services from NHS bodies and/or local authorities. Both NHS bodies and local authorities therefore have a responsibility to ensure that the assessment of eligibility for, and provision of, continuing care, takes place in a timely and consistent fashion. Where an individual is eligible for NHS Continuing Health Care (CHC), it is the responsibility of the PCT to provide appropriate services to meet those needs; the package to be provided is that which the PCT thinks is appropriate for the individual. However, this does not prevent a local authority from providing further services, as it sees fit. Reference should be made to the revised National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (July 2009)[14] for more detail. This document reminds local authorities and PCTs that a carer who provides (or intends to provide) substantial care on a regular basis has a right to have their needs as a carer assessed. Should a PCT identify a carer in the course of its assessment process, it should inform them of their right to a carer's assessment and advise them to contact their LA, or, with their permission, refer them for this purpose.

[13] Councils should refer to the *Mental Capacity Act Code of Practice* (2007) for further guidance about putting the Act into practice - http://www.publicguardian.gov.uk/mca/code-of-practice.htm

[14] Department of Health, *The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care – July 2009* (revised) http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_103162

Children and Families

24. *Putting People First* (2007) highlights a need for a personalised Adult Social Care System, which will have: *"Agreed and shared outcomes which should ensure people, irrespective of illness or disability, are supported to....sustain a family unit which avoids children being required to take on inappropriate caring roles."*

25. Councils should identify any children or young people acting in a caring role and consider the impact on them. Community care packages should not rely on the input of an inappropriate level of care from a child or young person. In this respect, in addition to the provision of adult care assessment and support, councils should be prepared to address their duty under the Children Act 1989 to safeguard and promote the welfare of children in their area. The Children Act 1989 also specifies the need to take the views and interests of children into account.[15] In discharging these duties, it is essential that Councils take account of the cumulative effects of responsibilities of family members within the household and where necessary, adult and children's services should work together to protect children from having to undertake unreasonable levels of care.

26. In the course of assessing an individual's needs, councils should recognise that adults who have parenting responsibilities for a child under 18 years may require help with these responsibilities.

27. Under the Carers and Disabled Children Act 2000**,** parents of disabled children can also request an assessment if the local authority is satisfied that the disabled child and their family are persons for whom it may provide or arrange the provision of services under section 17 of the Children Act 1989. The local authority must take into account the results of this assessment when deciding what services, if any, to provide under that section. The 2000 Act also amended the 1989 Act to the effect that direct payments could be made to parents for the purposes of arranging care for their disabled children and in some cases to older disabled children.

28. As with adult carers, young carers should be given a range of information (appropriate to their age and understanding) and councils may wish to consider referring young carers and their families to any support services for young carers within their area.

Discrimination

29. When drawing up eligibility criteria for social care, councils should have due regard to their race, gender and disability duties, which, at the date of publication of this guidance, are broadly:

- a duty, when exercising their functions, to eliminate unlawful discrimination and to promote equality of opportunity, and good relations, between persons of different racial groups (section 71 of the Race Relations Act 1976);

[15] For more information on the Children Act and related legislation, see http://www.dcsf.gov.uk/childrenactreport/

- a general duty (section 49A of the Disability Discrimination Act 1995) to have due regard to:

    - the need to eliminate discrimination that is unlawful under the Disability Discrimination Act 1995;
    - the need to eliminate harassment of disabled persons that is related to their disabilities;
    - the need to promote equality of opportunity between disabled persons and other persons;
    - the need to take account of disabled persons' disabilities even where that involves treating disabled people more favourably than other persons;
    - the need to promote positive attitudes towards disabled persons; and
    - the need to encourage participation by disabled persons in public life; and

- a general duty to have due regard to the need to eliminate unlawful discrimination and harassment and the need to promote equality of opportunity between men and women (section 76A of the Sex Discrimination Act 1975).

30. These duties are supplemented by more specific duties in secondary legislation.

31. The courts have considered the nature of public authorities' equality duties, in particular the meaning of the term "have due regard". Councils should note the case of *Chavda v Harrow LBC* [2007] EWHC 3064 (Admin) in which the council's decision to restrict adult care services to people with critical needs was challenged. A summary of an equality impact assessment simply stating that implementing the proposal could result in potential conflict with the Disability Discrimination Act 1995 had been submitted to the council in preparation for its decision. The court found that this was insufficient to enable the council to comply with the duties in the 1995 Act and that the decision was therefore unlawful. There was no evidence that the legal duty and its implications had been brought to the attention of the decision-makers, who should have been informed not just that the decision raised implications for equality, but of the particular obligations imposed by the law in relation to those issues.

32. Councils will also wish to be aware of the passage of the Equality Bill which, if passed, will create a unified and extended public sector duty. It will also protect people from discrimination by association with someone with one or more key protected characteristics. This could apply to carers because of their association with older or disabled people in particular. The Equalities and Human Rights Commission will be issuing supporting guidance this year, subject to the Bill passing into law.

Investing in prevention and well-being

33. Prevention and early intervention are at the very heart of the vision for social care set out in *Putting People First,* and further endorsed in the Care and Support Green Paper. *Putting People First* says that there needs to be "a locally agreed approach...utilising all relevant community resources, especially the voluntary sector so that prevention and early intervention and enablement become the norm."[16] Before setting eligibility criteria for social care, councils should consider their strategy for investing in a more universal approach, which prevents or delays the need for more specialist social care interventions.

34. The guidance deals later with setting criteria for meeting eligible needs, but councils should also consider the significant benefits of addressing the wider needs of their local community more generally. There is a growing evidence base around interventions that can prevent or delay older people in particular from needing social care, although much work still needs to be done in this area.[17] Low cost interventions may also have considerable impact on day-to-day quality of life. This could include signposting people to information relating to benefits they may be entitled to or community support groups. Councils should also consider the potential of low-level services in helping carers, of any age, to have a life outside of caring. All of these interventions can support people to maintain their independence and wellbeing and reduce or delay the need for more targeted social care interventions.

35. In *Cutting the Cake Fairly*, CSCI identified evidence that raising eligibility thresholds without putting in place adequate preventative strategies often leads to a short term dip in the number of people eligible for social care followed soon after by a longer-term rise. Councils should therefore avoid using eligibility criteria as a way of restricting the number of people receiving any form of support to only those with the very highest needs. Rather, they should consider adopting a strong preventative approach to help avoid rising levels of need and costs at a later stage. Early interventions can also improve general community well-being and wider social inclusion.

36. To be most effective, preventative strategies should be embedded across the Council, informed by assessment of local needs and created in partnership with other relevant local agencies. Such strategies might include the following:

Place-shaping and promotion of well-being through universal services

- This involves ensuring that people feel supported, included and able to participate in the community in which they live. It might include activities to address social

[16] Further guidance on preventative approaches is provided by *Making a strategic shift towards prevention and early intervention: Key messages for decision makers* (October 2008) http://www.dhcarenetworks.org.uk/Prevention/type/Resource/?cid=4419

[17] *National Evaluation of the Partnerships for Older People Projects (POPP): final report* (January 2010) http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_111240

inclusion such as luncheon clubs or befriending; healthy living advice and support; employment advice and support; physical recreation and leisure pursuits; community safety; housing support and transport.

- Only a minority of these universal services will be funded through social care and many will be reliant on community-based provision. In considering their local population's needs, councils might therefore wish to consider investment in voluntary and community organisations which can deliver universal and open-access services. Many councils already appear to be taking this approach, as evidenced by CSCI's *State of Social Care* report 2007-08, which noted that grants made by social services to voluntary organisations providing services to adults had increased by 7% over the previous year.[18]
- Promoting access to employment can be a highly effective way of improving social inclusion for disabled people. Councils should seek to ensure that disabled people can access high quality support and advice about employment which is appropriate to their needs.
- Councils should be mindful of the important role of social care services for disabled and older people in helping carers maintain their own health and wellbeing. For example, Councils should ensure that the family is signposted to advice about flexible working, any support services available in the area and benefits advice about in-work financial support.
- Whoever they are provided by, universal services work best when everyone can get the information, advice and support they need to be able to access them at the right time and in the right way. The Care and Support Green Paper also places a high level of emphasis on access to the right information and advice to help people know what they are entitled to and what support is available in their local area.

Targeted interventions to support individuals at increased risk

- This approach aims to identify and support people at risk of specific health conditions or events, or those with existing low-level social care needs. Councils might find it effective to use predictive tools that can proactively identify and target people at risk or people potentially able to benefit from signposting and early decision-making.[19]
- Targeted interventions might include information and advice to support people and their carers in making decisions and access to advocacy and brokerage to assess care options. If people are supported to make informed choices at an early stage, the risk of needs escalating in the future may be reduced.
- Early evidence also suggests that timely investment in homecare re-ablement services can reduce the number of older people requiring ongoing social care support.[20] Councils may also wish to work with local health services to make available recovery services for people with mental health disorders and rehabilitation for people with newly acquired disabilities.

[18] CSCI, *State of Social Care in England 2007-08* http://www.cqc.org.uk/_db/_documents/SOSC08%20Report%2008_Web.pdf

[19] The King's Fund, *Predicting who will need costly care: How best to target preventative health, housing and social problems* (2007) http://www.kingsfund.org.uk/publications/other_work_by_our_staff/predicting_who.html

[20] Care Services Efficiency Delivery Programme, *Research into the Longer Term Effects/Impacts of Re-ablement Services* (2007)

- Councils may also wish to work with local housing authorities to ensure appropriate housing options to support individuals through appropriate aids and adaptations as specialist options such as Extra Care Housing. They may also wish to consider commissioning for assistive technologies, designed to help people with long-term conditions or support needs and their carers to maintain their independence and to reduce unnecessary hospital and care home use. An evaluation of the Telecare Development Programme commissioned by the Scottish Government suggests that telecare can provide opportunities to promote independence and improve the quality of life of service users and carers, particularly for older people and those with dementia.[21] The Nuffield Trust is also currently leading a multidisciplinary evaluation of the impact of telecare and telehealth on the use of NHS and social services, and the associated costs.[22]
- In recognition of the benefits of re-ablement, telecare and targeted information, the Care and Support Green Paper puts forward proposals for making targeted support services more universally available. This will help people regain confidence, retain independence in their own home and improve the mental and physical health of carers.

Integrated services and joint planning

- It has long been recognised that coordination of care can lead to increased user satisfaction by simplifying someone's journey within complex and often confusing systems.[23] As well as improving outcomes for people who use services and their carers, evidence may suggest that joint approaches between health and social care can also reduce demand on both systems. Whilst contributing to longer-term independence and well-being for example, investment in re-ablement and intermediate care can prevent hospital admission or post hospital transfer to long-term care, or reduce the level of ongoing home care support required. Social care interventions can lead to reductions in the need for health services, just as health interventions can reduce the need for social care services.
- Joint health and social care planning supports the principle set out in the NHS Constitution which commits the NHS to working "across organisational boundaries and in partnership with other organisations in the interest of patients, local communities and the wider population."[24] *Putting People First* sets out an ambition for individuals to be placed at the centre of a system which brings together health, housing and social care services and facilitates better integration between social care and other public services.

37. Establishing an effective strategy for prevention and early intervention will also be facilitated by:

[21] York Health Economics Consortium, *Evaluation of the Telecare Development* Programme (2009) http://www.jitscotland.org.uk/action-areas/telecare-in-scotland/telecare-publications/
[22] The Nuffield Trust, *Evaluation of the Whole System Demonstrator Project* http://www.nuffieldtrust.org.uk/projects/index.aspx?id=294 The evaluation is ongoing and due to be completed at the end of 2010.
[23] The Nuffield Trust, *Integrated Care: Lessons from Evidence and Experience* (2008) http://www.nuffieldtrust.org.uk/publications/detail.aspx?id=145&prID=519
[24] *NHS Constitution for England* (January 2009) http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_093419

- **A holistic, whole-system approach**: Prevention should not be seen as the sole preserve of adult social services or the NHS, rather it is most effective when brought about through partnerships between different parts of a council and between other related agencies, including the voluntary sector. Councils should continue to work with health partners in their Local Strategic Partnerships to undertake Joint Strategic Needs Assessments (JSNAs), which will in turn be informed by, and support other needs assessments and plans (such as the Sustainable Community Strategy and local housing strategies). This reflects the shared responsibilities for health and wellbeing of citizens, carers, families and communities as set out in the NHS Operating Framework.[25]

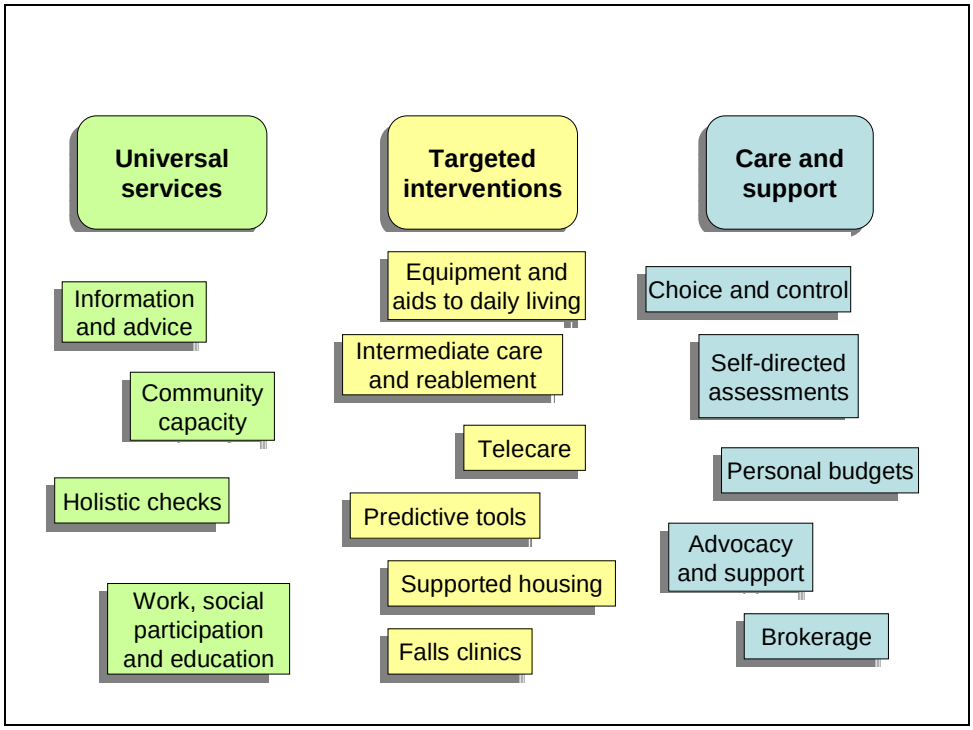
- **Effective service and market development:** This means working with service providers, health partners and user and carer-led, voluntary and community organisations to stimulate the development and provision of sufficient types of services and support, which should relate not just to personal care needs but to overall quality of life. Councils should have in place strategies to foster, stimulate and develop user and carer-led organisations to help them become key delivery partners within their local communities. Developing a strong, diverse and responsive market will require a good understanding of local need and the local market informed by the JSNA and the wider Sustainable Communities Strategy as well as data collected on the National Indicator Set.

- **Addressing barriers to social inclusion:** To ensure that older and disabled people and their carers can access universal services, information and advice and can participate as active members of their communities, it is vital that councils actively engage their citizens in commissioning for transformation. By involving people in planning and monitoring of services councils can help ensure that they are meeting their legal duties on equality and human rights for their community as a whole.

[25] *The Operating Framework for the NHS in England 2010/11*
http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_110107

Figure 1

Types of resources and services



38. Many components of a council's preventative strategy can be implemented without significant additional resources; others will involve the reshaping of existing resources. Some components may require further investment, such as resources made available to councils from 2008 to 2011 through the Social Care Reform Grant, specifically allocated to support the delivery of transformation.[26] Directors of Finance should consider the potential longer-term benefits brought about by additional investment earlier in the system, including investment in local user and carer-led, community and voluntary sector organisations to build a broader economy of support.

39. Alongside their published eligibility criteria, councils should make available their community-wide strategy for prevention and early intervention addressing the issues above.

40. It is also important that local authorities manage the shifts in the balance of the use of their money in order to develop both efficient and effective services. The Department of Health published *Use of Resources in Adult Social Care: A Guide for local authorities* in October 2009[27]

[26] Department of Health, *LAC(DH)(2009)1: Transforming adult social care* (March 2009) http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/DH_095719

[27] *Use of Resources in Adult Social Care: A Guide for local authorities* http://www.dhcarenetworks.org.uk/Personalisation/Topics/Latest/Resource/?cid=6340

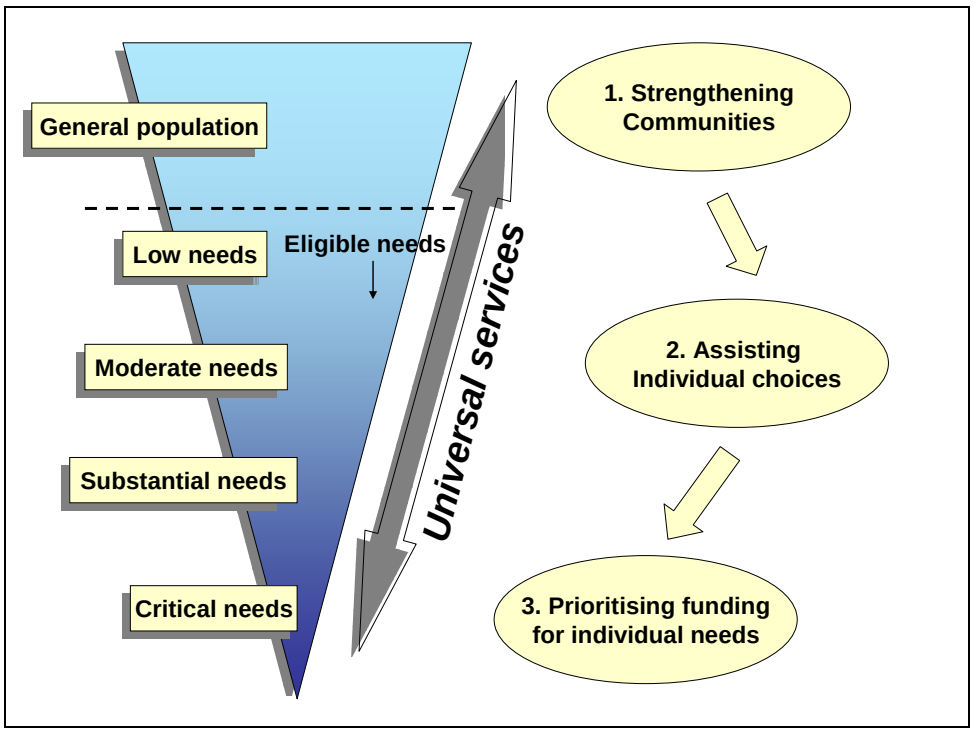
Eligibility for social care

41. It is clear therefore that councils should consider the needs of their wider population and put into place support strategies to reduce the number of people entering the social care system in the first place. Before proceeding to determine eligible needs, councils should consider whether an individual might benefit from a short period of re-ablement or intermediate care to increase what they are able to do for themselves before an assessment of longer-term need is undertaken. Councils may also wish to consider whether providing support to the carer(s) would reduce the need for more intensive interventions.

42. Inevitably, there will always be individuals whose needs are such that they will require more specific types of support. The most effective community support systems will be ones in which all citizens can expect some level of support and those with the greatest needs can access additional help.

Figure 2

Eligibility needs in the context of the environment



Setting eligibility criteria

43. In general, councils may provide community care services to individual adults with needs arising from physical, sensory, learning or cognitive disabilities, or from mental health needs. In this regard, councils' responsibilities to provide such services are principally set out in the:
    - National Assistance Act 1948

- Health Services and Public Health Act 1968
- Chronically Sick and Disabled Persons Act 1970
- National Health Service Act 2006
- Mental Health Act 1983

Councils also have a power to provide services to carers under the Carers and Disabled Children Act 2000

44. Councils should use the eligibility framework set out below to specify their eligibility criteria. In setting their eligibility criteria, councils should take account of their own resources, local expectations, and local costs. Councils should take account of agreements with the NHS, including those covering transfers of care and hospital discharge. They should also take account of other agreements with other agencies, as well as other local and national factors.

45. Although final decisions remain with councils, to promote greater clarity and transparency, they should consult service users, carers and appropriate local agencies and organisations about their eligibility criteria and how information about the criteria is presented and made available. Eligibility criteria should be made readily available and accessible to service users, their carers, the public more generally, and other relevant local bodies.

46. Councils should review their eligibility criteria in line with their usual budget cycles. Such reviews may be brought forward if there are major or unexpected changes, including those with significant resource consequences. However, councils should be mindful of the evidence cited above which suggests that raising eligibility thresholds without a parallel investment in preventative strategies may lead to increasing demand for services in the longer term.

Interpretation

47. In this guidance, the issues and support needs that are identified when individuals approach, or are referred to, councils seeking social care support are defined as "**presenting needs**". Those presenting needs for which a council will provide help because they fall within the council's eligibility criteria, are defined as "**eligible needs**". Eligibility criteria therefore describe the full range of eligible needs that will be met by councils, taking their resources into account. Councils should work with individuals to identify the outcomes they wish to achieve, and to identify where unmet needs are preventing the realisation of such outcomes.

Determining eligibility in respect of individuals

48. An individual's eligibility for statutory support is determined following assessment. Under section 47 of the NHS and Community Care 1990 Act, local authorities have a duty to assess the needs of any person for whom the authority may provide or arrange the provision of community care services and who may be in need of such services. Because local authorities have a *power* to provide services to people who live outside of their area, the duty to assess is not limited to people who are ordinarily resident in the authority's area. This gives rise to the question of when it might appear that a person who is not ordinarily resident in an authority's area "may be in need" of services.

49. Local authorities are already required to assess people who are about to be discharged from hospital and may need community care services under the delayed discharges legislation[28]. The Courts have recognised that a pragmatic approach needs to be taken in similar circumstances. For example, it was held in the case of R (on the application of B) v Camden LBC and Camden and Islington Mental Health and Social Care Trust [2005] 1366 (Admin) that the words "a person…may be in need of such services" refer to a person who may be in need at the time, or who may be *about to be* in need. That case concerned a detained patient whose conditional discharge had been deferred until suitable hostel accommodation could be found. A prisoner who will not be given parole until suitable care arrangements are in place would be in a similar position.

50. This pragmatic approach should also be taken in relation to people with firm plans to move to another local authority's area, for example, a person with a job offer who intends to take it up, subject to suitable community care services being available. Such people could be described as "about to be in need" in the local authority's area, even though they may already be in receipt of services in the area which they are leaving. The person's move must be reasonably certain: local authorities would not be obliged to assess a person who was simply considering a move to the area.

51. Councils must not exempt any person who approaches or is referred to them for help from the process to determine eligibility for social care, regardless of their age, circumstances, apparent financial means or the nature of their needs. To this effect, councils should avoid being too rigid in their categorisation of "client groups". Rather needs should be considered on a person-centred basis recognising both individual need and taking into account the support that the individual's family or support networks are willing and able to provide.

52. As part of the assessment, information about an individual's presenting needs and related circumstances should be established and recorded. The NHS and Community Care Act 1990 requires that, having conducted the assessment, councils must decide whether the person's needs call for the provision by it of any community care services. The Carers (Recognition and Services) Act 1995 also requires councils to take account of the sustainability of the caring role when deciding what community care services it is necessary to provide. Councils should use the eligibility criteria framework set out below to draw up their own eligibility criteria. These should then be used to identify the needs which call for the provision of services (eligible needs), according to the risks to independence and well-being both in the immediate and longer-term. These eligible needs should also be recorded and agreed wherever possible, by the individual or their representatives.

53. Once eligible needs are identified, councils should take steps to meet those needs in a way that supports the individual's aspirations and the outcomes that they want to achieve. (Support may also be provided to meet other presenting needs as a consequence of, or to facilitate, eligible needs being met.) Throughout the process of assessment, people should be supported and encouraged to think creatively about how their needs can best be met and how to achieve the fullest range of outcomes possible within the resources available to them.

[28] The Community Care (Delayed Discharges etc.) Act 2003.

54. The eligibility framework is graded into four bands, which describe the seriousness of the risk to independence and well-being or other consequences if needs are not addressed. The four bands are as follows:

Critical - when

- life is, or will be, threatened; and/or
- significant health problems have developed or will develop; and/or
- there is, or will be, little or no choice and control over vital aspects of the immediate environment; and/or
- serious abuse or neglect has occurred or will occur; and/or
- there is, or will be, an inability to carry out vital personal care or domestic routines; and/or
- vital involvement in work, education or learning cannot or will not be sustained; and/or
- vital social support systems and relationships cannot or will not be sustained; and/or
- vital family and other social roles and responsibilities cannot or will not be undertaken.

Substantial – when

- there is, or will be, only partial choice and control over the immediate environment; and/or
- abuse or neglect has occurred or will occur; and/or
- there is, or will be, an inability to carry out the majority of personal care or domestic routines; and/or
- involvement in many aspects of work, education or learning cannot or will not be sustained; and/or
- the majority of social support systems and relationships cannot or will not be sustained; and/or
- the majority of family and other social roles and responsibilities cannot or will not be undertaken.

Moderate – when

- there is, or will be, an inability to carry out several personal care or domestic routines; and/or
- involvement in several aspects of work, education or learning cannot or will not be sustained; and/or
- several social support systems and relationships cannot or will not be sustained; and/or
- several family and other social roles and responsibilities cannot or will not be undertaken.

Low - when

- there is, or will be, an inability to carry out one or two personal care or domestic routines; and/or
- involvement in one or two aspects of work, education or learning cannot or will not be sustained; and/or
- one or two social support systems and relationships cannot or will not sustained; and/or
- one or two family and other social roles and responsibilities cannot or will not be undertaken.

55. In constructing and using their eligibility criteria, and also in determining

eligibility for individuals, councils should prioritise needs that have immediate and longer-term critical consequences for independence and well-being ahead of needs with substantial consequences. Similarly, needs that have substantial consequences should be placed before needs with moderate consequences and so on.

56. The Personal Care at Home Bill is currently going through Parliament. Subject to it being enacted, the intention is that, subject to the outcome of a public consultation, regulations will be made under it so that people with the highest personal care needs (those assessed as having personal care needs which are 'critical' and needing help with four or more activities of daily living) will, subject to them accepting any offer of reablement, receive their personal care free from 1 October 2010.

57. The evaluation of a person's needs should take full account of how needs and risks might change over time and the likely outcome if help were not to be provided. This should include consideration of the impact upon the person of changes in the circumstances of any carer(s). Assessment is often most effective when conducted as an iterative and ongoing process rather than a one-off event.

58. Councils should also consider that people at all levels of need, regardless of whether or not they have eligible needs or fund their own care, may be able, with the right type of tailored intervention, to reduce or even eliminate their dependency on social care support. Support plans should be constructed with such outcomes in mind, focusing on what people will be able to achieve with the right help, rather than simply putting arrangements in place to stop things from getting any worse. Councils may therefore wish to consider broadening the range of support planning services on offer to target people who may not currently be eligible for services.

Applying eligibility criteria fairly and consistently

59. Councils should work with individuals to explore their presenting needs and identify what outcomes they would like to be able to achieve. In this way they can evaluate how the individual's presenting needs might pose risks to their independence and/or well-being[29], both in the immediate and longer-term. Councils should also consider with the individual any external and environmental factors that have caused, or exacerbate, the difficulties the individual is experiencing.

60. In particular councils should consider whether the individual's needs prevent the following outcomes from being achieved:

- Exercising choice and control;
- Health and well-being, including mental and emotional as well as physical health and well-being;
- Personal dignity and respect;

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[29] *Independence, choice and risk: a guide to best practice in supported decision making* http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_074773

- Quality of life;
- Freedom from discrimination;
- Making a positive contribution;
- Economic well-being;[30]
- Freedom from harm, abuse and neglect, taking wider issues of housing and community safety into account.

61. Councils should be aware that the risks to independence and well-being relate to all areas of life, and that with the exception of life-threatening circumstances or where there are serious safeguarding concerns, there is no hierarchy of needs. For example, needs relating to social inclusion and participation should be seen as just as important as needs relating to personal care issues, where the need falls within the same band. A disabled person who is facing significant obstacles in taking up education and training to support their independence and well-being should be given equal weight to an older person who is unable to perform vital personal care tasks – and vice versa. Councils should make decisions within the context of a human rights approach, considering people's needs not just in terms of physical functionality but in terms of a universal right to dignity and respect.

62. Councils should not assume that low-level needs will always be equated with low-level services or that complex or critical needs will always require complex, costly services in response. Someone with relatively low needs may still need more complex intervention in the short-term to counter the immediate risks to their independence and/or well-being. On the other hand, it may be that an individual's independence and/or well-being is at immediate risk but that a simple one-off intervention, such as the provision of the right piece of equipment, could provide them with sufficient support to get back on track. In *Cutting the Cake Fairly*, CSCI also identified that carers are often willing to provide substantial amounts of personal care but can find it difficult to manage with household tasks at the same time. For this reason, councils should avoid being too restrictive about what kind of support should be made available if it can sustain the caring role and maintain independence and well-being in the longer-term.

63. Councils should ensure that a person's needs are considered over a period of time, rather than at a single point, so that the needs of people who have fluctuating and/or long-term conditions are properly taken into account. Before final decisions are taken about longer-term needs for support, and whether those needs are eligible for local authority support, councils should always consider whether a period of re-ablement or intermediate care should be made available, in order to maximise what people can do for themselves before further assessment of needs is undertaken. This should also minimise the risk of premature decisions being taken about people's long-term needs. If there is a health element to a reablement package, such services might be funded by the NHS or, alternatively, jointly with councils.

64. In addition to people with long-term or fluctuating conditions, councils should be aware that there are other groups whose disabilities are such that they are at risk of being overlooked in the assessment of eligible need. Such groups might include people who have very specific communication needs, or blind and partially sighted people who may be disadvantaged by assessors who are unaware of the impact of loss of vision. To maximise

[30] The seven social care outcomes named in the White *Paper Our health, our care, our say: a new direction for community services*

what individuals are able to do for themselves, councils should consider the benefits of making available rehabilitation services to those who have newly acquired disabilities before undertaking an assessment of longer-term need. Others with "hidden" needs might include people with autism, whose support needs may not be as immediately apparent or easily understood as those of other client groups. For example, it is known that many people with autism or Asperger syndrome have been refused assessment or access to support because their IQ is "too high" – i.e. because they do not have a learning disability. This is not acceptable. The Government is committed to publishing a new national strategy for autism by the end of March 2010, in recognition of the need for better understanding of the needs of people with autism and to support the development of high quality services tailored to their individual requirements.[31]

65. Similarly, many deafblind people are not known to their local social services authority. Of those who are in contact with social services, not all are identified as having dual sensory impairment nor are they in receipt of appropriate services. For this reason, the Department of Health issued, under section 7 of the Local Authority Social Services Act 1970 guidance for local authorities about how to identify and keep records on deafblind people in their area.[32]

66. People who access specialist services (such as mental health service users or people with learning disabilities) should also expect to receive an assessment of eligibility for mainstream support, like any other individuals seeking support. These groups should be supported by both health and social care teams, so that all their needs are appropriately addressed.

67. Councils should also be aware that if the needs of particular groups of people are not adequately taken into account, this may also have an adverse effect on their carers.

[31] http://www.dh.gov.uk/en/SocialCare/Deliveringadultsocialcare/DH_095172
[32] Social care for deafblind children and adults
http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/DH_101114

Response to first contact and assessment

68. Given the necessity of prioritising needs for social care, fair and transparent allocation of available resources depends upon effective assessment. Decisions as to who gets local authority support should be made after an assessment, which should be centred on the person's aspirations and support needs, involving both the person seeking support and their carers. Similarly, decisions on whether to offer specific support for carers should be made following a carer's assessment. When responding to and assessing people in need of assistance, councils should pay particular attention to the values set out in the General Social Care Council's Code of Practice.[33]

69. Councils should not operate eligibility criteria to determine the complexity of the assessment offered; rather the depth and breadth of the assessment should be proportionate to individuals' presenting needs and circumstances, including how much support carers are able to provide, where appropriate.

70. Councils may provide an immediate response to those individuals who approach them, or are referred, for social care support in emergencies and crises. After this initial response, they should inform the individual that a fuller assessment will follow, and that support may be withdrawn or changed as a result of this assessment.

71. Once an individual's needs, and those of their carer(s) where appropriate, have been assessed and a decision made about the support to be provided, an assessment of the individual's ability to pay charges should be carried out promptly, and written information about any charges or contributions payable, and how they have been calculated, should be communicated to the individual.[34] This means that once a person has been identified as having an eligible need, councils should take steps to ensure that those needs are met, regardless of the person's ability to contribute to the cost of these services.[35] An assessment of the person's ability to pay for services should therefore only take place after they have been assessed as having eligible needs. A person's ability to pay should only be used as a reason for not providing services in circumstances where a person has been assessed as needing residential accommodation, the person has the means to pay for it and if the person, or someone close to them, is capable of making the arrangements themselves.[36]

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[33] General Social Care Council Codes of Practice for employers and social workers - http://www.gscc.org.uk/codes/

[34] See paragraph 96 of *Fairer Charging Policies for home and other non-residential social care services practice guidance* (2003) - http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4117930

[35] See section 29 of the National Assistance Act 1948 and LAC(93)10 - http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/AllLocalAuthority/DH_4004121 Also section 2 of the Chronically Sick and Disabled Persons Act 1970.

[36] See paragraphs 9 and 10 of LAC(98)19 - http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/AllLocalAuthority/DH_4004080 and section 21 of the National Assistance Act 1948. A person's means may be taken into account when deciding whether to provide accommodation because section 21 has its own eligibility criteria which are independent of the criteria in this guidance (ie if the person, by reason of age, illness, disability or any other circumstances, has needs which cannot be met

72. If a council is offering personal budgets, it will be expected to implement *the Fairer Contributions Guidance: Calculating an Individual's Contribution to their Personal Budget*[37] from March 2010.

First response

73. With reference to section 47(1) of the NHS and Community Care Act 1990, before starting a community care assessment councils should first ascertain whether a person appears to be in need of community care services regardless of whether and how those needs are currently being met.

74. Evidence suggests that the quality of response to a person's first contact with the council is crucial to the outcomes they later experience. However, submissions to the CSCI review and evidence from CSCI inspectors have raised concerns about the quality of this first response across councils[38]. In particular, the review highlighted the inexperience of staff making judgements, that people's needs (and the willingness and ability of their carers) are often insufficiently explored and that people are screened out too early or not given adequate signposting to other sources of support.

75. Getting the initial response right can save time and costs on assessment later. Service improvements and significant efficiency savings can be made by streamlining the way in which individual cases are managed at the first point of contact. Several councils have found that putting in place a single access point for all new and current customers not only speeds up and simplifies the process for people approaching the council, but also frees up time for professional staff to focus on more complex cases.[39]

76. Councils should, however, be aware of the risks of screening people out of the assessment process before sufficient information is known about them. Removing people from the process too early could have a significant impact upon their well-being as well as potential economic costs, as it may well lead to them re-entering the system at a later date with a higher level of need. To avoid such situations, the initial response to people seeking help should be effective. Councils should ensure that their staff are sufficiently trained and equipped to make the appropriate judgements needed to steer individuals seeking support towards either a more formal community care assessment, a period of re-ablement or more universal services, as appropriate to their particular needs and circumstances.

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otherwise than by the provision of residential accommodation). If such a person has the financial and other means available to them to make arrangements for their own residential care, these criteria would not be met

[37] *Fairer Contributions Guidance: Calculating an Individual's Contribution to their Personal Budget* http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_102450

[38] Henwood M and Hudson B (2008) *Lost to the system? The impact of Fair Access to Care: a report commissioned by CSCI for the production of 'The state of social care in England 2006-07'*. London: CSCI http://collections.europarchive.org/tna/20081105165041/http://www.csci.org.uk/about_us/publications/lost_to_the_system.aspx

[39] Care Services Efficiency Delivery Programme, *Initiative 007 – Access Management* (May 2007) http://www.dhcarenetworks.org.uk/csed/assessmentCareManagement/accessmanagement/

77. In particular, any assessment of a person's financial situation must not be made until after there has been a proper assessment of needs. In a survey undertaken by CSCI, one third of people who failed to get an assessment reported that they were told they did not meet their council's financial criteria.[40] From the beginning of the process, councils should make individuals aware that their individual financial circumstances will determine whether or not they have to pay towards the cost of the support provided to them. However, an individual's financial circumstances should have no bearing on the decision to carry out a community care assessment providing the qualifying requirements of section 47(1) of the NHS and Community Care Act 1990 are met. Neither should the individual's finances affect the level or detail of the assessment process.

Assessment

78. The purpose of a community care assessment is to identify and evaluate an individual's presenting needs and how these needs impose barriers to that person's independence and/or well-being. Information derived from an individual's assessment should be used to inform decisions on eligibility. Where eligible needs have been identified, an appropriate support plan can then be put together in collaboration with the individual, describing the support they will draw upon to overcome barriers to independence and well-being, both immediately and over the longer term.

79. From their very first contact with the council, an individual seeking support should be given as much information as possible about the assessment process. As part of the self-directed support process, assessment should be carried out as a collaborative process, in a way that is both transparent and understandable for the person seeking support so that they are able to:
    - Gain a better understanding of the purpose of assessment and its implications for their situation;
    - Actively participate in the process;
    - Identify and articulate the outcomes they wish to achieve;
    - Identify the options that are available to meet those outcomes and to support their independence and well-being in whatever capacity;
    - Understand the basis on which decisions are reached.

80. Councils should help individuals who may wish to approach them for support by publishing and disseminating information about access, eligibility and social care support, including personal budgets, in a range of languages and formats. The information should also describe what usually happens during assessment and care management processes, related time-scales, and how individuals can benefit from self-directed support. Councils should promote the development of services that provide interpreters, translators, advocates, and supporters to help individuals access and make best use of the assessment process. Particular attention should be paid to those least able to articulate their views and choices.

81. Councils have a duty under the Community Care Assessment Directions 2004 to consult the person being assessed (and their carers where appropriate); to take all reasonable steps to reach agreement with the person about the kind of support to be provided; and

[40] CSCI, *Cutting the Cake Fairly*.

inform the person about the amount of the payment (if any) which they will be required to contribute. In July 2009, the Government issued new guidance to accompany the existing Fairer Charging guidance, which provides councils with a model to help them decide how much (if anything) a person should contribute to their personal budget.[41]

82. The Community Care Assessment Directions 2004 also require that information about likely costs is provided to individuals and, where appropriate, their carers

83. The assessment process should be person-centred throughout and also consider the wider family context. Councils should recognise that individuals are the experts on their own situation and encourage a partnership approach, based on a person's aspirations and the outcomes they wish to achieve, rather than what they are unable to do. Professionals should fully involve the person seeking support by listening to their views about how they want to live their lives and the type of care and support that best suits them and by helping them to make informed choices. This includes identifying the support the person needs to make a valued contribution to their community.

84. Councils may wish to consider encouraging those who can and wish to do so to undertake an assessment of their own needs prior to the council doing so. Although self-assessment does not negate a council's duty to carry out its own assessment, which may differ from the person's own views of their needs, it can serve as a very useful tool for putting the person seeking support at the heart of the process.[42]

85. Where appropriate, assessment should involve a full discussion not only with the person seeking support, but also with carers and other close family members, to consider the impact of a person's needs on those around them, taking into account their views about the person's needs and recognising the contribution that they are willing and able to make to the person's support and life (see section below on Carers).

86. Assessment should be co-ordinated and integrated across local agencies relevant to the individual concerned[43]. Agencies should work together to ensure that information from assessment and related activities is shared among professionals, with due regard to data protection, in such a way that duplication of assessment is minimised for service users, carers and professionals alike. In coordinating assessment, agencies should maintain an emphasis on outcomes rather than functions or services. The result will be an assessment process that individuals experience as consistent, seamless and timely. The Department of Health has recently consulted on proposals for the development of a Common Assessment Framework (CAF) for Adults with the aim of promoting more person-centred assessments and facilitating more efficient, timely and secure sharing of information around assessments.[44] Further work to test and fully evaluate assessment processes within the context of personalisation and supporting IT to share information across organisational boundaries is being undertaken by local authority led CAF Demonstrator sites. The full

[41] Department of Health, *Fairer Contributions Guidance calculating an individual's contribution to their personal budgets* (2009) *http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_102450*

[42] DH Care Networks have produced a self-assessment template as part of their Resource Allocation guide - http://www.dhcarenetworks.org.uk/Personalisation/Topics/Browse/Resourceallocationsystems/?parent=2671&child=3228

[43] Section 47(3) of the NHS and Community Care Act 1990 requires LAs to invite the local housing authority as well as the local PCT to participate in assessment.

[44] Department of Health, *Common Assessment Framework for Adults: a consultation on proposals to improve information sharing around multi-disciplinary assessment and care planning* (2009) http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH_093438

evaluation of this developmental work is not expected until 2012, but learning from the sites is being shared throughout the programme[45]This approach is endorsed by the Care and Support Green Paper which sets out the ambition for one joined-up assessment process that considers people's individual needs, means and eligibility for all forms of support.

87. When a service user permanently moves from one council area to another (or has a clear intention to move to another council – See "Determining eligibility in respect of individuals" section of this guidance), the council whose area they move into should take account of the support that was previously received and the effect of any substantial changes on the service user when carrying out the assessment and making decisions about what level of support will be provided. If the new council decides to provide a significantly different support package, they should produce clear and written explanations for the service user. As discussed above, the future reform of the care and support system may have implications for portability of social care, but the Green Paper also recognises the role of local authorities in shaping services according to the needs of their local area.

88. Councils should make sure that they are able to draw on sufficient expertise to understand and support people with a range of needs so that specific groups of people are not marginalised by the assessment process. They should help people prepare for the assessment process and find the best way for each individual to state their views. The use of interpreters, translators, advocates or supporters can be critical in this regard.

89. Councils should also be aware of the unique position of adults who lack capacity, as defined by the Mental Capacity Act 2005. Adults who lack capacity may find it harder to communicate their needs and aspirations and may require additional support during assessment and support planning, such as the use of alternative forms of communication and information as well as access to an independent advocate. Councils should pay particular attention to the five statutory principles set out in section 1 of the Mental Capacity Act when working with people lacking capacity and their representatives.

[45] CAF Learning Network www.dhcarenetworks.org.uk/CAF/

Mental Capacity Act 2005
The five statutory principles

1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

Equality and human rights

90. Councils have statutory duties to have due regard to the need to promote disability, gender and race equality, as described in paragraphs 29 to 32 of this guidance. Councils should be also proactive about putting in place arrangements to ensure that they do not unfairly discriminate against individuals on the grounds of their age, religion, personal relationships, or living and caring arrangements, or whether they live in an urban or rural area.

91. Equality should be integral to the way in which social care is prioritised and delivered, allowing people to enjoy quality of life and to be treated with dignity and respect. Such objectives will be supported by:

- **Equality of access** to care and support, meaning that councils should not preclude anyone from having an assessment for community care services, if their needs appear to be such that they may be eligible for support.
- **Equality of outcomes** from care and support, meaning that within the same council area people with similar levels of needs should expect to achieve similar quality of outcomes, although the type of support they choose to receive may differ depending on individual circumstances. The development of resource allocation systems (RAS) should support greater transparency in how resources are allocated to individual service users (see paragraphs 127 - 132 of this guidance.
- **Equality of opportunity,** meaning that councils should work together with individuals to identify and overcome any barriers to economic and social participation within society.

92. Assessment of eligibility for services and the application of the eligibility criteria should be undertaken before decisions are taken on the overall amount of resource which will be

available to the individual to meet these needs. Councils may identify those resources through the use of a Resource Allocation System (RAS) or by some other transparent local mechanism (see paragraphs 127 – 132 of this guidance).

Carers

Taking support from carers into account when determining eligibility

93. The National Carers Strategy[46] includes a ten-year vision for carers, a commitment to move carers issues to "the centre of family policy" and to reflect this by promoting the concept of whole family care planning following separate assessment. Undertaking effective carers assessments is a key part of making this a reality. The national strategy also calls for recognition of carers as expert partners in care.

94. Whilst determination of an individual's need for assistance should take account of the support which carers, family members, friends and neighbours are willing and able to offer, the determination of presenting needs should identify all community care needs, regardless of whether and how they are being met. If, for example, an individual cannot perform several personal care tasks, but can do so without difficulty with the help of a carer, and the carer is happy to maintain their caring role in this way, both currently and in the longer-term, then it is reasonable to record these as needs on the care plan, but that they are being fully met by the carer. Where an individual has needs and a carer is willing to meet some but not all of these, then the council should provide a response to address those eligible needs, which are those needs not being met by the carer.

95. However, during assessment, no assumptions should be made about the level or quality of support available from carers. Inappropriate assumptions about how much support carers are willing or able to provide can lead to an underestimation of potentially eligible needs. An individual might be supported by a carer but still be eligible for community care services because of the nature of their needs and the level of support that both the individual and the carer require to maintain their independence and well-being.

96. Under the Community Care Directions 2004, carers are entitled to be consulted during an individual's assessment, if councils think this appropriate. Councils should involve and seek the agreement of carers throughout the process to ensure a realistic evaluation of the support they are able to provide and that the caring relationship is sustainable. These Directions also require that, where appropriate, carers are given information about the likely cost of services. Both of these requirements apply whether or not the carer wishes to have a separate carer's assessment.

Assessing carers' own needs

97. Certain carers have a right, under the Carers (Recognition and Services) Act 1995 and the Carers and Disabled Children Act 2000, to request an assessment of their needs *as carers*, independent of the needs of the person they provide care to. These are carers who provide,

[46] Carers at the heart of 21st century families and communities: a caring system on your side, a life of your own www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_085345

or intend to provide, a substantial amount of care on a regular basis. Carers' assessments have two main purposes. The first is to consider the sustainability of the caring role. The second is to consider whether or not the carer works or wishes to work and whether or not the carer is undertaking or wishes to undertake education, training or leisure activity, and the impact that their caring role might have on these commitments or aspirations. Following an assessment, local authorities have a duty to consider whether or not to provide services to the carer.

98. Therefore, where it is identified that the well-being of a carer is at risk, that person should be offered an assessment. The Carers (Equal Opportunities) Act 2004 amended the existing carers legislation to place a duty on councils to inform carers, in certain circumstances, of their right to this assessment.

99. The Practice Guidance to the Carers and Disabled Children 2000 Act (paragraph 70) advises adult social care departments to grade the 'extent of risk to the sustainability of the caring role' into one of four categories – namely 'critical, substantial, moderate and low'. The grading system is a formal determination of the degree to which a carer's ability to sustain that role is compromised or threatened either in the present or in the foreseeable future by the absence of appropriate support. If the results of a carer's assessment indicate that the carer has needs which pose a risk to the sustainability of their caring role, the local authority has a duty to consider whether or not to provide services to the carer, but, subject to what is said below, a discretion as to whether or not to provide them.

100. A local authority could not adopt a policy never to exercise the power to provide services to carers, as this would amount to a fettering of its discretion. The categorising of a risk to the sustainability of a caring role as "critical" is likely to require a response from the local authority in terms of the provision of services to the cared-for person. This is because such a risk is likely to equate to the indicator of "vital social support systems and relationships cannot or will not be sustained", which is used to denote a critical need of the cared-for person. A carer's critical needs may also require the provision of services either to the cared-for person or the carer themselves under the European Convention on Human Rights[47].

101. Councils should be mindful in applying these criteria that the provision of community care services should ensure that children are not expected to undertake inappropriate levels of caring responsibilities.

102. The descriptions of the four levels of risk for carers contained in the guidance to the Carers and Disabled Children 2000 Act are summarised in the table below:

CRITICAL
Critical risk to sustainability of the caring role arises when:
• their life may be threatened • major health problems have developed or will develop; • there is, or will be, an extensive loss of autonomy for the carer in decisions about the nature of tasks they will perform and how much time they will give to their caring role; • there is, or will be, an inability to look after their own domestic needs

[47] R (Hughes) v Liverpool City Council (2005) 8 CCLR 243.

and other daily routines while sustaining their caring role; • involvement in employment or other responsibilities is, or will be, at risk; • many significant social support systems and relationships are, or will be, at risk.
SUBSTANTIAL Substantial risk to sustainability of the caring role arises when: • significant health problems have developed or will develop; • there is, or will be, some significant loss of autonomy for the carer in decisions about the nature of tasks they will perform and how much time they will give to their caring role; • there is, or will be, an inability to look after some of their own domestic needs and other daily routines while sustaining their caring role; • involvement in some significant aspects of employment or other responsibilities is, or will be, at risk; • some significant social support systems and relationships are, or will be, at risk
MODERATE Moderate risk to sustainability of the caring role arises when: • there is, or will be, some loss of autonomy for the carer in decisions about the nature of tasks they will perform and how much time they will give to their caring role; • there is, or will be, some inability to look after their own domestic needs and other daily routines while sustaining their caring role; • several social support systems and relationships are, or will be, at risk.
LOW Low risk to sustainability of the caring role arises when: • there is, or will be, some inability to carry out one or two domestic tasks while sustaining their caring role; • one or two social support systems and relationships are, or will be, at risk.

103. Councils should ensure that relevant staff from the local authority and partner agencies are aware of the Practice Guide to the Carers (Equal Opportunities) Act 2004[48] published by the Social Care Institute for Excellence.

[48] The Social Care Institute for Excellence produced a practice guide, *Implementing the Carers (Equal Opportunities) Act 2004* http://www.scie.org.uk/publications/guides/guide09/index.asp

Assisting individuals not eligible for social care support

104. CSCI highlighted the tendency of some councils to regard people funding their own care as outside council responsibility. They also identified a common misperception that people funding their own care are capable of making all of their own arrangements for care and support, when in fact they may be isolated and vulnerable. All individuals, whether or not they are funding their own care, can benefit from effective information, signposting and support planning. As emphasised above, councils should consider how they can work to support high quality outcomes for all their citizens, including those funding their own care and support.

105. Undoubtedly, some people will not be eligible for support because their needs do not meet the council's eligibility criteria. In reaching such conclusions, the council should have satisfied itself that the person's needs would not significantly worsen or increase in the foreseeable future because of a lack of help, and thereby compromise key aspects of independence and/or well-being, including involvement in employment, training and education and parenting responsibilities.

106. Where councils do not offer direct help following assessment, or where they feel able to withdraw the provision of support following review, they should put the reasons for such decisions in writing, and make a written record available to the individual. Councils should tell individuals who are found ineligible for help that they should come back if their circumstances change, at which point their needs may be re-assessed. A contact number in the council should be given.

107. Councils should also make people who use services and their carers aware of how they can use complaints procedures to challenge decisions to withhold or withdraw the provision of support. In April 2009, new legislation introduced a common approach to handling complaints in the NHS and adult social care, providing an opportunity for all organisations to review their local systems in order to respond flexibly to complaints and to use the lessons learned to improve citizens' experience of services.[49]

108. CSCI noted in *Cutting the Cake Fairly* that 35% of people who did not meet their council's eligibility criteria or did not approach their council because they did not expect to meet the criteria, reported that they consequently struggled to manage without help. Where councils do not offer direct help following assessment or where people refuse or opt out of assessment, councils should still be prepared to provide individuals with useful information and advice about other sources of support. This might include assistance for people to build their own support plans to help maintain their independence and well-being. It may well be that someone who is found ineligible following assessment may still benefit considerably from effective support planning and signposting to more universal sources of support such as aids or different housing options. If individuals need other services, councils should help

[49] The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009. For further guidance see *Listening, improving, responding: a guide to better customer care* (Department of Health, 2009) - http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_095408

them to find the right person to talk to in the relevant agency or organisation, and make contact on their behalf.

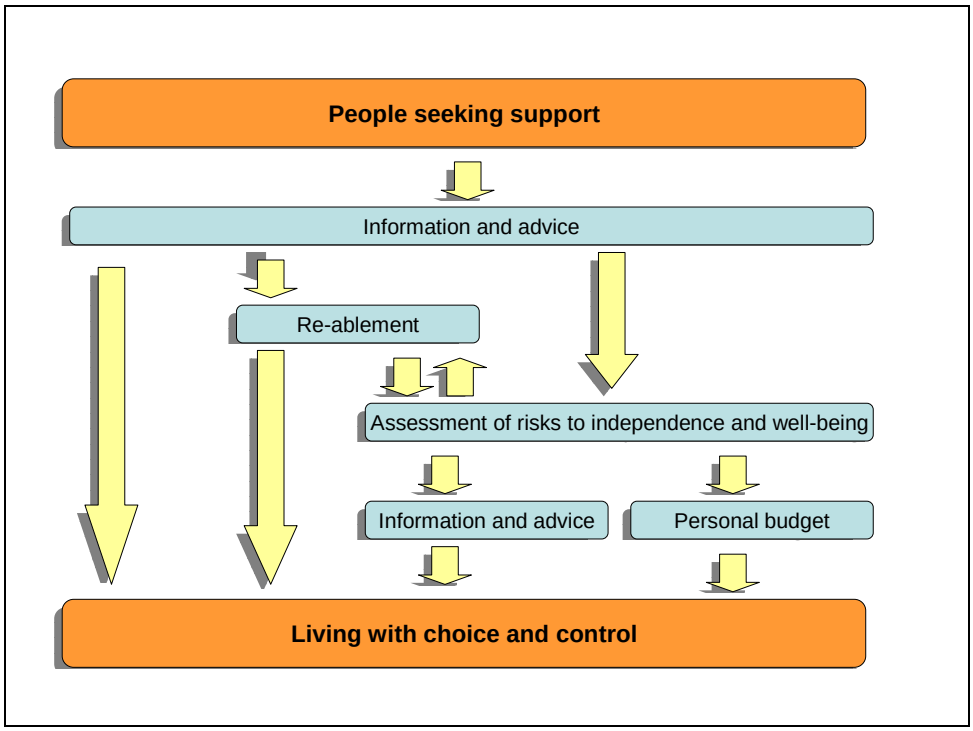
109. Councils should exercise considerable caution and sensitivity when considering the withdrawal of support. In some individual cases, it may not be practicable or safe to withdraw support, even though needs may initially appear to fall outside eligibility criteria. Councils should also check any commitments they gave to service users or their carers at the outset about the longevity of support provided. If, following a review, councils do plan to withdraw support from an individual, they should be certain that needs will not worsen or increase in the short term and the individual become eligible for help again as independence and/or well-being are undermined.

110. To address the needs of their wider population most effectively and not just those individuals with eligible needs, councils should first consider how to support the development of the universal and open-access services mentioned above. Secondly, the provision of high-quality information and advice will help people to make more confident choices by knowing what support is available to them.

111. *Putting People First* identifies the need for "a universal information, advice and advocacy service for people needing services and their carers irrespective of their eligibility for public funding." This approach is endorsed in the Care and Support Green Paper. Councils may wish to take steps to gain a better insight into the information needs of their local population and the most appropriate channels by which to reach all groups, including those most socially isolated. They may also wish to consider working with user and carer support networks and other user and carer-led organisations to ensure that the right information and advice gets to those who need it. Building capacity in user and carer-led organisations will enable them to play an active role in supporting the key aims of personalisation and choice.

Figure 3

Putting People First approach



Commissioning

112. Effective commissioning is vital to the success of social care reform and the personalisation of care services. The Local Authority Circular 'Transforming Social Care,' describes the expectation that by 2011 all councils will have:

'a commissioning strategy, which includes incentives to stimulate development of high quality services that treat people with dignity and maximise choice and control whilst balancing investment in prevention, early intervention/reablement and providing intensive care and support for those with high-level complex needs.'[50]

The Care and Support Green Paper confirmed the role of local authorities to shape and stimulate local markets to reflect the needs of their local communities

113. To support the objectives of *Putting People First*, commissioning should involve councils "working together with citizens and providers to support people to translate their aspirations into timely and quality services, which – meet their needs; enable choice and control; are cost effective; and support the whole community'.[51] Some services will be commissioned specifically for people that meet the eligibility criteria (such as specialist services for those with complex needs). Others will be commissioned to meet the needs of the wider community (such as information and advice) and should therefore be made available to all people regardless of their eligibility for care and support.

114. Extending choice and control through personal budgets should be accompanied by commissioning strategies that put people at the centre. Services should be commissioned to more flexible, outcome-focused specifications to ensure that they are fully integrated around the needs of the individual. Councils may also wish to consider the use of individual service funds which involve the individual and the service provider working together to determine the best fit of services to meet their objectives.[52] Councils should take proactive steps to ensure that user experience can directly inform commissioning.[53] Gaps in the market and trends in how people use their personal budgets should be understood and reflected in commissioning practice.

115. The Local Government and Public Involvement in Health Act (2007)[54] places a duty on local authorities and PCTs to undertake Joint Strategic Needs Assessment (JSNA). JSNA

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[50] *LAC(DH)(2009)1: Transforming adult social care* - *http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/LocalAuthorityCirculars/DH_095719*

[51] Department of Health, *Commissioning for Personalisation: A Framework for Local Authority Commissioners* (2008) - http://www.dhcarenetworks.org.uk/Personalisation/PersonalisationToolkit/Blueprint/Commissioning/?parent=3110&child=3241

[52] For more information on individual service funds, see *Managing the Money – Resource deployment options for personal budgets*, Department of Health 2008 - http://www.dhcarenetworks.org.uk/Personalisation/PersonalisationToolkit/Blueprint/ManagingtheMoney/?parent=3116&child=3430

[53] For example, see *Co-producing commissioning: individual to strategic change*, Department of Health 2009. This describes a process for using person-centred information from individual reviews to inform commissioning.

[54] The Local Government and Public Involvement in Health Act 2007 www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_076445

is a process that identifies the current and future health and wellbeing needs of a local population, informing the priorities and targets set by Local Area Agreements and leading to agreed commissioning priorities that improve outcomes and reduce health inequalities.

116. Councils may also wish to consider holding discussions with local providers concerning how identified needs can best be met, responding to changes in demand and ensuring choice and control for citizens using their services.[55].

117. Building on the assessment of local needs, commissioning also needs to include action to support the health and well-being of the population *as a whole,* and not just individuals. This especially applies to groups at particular risk (for example in a specific locality or people with a particular condition) and those who are economically or socially excluded. In this respect, community-wide assessments of the needs of people who will fund their own support are as important as assessing the needs of people who already use services, or who may need them in the near future, as is the requirement for councils to share and stimulate the local market to meet those needs.

118. To support the development of a more personalised social care system, effective commissioning strategies should be able to demonstrate a focus on the following key areas:

- Diverse and innovative provision of services tailored to people's needs and aspirations and focused on outcomes. This will enable people to exercise choice and control over the types of services they want and directly shape the services that are commissioned on their behalf*;*
- A greater focus on prevention, early intervention and support for self-care; and
- Shared strategic needs assessment co-produced with local citizens and communities informing decisions across health, social care and local government. This should facilitate greater flexibility in shifting resources to where investment can have greatest impact on current and future health and well-being needs. It will also ensure the sufficient supply of care staff and services to meet known and expected demand.

[55] Department of Health, *Guidance on Joint Strategic Needs Assessments* (2007) http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_081097

Personalisation and support planning

Person-centred planning for care and support

119. If an individual is eligible for help then the council should work with that individual to develop a plan for their care and support. *Putting People First* sets out a vision where all people in receipt of social care support and their carers should be in control of their own lives, using personal budgets to direct the funding available to them to meet their needs in the way that suits them best. The Care and Support Green Paper confirmed this direction of travel.

120. The success of self-directed support initiatives will therefore depend upon effective support planning. This should be person-centred, exploring what is important to the individual concerned and how they can spend their personal budget to organise and create support in order to achieve their aims. In local authorities where personal budgets have not yet been implemented, choice and control should also be available to people receiving directly managed services to help identify personalised solutions to meet their outcomes. In this way, a support plan will reflect the decisions made by the individual, supported by anyone they have chosen to assist them in this planning.

121. Councils should agree a written record of the support plan with the individual which should include the following:

- A note of the eligible needs identified during assessment;
- Agreed outcomes and how support will be organised to meet those outcomes;
- A risk assessment including any actions to be taken to manage identified risks;
- Contingency plans to manage emergency changes;
- Any financial contributions the individual is assessed to pay;
- Support which carers and others are willing and able to provide;
- Support to be provided to address needs identified through the carers assessment, where appropriate; and
- A review date.

122. Support planning involves allowing people to make their own informed decisions - including decisions about risk. Councils have a responsibility to ensure that, wherever possible, the choices made by people who use services and their carers are respected and supported. The benefits of increased autonomy and social inclusion may have to be weighed against risks associated with particular choices. It is very important that discussions around such choices are accurately recorded in writing, to ensure that the council, the individual and any carer(s) are clear about any potential consequences and how the risk can be managed. The Department has issued guidance on decision making, taking account of capacity issues, Independence, Choice and Risk[56].

[56] More information on care planning, personalisation and risk management can be found in *Independence, choice and risk: a guide to best practice in supported decision making*, Department of Health (2007) http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_074773

123. The Department launched a consultation on the review of the *No Secrets* guidance, which aims to bring together policy on adult safeguarding and risk empowerment, to ensure that safeguarding is fully integrated into the personalisation agenda[57]. The consultation closed in January 2009 and a report was published in July 2009[58]. In January 2010, the Government announced that that it was launching a programme of work to support effective policy and practice in adult safeguarding, which will include new comprehensive multi-agency guidance. It was also announced that an inter-ministerial group would be set up to provide national leadership on safeguarding policy. To complement that, the Government announced new legislation to put Safeguarding Adults Boards on a statutory footing to ensure effective leadership and coordination at a local level[59].

124. Councils should plan with regards to outcomes, rather than specific services. They should consider the cost-effectiveness of support options on the merits of each case and may take their resources into account when deciding how best to achieve someone's agreed outcomes. However, this does not mean that councils can take decisions on the basis of resources alone. Once a council has decided it is necessary to meet the eligible needs of an individual, it is under a duty to provide sufficient support to meet those needs[60]. Councils should provide support promptly once they have agreed to do so, but where waiting is unavoidable, they should ensure that alternative support is in place to meet eligible needs.

125. A council should ensure that all service users in its area with similar eligible needs receive support packages that are capable of achieving a broadly similar quality of outcome, even though the particular forms of help offered may differ and be tailored to individuals concerned.

126. Councils should consider the benefits of person-centred support planning not only for people with eligible needs and their carers, but also for those people who privately pay for their own care or who are seeking some form of informal support to assist with leading their lives the way they want to. This involves not only discussing available options for support – perhaps using information, advocacy or brokerage services, but also encouraging and enabling people to make the best use of their own strengths, capabilities and resources to live as independently as possible. This will help to strengthen the social networks available in the community, help to maintain the independence of people who use services and their carers and may reduce their need for social care in the future.

Personal budgets and resource allocation

127. *Putting People First* envisages the availability of personal budgets for everyone eligible for publicly funded social care support. Councils should therefore support all individuals with eligible needs to draw on the benefits of self-directed support. This includes making

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[57] *Safeguarding adults: a consultation on the review of the 'No Secrets' guidance* (2009) http://www.dh.gov.uk/en/consultations/liveconsultations/dh_089098

[58] *Safeguarding adults: report on the consultation on the review of No Secrets* *http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH_102764*

[59] *Government response to the consultation on safeguarding adults: the review of the No Secrets guidance.* http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH_111286

[60] *R v Gloucestershire CC ex parte Mahfood* (1997) 1 CCLR 7

sure people who use services and their carers understand the options available for using personal budgets, either as a direct payment or as a notional budget to be held on their behalf by the council or a third party.

128. The Local Authority Circular 'Transforming Social Care,' describes as an essential component of transformation the "clear, upfront allocation of funding to enable (people) to make informed choices about how best to meet their needs, including their broader health and well-being".[61] To support the delivery of personal budgets, many councils have begun to explore resource allocation systems (RAS) as a way of determining how much money a person should get in their personal budget to meet their needs.

129. The aim of the RAS should be to provide a transparent system for the allocation of resources, linking money to outcomes while taking account of the different levels of support people need to achieve their goals. It allows people to know how much money they have available to spend so that they can make choices and direct the way their support is provided.[62]

130. Calculating what resources should be made available to individuals should not detract from a council's duty to determine eligibility following assessment and to meet eligible needs. Rather a RAS should be applied as a means of giving an approximate indication of what it may reasonably cost to meet a person's particular needs according to their individual circumstances. It is important for councils to ensure that their resource allocation process is sufficiently flexible to allow for someone's individual circumstances to be taken into account when determining the amount of resources he or she is allocated in a personal budget.

131. The Association of Directors of Adult Social Services (ADASS) has been working with eighteen councils and In Control to develop a common resource allocation system based on an agreed framework, which can be voluntarily adopted by local authorities if they so choose.[63] While it is very unlikely that a single national RAS will be implemented across the country, given the wide variation in local circumstances, the Department of Health is committed to working with local authorities to take forward the learning from emerging systems. An evaluation of the ADASS model was published in October 2009 after the councils in the development group had used the system for six months.[64]

132. However councils choose to develop systems for resource allocation, the first principle underpinning such systems should be transparency. Working towards greater transparency of resource allocation represents the first stage in a longer-term process to support the delivery of a more equitable system for all groups of service users based on need. As a next step, councils should consider the way in which they commission services, and where possible take action to deconstruct inherent inequalities that may have built up in their commissioning systems, including the way in which staff ratios and pay structures may have contributed to the cost of care. They should also consider how they might build and

[61] *LAC(DH)(2008)1: Transforming adult social care*
[62] DH Care Networks have produced a Resource Allocation Guide, setting out principles and challenges as well as examples of models adopted - http://www.dhcarenetworks.org.uk/Personalisation/Topics/Latest/Resource/?cid=3254
[63] For further information and to join the Resource Allocation Reference Group, see DH Care Networks – http://www.dhcarenetworks.org.uk/Personalisation/Topics/Latest/Resource/?cid=6376
[64] Common Resource Allocation Framework (& appendicies 1-3) can be found on the ADASS website http://www.adass.org.uk/index.php?option=com_content&view=article&id=328

develop social capital and support in the community [65], strengthening the existing capacity of their local communities to support independence and well-being for all citizens.

Risk management

133. Giving people more choice and control inevitably raises questions about risk, both for individuals exercising choice over their care and support, and for public sector organisations who may have concerns about financial, legal or reputational risk. Therefore, at the heart of every council's plan for transformation, there needs to be a comprehensive and proactive approach to risk. Councils should take steps to ensure that an effective risk management strategy is embedded at every level of their organisation, from the development of high-level policy and strategy, through commissioning and care management processes, to support planning with individuals and service delivery on the frontline. The Department has issued guidance on decision making, taking account of capacity issues, Independence, Choice and Risk [66]

134. Such a strategy should engage all relevant parts of the council, NHS colleagues, local providers and service users and carers, in order to bring about collaborative change and to build support for a cultural shift away from risk-aversion towards genuine user control and supported decision-making. This will require agreement from all relevant parties about what proportionate safeguarding measures should be put in place for each individual requiring support. Good practice in media management is vital to the reputation of the organisation and its corporate approach to managing risk.

[65] The Building Community Capacity website gives information about in the role of social capital in the transformation of social care. http://www.dhcarenetworks.org.uk/BCC/

[66] See Department of Health, *Independence, choice and risk: a guide to best practice in supported decision-making* (2007) for further information about user empowerment and risk management - http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_074773

Transitions

135. Councils should have in place arrangements to ensure that young people with social care needs have every opportunity to lead as independent a life as possible and that they are not disadvantaged by the move from children's to adult services.

136. There is evidence to suggest that young people entering adult services are at greater risk of marginalisation during the transition process.[67] Half of the councils surveyed in a CSCI study said that young people's care packages change at, or after, transition and this generally represented a significant reduction in services.[68] Noting the additional challenges faced by disabled young people in the critical transition to adulthood, the Government has allocated £19 million over three years for a Transition Support Programme to help young people and their families benefit from coordinated support and person-centred planning.[69]

137. Transition planning for young people with complex needs requires a coordinated multi-agency approach. In particular, directors of adult social services should work in partnership with directors of children's social services to carry out joint appraisals of local arrangements, commissioning strategies and the outcomes for young disabled people and their families. Young people and their families should also be involved in this strategic planning process.

138. Successful transition depends on early and effective planning, putting the young person at the centre of the process to help them prepare for transfer to adult services. The process of transition should start while the child is still in contact with children's services and may, subject to the needs of the young person, continue for a number of years after the transfer to adult services. This will ensure that young people and parents know about the opportunities and choices available and the range of support they may need to access.

139. Further information about preparing for transition can be found in the guidance *Transition: getting it right for young people* (2006), *A transition guide for all services* (2007) and *Transition: moving on well* (2008).[70]

140. As part of transition planning, the needs of carers should also be assessed or reviewed to explore the impact of changing circumstances on the carer.

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[67] CSCI, *Cutting the Cake Fairly*

[68] CSCI, *Growing up matters: Better transition planning for young people with complex needs* (2007) http://www.csci.org.uk/about_us/news/nightmare_for_teenagers_with_d.aspx

[69] HM Treasury and Department for Education and Skills, *Aiming High for Disabled Children: Better Support for Families* (2007)
More information about the Transition Support Programme can be found at http://www.transitionsupportprogramme.org.uk/

[70] Department of Health and Department for Education and Skills, *Transition: getting it right for young people: Improving the transition of young people with long term conditions from children's to adult health services* (2006) http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4132145
Department for Children, Schools and Families and Department of Health, *A Transition Guide for all Services* (2007) and *Transition: Moving on well* (2008) http://www.everychildmatters.gov.uk/resources-and-practice/IG00322/

Reviews

141. As individual needs are likely to change over time, councils should therefore ensure that arrangements are put in place for regular reviews of support plans. The projected timing of the review should be established with the service user, and their carer(s) where appropriate, at the outset. Where carers services are being provided, arrangements for review should similarly be put in place.

142. Like initial assessments, reviews should be focused on outcomes rather than services.[71] In particular, reviews should:

- Establish whether the outcomes identified in the support plan are being met through current arrangements;
- Consider whether the needs and circumstances of the service user and/or their carer(s) have changed;
- Support people to review their personal goals and consider what changes if any should be made to the support plan to better facilitate the achievement of agreed outcomes;
- Ensure that the risk assessment recorded in the care plan is up to date and identify any further action that needs to be taken to address issues relating to risk;
- Demonstrate a partnership approach across agencies and with the service user as well as their family and friends if they choose;
- Support people to strengthen their informal support networks;
- Support people to increase their productive role in their community; and
- Help determine the service user's continued eligibility for support.

A written record of the results of these considerations should be kept and shared with the service user.

143. Councils should record the results of reviews with reference to these objectives. For those service users who remain eligible councils should update the support plan. For those people who are no longer eligible, councils should record the reasons for ceasing to provide support and share these with the individual both verbally and in writing. They should also offer information about the forms of support that may be available to the individual in the community.

144. The frequency of reviews should be proportionate to the circumstances of the individual but there should be an initial review within three months of help first being provided or major changes made to current support plans. Thereafter, reviews should be scheduled at least annually or more often as is necessary. Councils should also consider conducting reviews when requested to do so by the service user, their carer or service provider.

[71] Further guidance on outcome-based reviews has recently been published by DH Care Networks. See *Outcome-focused Reviews: A practical guide* (2009) http://www.dhcarenetworks.org.uk/Personalisation/PersonalisationResources/Type/Resource/?cid=5625

145. Councils should be prepared to be flexible about the way in which reviews are carried out. Individuals should be consulted about which way works best for them. Councils might wish to ask service users where they would like to have the review and who else they might want to be involved. Depending on the individual circumstances, it may be appropriate to involve carers and representatives of the service user, brokerage and support services, advocates and providers of services. Where appropriate, peer support can be used to encourage people to engage as actively as possible in the review process.

146. Adults lacking capacity are likely to need more frequent monitoring arrangements than other service users. They may be less able to communicate their needs and wishes and there may be issues around fluctuating capacity. Regulations enabling local authorities to make direct payments to adults lacking capacity came into force in November 2009[72]. If the person lacking capacity has a direct payment or other form of personal budget, councils will wish to be satisfied that arrangements for the management of the personal budget on that person's behalf are meeting their needs and supporting the best interests of the person lacking capacity. Councils should consider involving other people known to the person lacking capacity in the review, as well as independent advocates where appropriate. The Mental Capacity Act Code of Practice specifies that Independent Mental Capacity Advocates (IMCAs) can be used in care reviews where the person concerned has no one else to be consulted.[73]

147. The process for review should be simple and avoid duplication or unnecessary amounts of paperwork or visits. Some people may benefit from completing a review template before meeting up with the professional conducting the review, so that they have an opportunity to consider how well arrangements are working for them before discussion takes place. Self-assessment of this kind in preparation for the review can help individuals to assume more control over how they want their support to be provided.

148. Where there are children or young people in the household, care should be taken to establish the impact on them of any changes in levels of need or family responsibilities and, where appropriate, address their needs as young carers.

149. For mental health service users, councils should consider the benefits of synchronising reviews for social care and for the Care Programme Approach framework.[74] This will enable a greater focus on outcomes for the individual based on their overall health and social care needs and not just social care factors.

150. One-off pieces of assistive equipment provided to meet agreed outcomes in the support plan do not need reviewing after initial confirmation of suitability. Major items of equipment should be reviewed as to their suitability and safety on an annual basis. The suitability and effectiveness of periodic services such as short-term breaks should be reviewed shortly after the first period and annually thereafter.

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[72] A full list of guidance materials for direct payment scan be found on the DH website http://www.dh.gov.uk/en/SocialCare/Socialcarereform/Personalisation/Directpayments/index.htm

[73] For more information, see Department of Health, Making decisions: The Independent Mental Capacity Advocate (IMCA) Service (2007) - http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_073932

[74] Department of Health, *Refocusing the Care Programme Approach: Policy and positive practice guidance* (March 2008) http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_083647

151. For those service users who remain eligible, councils should update the support plan with the agreement of the service user and any other relevant parties. For those people who are no longer eligible, councils should record the reasons for this decision and share these with the individual (as explained in *Assisting individuals not eligible for social care support* section of this guidance).

Training and support for frontline staff

152. The vision for a personalised approach to adult social care has significant implications for the workforce of the future. Councils should therefore put in place training and development activities to enable an organisational culture that promotes independence, choice and control and to ensure that in every individual case the application of eligibility criteria is as fair, consistent and transparent as possible. Staff undertaking assessments or supporting self-assessments should be sufficiently skilled in understanding people with a range of needs so that specific groups are not marginalised. They should be able to demonstrate an ability to work towards individual outcomes, rather than following a service-led approach.

153. Training and development should be aimed at improving the skills of professionals across sectors to work in co-production with service users and carers, enabling them to plan and manage their own support and ensuring that proportionate risk management strategies are embedded in every stage of the self-directed support process. Councils may wish to consider involving service users and carers in the development and delivery of training programmes. There should also be a focus on making sure that commissioning teams are skilled in understanding the diverse requirements of those using services and their wider community, and are able to work with employers and providers to commission high quality, flexible and innovative forms of support.[75]

154. Training should also involve staff from other agencies who may be involved in social care assessments and contribute to eligibility decisions, or who may be involved in subsequent support planning processes to help individuals identify and secure creative and personalised options for support.

155. Managers will have responsibility for ensuring the consistent application of eligibility criteria by their frontline staff. The Social Care Institute for Excellence have developed a practice guide and training materials[76] to assist local authorities in training those who need to make assessments and their managers.

[75] For further insight into the strategic priorities for the social care workforce, see *Working to put people first – the strategy for the adult social care workforce in England*, Department of Health (2009) http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_098481

[76] Practice guide and training materials will be available on the SCIE website by 1st April 2010 http://www.scie.org.uk/

Monitoring arrangements

156. Councils should ensure that they audit and monitor their performance with regards to the fair determination of eligibility for social care. In particular, they should be able to monitor:

- The extent to which different groups, including carers, are referred to them for assessment, which groups receive an assessment and, following assessment, which groups go on to receive services;
- Those groups including carers who are screened out of services;
- The outcomes experienced by all those going through the process, including those people with ineligible needs who are signposted to other sources of help;
- Equality of access to ensure that all individuals are treated fairly regardless of their ethnicity, gender, disability, age, religion or belief, sexual orientation or any other factors that may leave them vulnerable to discrimination;
- Quality of assessment and the eligibility decisions of their staff;
- Which presenting needs are evaluated as eligible needs and which are not;
- Service effectiveness with reference to support plans and reviews;
- Speed of assessment and subsequent service delivery;
- Timing and frequency of reviews;
- The extent to which residents of different geographical areas within the council's boundary receive an assessment and which go on to receive services.

157. Once information has been collected and analysed, it should be shared with a range of interested parties including service users, carers, elected members, and other local agencies. This information should also feed into Joint Strategic Needs Assessments and local commissioning strategies.

158. While the primary responsibility for monitoring fair access to care services lies with councils, the Care Quality Commission (CQC) will also monitor outcomes in carrying out periodic reviews of local authorities. In particular, they will publish their assessments to provide an independent account of how well councils are working with local partners to improve outcomes for people in vulnerable circumstances and in need of social care.

159. The CQC will continue to assess and report on trends in the setting of eligibility bands by councils and how this impacts on people.

160. The CQC, in conjunction with other inspectorates as part of the Comprehensive Area Assessment process (CAA), will:

- Check on trends in the setting of eligibility bands by councils and how this impacts on people, continuing the work of CSCI;
- Check the overall balance and impact of the range of support that is available to people to promote their independence, health and well being;
- Specifically look at universal accessibility to services such as housing and leisure, the availability of targeted interventions such as reablement, intermediate care, support for third sector agencies in providing preventative services, the availability of information and advice and the extent to which self-directed support is offered and taken up;

- Gauge the quality of life being achieved in areas, including the extent to which all groups of citizens feel that they have a voice, through surveys and other evidence;
- Identify areas for development and good practice by means of outcome grades through the CQC, and red and green flags highlighting concerns about prospects for improvement or promising innovation that others can learn from through CAA;.

161. In addition, through its powers of inspection of councils and regulation of personal care services, the CQC will be able to shed detailed light on practice on the ground and how it affects people. This will include inspection of how councils commission services for their citizens. The CQC may take action if the council is failing to discharge any of its adult social care functions to an acceptable standard, informing the Secretary of State and recommending any special measures that it considers the Secretary of State should take.