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Please see the end of this information sheet for details of how to support us.

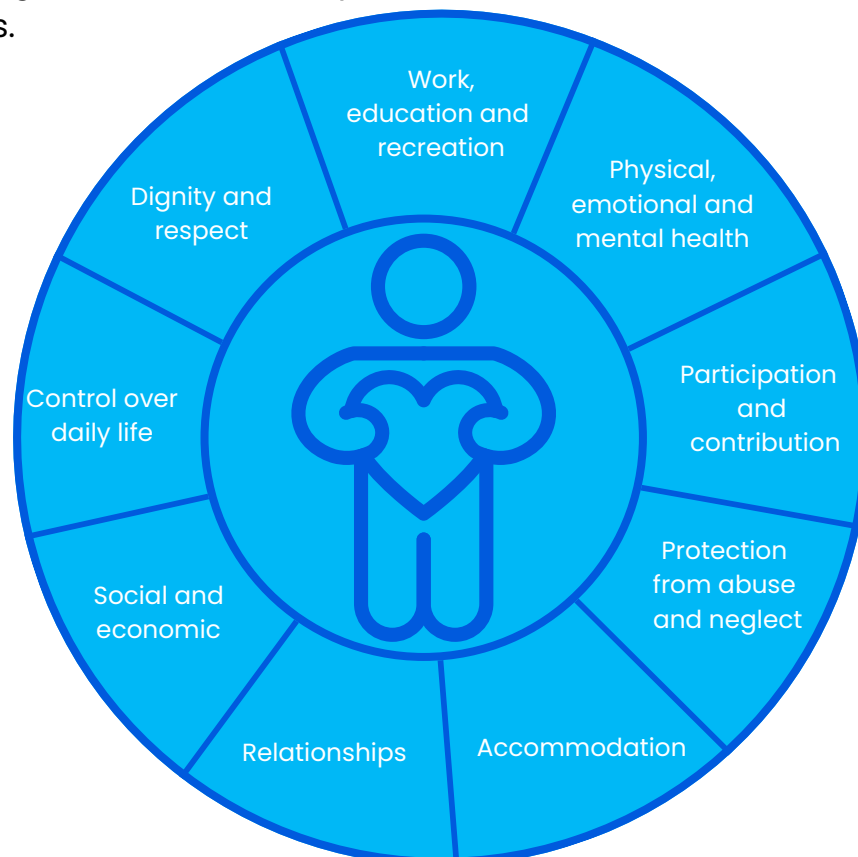
We want to make sure our resources are helpful. Please spend a few minutes giving us some feedback: [Feedback form](#)

The Care Act 2014

This section of the Family Carer Advocacy Pack is about the Care Act 2014 and your relative's rights to a care and support package in the community which provides them with a good and meaningful quality of life. This is one way of protecting your relative from admission to a mental health service. There is also information about your rights as a family carer to a care and support package to ensure that you can continue in your role for as long as you want to.

What is The Care Act?

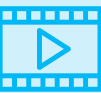
The Care Act represents the most significant change in the way care and support is provided in more than 60 years. It combines various existing pieces of law which previously decided how social care was arranged in Britain. The Act introduces the importance of 'meeting needs' instead of just 'providing services'. The Act aims to make everyone think creatively about the way a person's needs are met, rather than offering a service that may be neither what is best nor what the person needs.



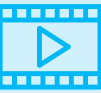
Ten key things about The Care Act?

1. Local authorities must always put your relative's wellbeing first when making decisions about the care and support they need.
2. The views, wishes, feelings, values and beliefs of your relative should always be considered, and all decisions should be made with their involvement. Care Act guidance says, *"People should be active partners"* and *"regardless of how complex a person's needs are, they must be supported to express their wishes and feelings, to weigh-up options and retain information to make their own decisions."*

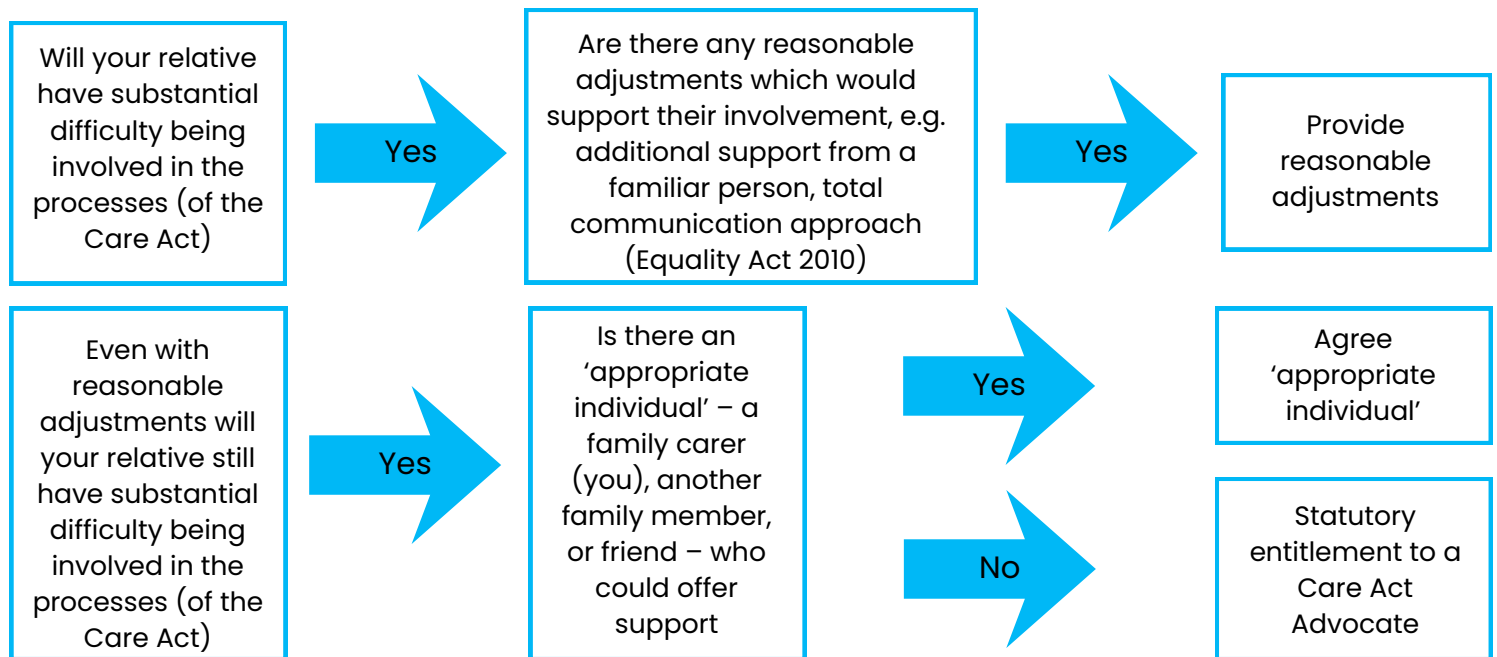
Watch this [video introduction to The Care Act](#) from SCIE



Watch this [video about The Care Act](#) from Rethink Mental illness



Supporting your relative's involvement:



3. Local authorities have a duty to provide information and advice, for example about the process, what types of care and support are available. Information should be provided in an accessible way e.g. not just on a website, or leaflet in a GP's office, but in a way that is person-centred.
4. There is a focus on early intervention to avoid crisis situations including a commitment to investing in preventative services and making full use of any existing community resources.
5. The Care Act sets out a national eligibility criteria with a minimum threshold which must be met. If your relative meets this threshold, they will have eligible needs that the local authority must then meet. Local authorities also have the option of meeting needs that fall below the national minimum threshold.
6. Your relative may have the right to a professional independent advocate if they have difficulties participating in any of the processes.
7. There are new rules to make it easier if your relative moves to a different local authority area to ensure their care and support does not change

8. If your relative is entitled to social care and support, they have the right to request a personal budget.
9. A duty to always work to protect your relative from abuse and neglect (safeguarding).
10. The Act requires the local authority to promote integration, cooperation and partnership with the NHS and other key partners.

If your relative will experience substantial difficulty being involved in any of the processes, the local authority must identify an appropriate individual to support them. An appropriate individual is defined as 'someone who is able to prioritise the opinions of the person with a learning disability, autism or both and actively involve them in Care Act processes'.

If there is no appropriate individual available, then the Care Act places a statutory (legal) duty on local authorities to provide a Care Act Advocate.

To be eligible for a Care Act Advocate a person must meet three criteria:

1. The person must be going through one of the processes described in the Care Act (2014), which includes (but is not limited to):
 - A needs Assessment
 - The preparation or review of a care and support plan
 - A safeguarding enquiry
2. The person must have substantial difficulty in being fully involved in these processes described in the Care Act (2014), which includes (but is not limited to):
 - Understanding relevant information

[This visual](#) provides a summary of the Care Act



- Retaining information
- Using or weighing that information as part of engaging
- Communicating their views, wishes and feelings

People can experience substantial difficulty without having a cognitive impairment.

3. The person must have nobody else willing or deemed appropriate to support or represent them through the processes.

There are exceptions to this:

- Where the assessment or planning might result in a placement in NHS provision
 - either in a hospital for more than 4 weeks or
 - in a care home for more than 8 weeks or more
- The local authority believes that arranging a Care Act Advocate would be in the best interests of the person
- Where the local authority and the family carer/ other family member/friend disagree on something relating to the person, but agree that a Care Act advocate would be beneficial

Four Stages of the care assessment

1. Assessment

An Assessment is how a local authority decides whether a person needs care and support to help them live their day-to-day life. The assessment must be carried out by an appropriately trained assessor, e.g. a social worker who will consider factors such as:

- The person's needs and how they impact on their wellbeing – for instance, a need for help with getting dressed
- The outcomes that matter to the person – for example, whether they are lonely and want to make new friends
- The person's other circumstances – for example, whether they live alone or whether someone supports them
- The care and support currently being provided by a family carer

The aim is to get a full picture of the person and what needs and goals they may have. Assessments must be person-centred and you can [use these tools from Helen Sanderson](#) to capture what is important for your relative's wellbeing



2. Eligible needs

After carrying out the assessment, the local authority will then consider whether any of the needs identified are eligible for support.

3. Meeting the needs

After determining the needs which count, the local authority must decide how they will be met. Details of the support to be provided by the authority will be set out in a care and support plan.

Read the Challenging Behaviour Foundation's [Ten Top Tips factsheet](#) for getting the best support package:



4. Providing services and support

The local authority will carry out a financial assessment of any individuals with eligible needs, to determine if a contribution needs to be paid. They must provide you with a copy of their charging policy. Care Act guidance states that the local authority must leave people with enough money 'to pay for necessary disability-related expenditure (DRE) to meet needs which are not being met by the local authority'. Providing evidence is essential, e.g. bills (showing higher than average gas/ electrical usage due to extra washing, bathing due to incontinence, heating), receipts or screenshots from an Amazon account, to prove your case for these extra costs being incurred.

Support from professionals reinforces your evidence, a letter from a speech and language therapist confirming the need to purchase equipment related to meeting your relative's communication needs, e.g. printer, ink to make picture books, a letter from a psychologist confirming that when your relative is distressed they may cause breakages.

[Use this template letter](#) to request a Disability Related Assessment



The Scrap Care Charges is a group of Deaf and disabled people's organisations, parents, carers and allies working together to end social care charging and transform social care: [Visit their website for more information](#)

[Read this quick guide](#) about what to expect during assessment and care planning

Visit [this SCIE link](#) for more detailed information about assessment and eligibility

The local authority has an ongoing duty to review your relative's care and support to ensure that your relative's needs continue to be met, including carrying out a new assessment if appropriate. Read this factsheet from Mencap about review/new assessment processes which includes some case studies: [Click here to access the factsheet](#)



Transition and the Care Act

The Care Act places a statutory (legal) responsibility on the local authority to ensure a successful transition from children to adult services for your relative. There should be no gap in services during the transition period. The local authority must continue to provide any children services until adult services are in place or it is established, through the assessment process, that your relative's needs have changed, and some services are no longer applicable.

Advocacy and the Care Act

Self-Advocate

One of the key principles of the Care Act is being involved in the processes. If your relative has been assessed as having the capacity to do so they can self-advocate (represent themselves). They can of course ask for support and advice from you (family carer), other family member, friend or other important people in their life who know them well.

Family Carer Advocate

If your relative has been assessed as having the capacity to self-advocate (represent themselves) they can still ask for your involvement in the processes. If your relative has been assessed as lacking the capacity to self-advocate (represent) themselves, they must still be supported to be involved in as much of the processes as possible, e.g. using talking mats to indicate the activities they like/dislike. You can take on the role of supporting and representing your relative, but this should not be assumed. It should be discussed and agreed with the family carer and their relative. If you agree to represent and support your relative's involvement you will only be considered appropriate if:

- You are not being paid to provide care and support for your relative
- You are not involved in any enquiry relating to abuse or neglect (safeguarding)
- Your relative has capacity (understands) and can consent (give permission) to being represented and supported by you or

[Click here to read a summary of the Care Act in Easy Read](#)



- Lacks capacity (understanding) or is unable to consent (give permission) but
- the local authority is satisfied that being represented and supported by you would be in your relative's best interests
- You can demonstrate that you have regular contact with your relative
- You can show that you are able to act independently from the local authority, e.g. not employed by or involved with the local authority in any way
- There is no conflict of interest or dispute between you and your relative

Care Act Advocacy

A Care Act Advocate is trained and skilled in the processes associated with the Care Act, e.g. assessment, safeguarding and is independent of the local authority. They will ensure they have a full picture of your relative e.g. by meeting with them, accessing records and talking to those who know your relative well, taking into consideration capacity and consent. If they feel at any point during the process the local authority is not acting in your relative's best interests, they are obliged to challenge this, including writing a report. The local authority is expected to provide a response.

A Care Advocate will support your relative

to:

- Understand and be involved in the process, e.g. needs assessment, preparing a care and support plan, review of a care and support plan
- Communicate their views, wishes and feelings
- Understand their options and make decisions about their care and support
- Understand and secure their rights
- Appeal against a decision they are unhappy about

Watch [advocates describe the role of a Care Act Advocate](#)



Read a [factsheet on Care Act Advocacy](#)



Read [Debbie's story](#)



And [this case study from the Advonet Group](#)



The Care and Support Statutory Guidance states *"Many of the people who qualify for advocacy under the Care Act will also qualify for advocacy under the Mental Capacity Act 2005. The same advocate can provide support as an advocate under the Care Act as under the Mental Capacity Act. This is to enable the person to receive seamless advocacy and not to have to repeat their story to different advocates"*.

The Care Act and Family Carers

One of the biggest changes under the Care Act is that family carers of an adult relative with care and support needs have the same rights as their relative. Here are 3 key rights you should know about:

1. A family carer will be entitled to an assessment if it is identified that they have their own care and support needs. The assessment must establish whether the family carer is willing and able to continue providing care to their relative and what impact this has on their wellbeing, day-to-day life, and ability to access education, training or recreational activities.

2. Family carers have the same rights to an assessment and support as their relative. Once a family carer's assessment has been carried out, the local authority will see which of the family carer's needs are eligible for support and will then produce a support plan to meet the family carer's needs.
3. Local authorities are under a duty to meet a carer's eligible needs, subject to financial assessment. *(Source: Mencap)*

[Click here to read more about family carers' rights under the Care Act](#)



Further information



This guide from Hft provides information about the Care Act 2014 and other laws, for family carers of an adult with learning disabilities, autism or both:

https://www.hft.org.uk/wp-content/uploads/2018/11/Hft-Care-act_artwork_17.pdf?utm_source=website&utm_medium=resourcesandguidance&utm_campaign=careact

This link takes you to resources from Irwin Mitchell including template letters to use to request an assessment for yourself or your relative:

<https://www.irwinmitchell.com/personal/protecting-your-rights/factsheets-and-template-letters>

Watch this video clip from Hft including how to use the Care Act to challenge decisions about poor care and support:

https://www.youtube.com/watch?v=MYAtjHPML_Q

Read Chapter 5 - Preventative support and safeguarding in line with the Care Act 2014 of the Statutory guidance for Local Authorities and NHS organisations to support implementation of the Adult Autism Strategy:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/422338/autism-guidance.pdf

The NICE Guidelines website: <https://www.nice.org.uk>

Read People's experience in adult social care services on the NICE Guidel- improving the experience of care and support for people using adult social care services for what you and your relative should expect during the assessment processes:

<https://www.nice.org.uk/guidance/ng86>



We are the charity for people with severe learning disabilities who display challenging behaviour. We make a difference to the lives of children and adults across the UK by:

- Providing information about challenging behaviour
- Organising peer support for family carers and professionals
- Giving information and support by phone or email
- Running workshops which reduce challenging behaviour

To access our information and support, call 01634 838739, email info@thecbf.org.uk, or visit our website: www.challengingbehaviour.org.uk

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