

Safeguarding information

NB: This is the full legislative picture

Appendix I: Relevant Legislation and policy – national, regional and local

Carers were first mentioned in social care legislation through the Disabled Persons (Services, Consultation and Representation) Act 1986. Since then, a number of

obligations have been placed on both social care and health to enable people to care whilst maintaining their own lifestyle, livelihoods, social life and many other important aspect of day to day life and personal wellbeing. Carer specific provisions have been mainstreamed in Government legislation with the following examples being the most significant:

- Mental Capacity Act 2005
- Work and Families Act 2006
- The Children's Act 2010
- The Equalities Act 2010
- The Health and Social Care Act 2012
- The Children and Families Act 2014
- The Care Act 2014

The Care Act 2014 –

The Act outlines key components that local authorities must act or take into consideration when they come into contact with carers:

Wellbeing Duty – The 'wellbeing principle' is an overarching approach that local authorities should take when exercising their responsibilities under the Act.

Wellbeing covers a range of outcomes such as physical and mental and emotional wellbeing. It also covers participation in work, education and training and social and economic wellbeing. Wellbeing can relate to:

- personal dignity (including treatment of the individual with respect)
- physical and mental health and emotional wellbeing
- protection from abuse and neglect
- control by the individual over day-to-day life (including over care and support)
- participation in work, education, training or recreation
- social and economic wellbeing
- domestic, family and personal relationships
- suitability of living accommodation
- the individual's contribution to society

Prevention Duty

The Act requires local authorities to provide information and advice relating to care and support locally. The requirement is that local authorities provide an information and advice service in relation to care and support for adults, and support for carers.

This information can include types of care and support, the providers people can choose from, how to access care and support and how to raise concerns about safeguarding etc.

Assessment

Both adults (needs assessment) and carers (carer's assessment) should be assessed on the appearance of need and regardless of what the local authority thinks is the level of their need and regardless of their financial resources. The assessment must consider how the person's needs impact on their wellbeing and the outcomes that they wish to achieve in day-to-day life. The adult's needs assessment must focus on outcomes of the person and the authority must also consult the carer.

It removes the requirement to ask for an assessment which has been in previous legislation and the Care Act removed the requirement for the carer to be providing substantial care on a regular basis. The only requirement is that the carer 'may have needs for support –whether currently or in the future'. The requirement to assess a carer on the appearance of need puts the carer's assessment on the same footing as the disabled person's assessment. The Act requires local authorities to consider whether the adult would benefit from preventative services, information and advice or anything which might be available in the community.

Whole family approach

The local authority has to give regard to the family needs of the person being assessed, for instance the need to ensure that a child is not undertaking an inappropriate caring role for the adult concerned. The Act makes clear that a local authority may combine a needs or carer's assessment with another assessment it is carrying out on the individual or another person with their agreement. A local authority, when carrying out a needs or carer's assessment, may work jointly with another body which is carrying out another assessment.

Self-funders

Since the Care Act came into force self-funders have been able to ask the local authority to arrange services, but not residential care, on their behalf. Local authorities also have responsibility for providing information and advice to self funders. Duty of cooperation and integration
This makes integration, cooperation and partnership a legal requirement on local authorities and on all agencies involved in public care, including the NHS, independent or private sector organisations, some housing functions and the CQC.

The Children's Act 1989

A parent carer is defined as an adult who provides or intends to provide care for a disabled child for whom the person has parental responsibility. Section 17ZD (14) requires local authorities to take reasonable steps to identify the extent to which there are parent carers within the area who have needs and support. The Act also obliges local authorities to assess parent carers on the appearance of need. The assessment must have regard for the wellbeing of the parent carer which has the same meaning as the definition in the Care Act 2014. The assessment must also take into account the need to safeguard/promote the welfare of the disabled child and any other child for whom the parent carer has parental responsibility. Under section 7 the local authority may request the co-operation in specific cases to

support needs of a carer of a child. The duties within the Children's Act also supports young carers and will further explained within the Young Carers Strategy.

The NHS Long Term Plan

The NHS Long Term Plan places a strong emphasis on improving early intervention and support for patients and for carers. Arising from commitments in the plan there are key commitments relating to carers:

1.19. Carers will benefit from greater recognition and support. We will improve how we identify unpaid carers and strengthen support for them to address their individual health needs. We will do this through introducing best-practice Quality Markers for primary care that highlight best practice in carer identification and support.

2.33 Continue to identify and support carers, particularly those from vulnerable communities. Quality marks for carer-friendly GP practices, developed with the Care Quality Commission (CQC), will help carers identify GP services that can accommodate their needs. We will encourage the national adoption of carer's passports, which identify someone as a carer and enable staff to involve them in a patient's care, and set out guidelines for their use based on trials in Manchester and Bristol. These will be complemented by developments to electronic health records that allow people to share their caring status with healthcare professionals wherever they present.

2.34. Carers should not have to deal with emergencies on their own. We will ensure that more carers understand the out-of-hours options that are available to them and have appropriate back-up support in place for when they need it.

2.35. Young carers. The NHS will roll out 'top tips' for general practice which have been developed by young carers, which include access to preventive health and social prescribing, and timely referral to local support services.

1.40 and 1.41 We will ensure that initiatives around personalised care including personal health budgets and social prescribing are fully reflective of carers' needs.

5.20. Patients, clinicians and the carers working with them will have technology designed to help them. There will be a digital service for managing interactions with the NHS, ready access to personal records, care plans, expectations, appointments and medications, to enable care to be designed and delivered in the place that is most appropriate for them.

Other important policy includes:

- NHS People Plan 2020
- Government Carers Action Plan 2018-2020

Joint NHS and solely NHS duties:

- Joint adult social care and health duties to promote wellbeing
- NHS responsibilities at hospital discharge
- NHS Continuing Healthcare (CHC) are required to consider carer needs and funding for short term breaks
- Forthcoming publication on NHS legal responsibilities towards carers

Young carers and parent carers

- Adult Social Care have responsibilities to identify and support young carers
- Children Act 1989/Children and Families Act 2014 - Duties upon the local authority to carry out both young carers needs assessments and young carers transition assessments before the young carer turns 18 years old and when it would be of “significant benefit” to the individual.
- Parent carers – Parents of a disabled child have the same right to support as carers who look after an adult. There is a duty on councils to offer a carer’s assessment to any parent of a disabled child under the age of 18.

As an employee: Equality Act 2010

- Right to request flexible working
- Right to emergency time off for dependents

Overarching

- Equality Act 2010 – Employers and providers of goods and services must not treat carers less favourably than those without caring responsibilities.
- Human Rights Act

NHS Long Term Plan - places a strong emphasis on improving early intervention and support for patients and for carers. Within the plan there are key commitments relating to carers:

- Carers will benefit from greater recognition and support. The NHS will improve how we identify unpaid carers and strengthen support for them to address their individual health needs. We will do this through introducing the NHS England Carers Quality Markers standards for primary care that highlight best practice in carer identification and support; and by continuing to identify and support carers, particularly those from vulnerable communities.
- Carers should not have to deal with emergencies on their own. We will ensure that more carers understand the out-of-hours options that are available to them and have appropriate back-up support in place for when they need it.
- Young carers - The NHS will roll out ‘top tips’ for general practice which have been developed by young carers, which include access to prevention services which avoid or better manage health conditions, through new social prescribing services, and timely referral to local support services.
- We will ensure that initiatives around personalised care including personal health budgets, which offer patients the opportunity to personally manage a pot of funding for their care and social prescribing, are fully reflective of carers’ needs
- Patients, clinicians and the carers working with them will have technology designed to help them. There will be a digital service for managing interactions with the NHS, ready access to personal records, care plans, expectations, appointments and medications, to enable care to be designed and delivered in the place that is most appropriate for them.

[Carers Action Plan 2018-2020. This previous action plan builds on the 2008 National Carers Strategy. Carers action plan 2018 to 2020 - GOV.UK \(www.gov.uk\)](#)

Analysis of evidence submitted by carers, identified that carers need:

- To be recognised and valued
- Access to information and support targeting unpaid carers, so they can offer the best care possible
- To be helped to balance their caring responsibilities with their own employment and to preserve their personal health and wellbeing.

[NICE guideline on Supporting Adult Carers - January 2020 \(Overview | Supporting adult carers | Guidance | NICE\). This guideline covers support for adults \(aged 18 and over\) who provide unpaid care for anyone aged 16 or over with health or social care needs. It aims to improve the lives of carers by helping health and social care practitioners identify people who are caring for someone and give them the right information and support. It covers carers' assessments, practical, emotional and social support and training, and support for carers providing end of life care](#)

Partners

Commissioned Services

Adult carers	AC
Young carers	YC
Community navigation	CN
Parent Partnership	PP
Advice, information and guidance	IAG
Voluntary sector	VS

Partnerships/Boards/Groups

Carers Steering/Co-production Group	CSG
Carers Partnership Board	CPB
Learning Disability groups	LD
Mental Health groups	MH
Transition Group	TG
Start Well	SW
Live Well	LW
Age Well	AW
Die Well	DW
Chamber of Commerce	CofC

Health & Social Care

Primary Care Networks	PCN
University Hospital Southampton NHS Foundation Trust	UHS
Southern Health NHS Foundation Trust	SHFT
Solent NHS Trust	ST
Integrated Care System	ICS
Clinical Commissioning Group	CCG

Southampton City Council

	SCC
Carers Strategy Improvement Lead	CSIL
Public Health	PH
Adult Social Care	ASC
Communications	Coms
Childrens Services	CS

Employment and Skills Team / Human Resources E&S/HR
SCC & CCG: Integrated Commissioning Unit ICU

Emergency Services

South East Coast Ambulance Service NHS Foundation Trust AMBS
Hampshire Constabulary Police
Hampshire & Isle of Wight Fire and Rescue Service Fire