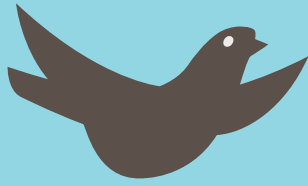




advice and support for older age




**Independent
Age**



Year one of the Care Act: taking its first steps

Whatever happens as we get older, we all want to remain independent and live life on our own terms. That's why, as well as offering regular friendly contact and a strong campaigning voice, Independent Age can provide you and your family with clear, free and impartial advice on the issues that matter: care and support, money and benefits, health and mobility. A charity founded over 150 years ago, we're independent so you can be.

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Executive summary

The Care Act is a new law which came into force from April 2015. The Care Act applies to England only and sets out the rules local authorities need to follow when arranging care for their residents.

In July 2015, the government postponed the 'care cap' and associated measures due for April 2016. This means that older people, who pay for their own care, will continue to receive little support in meeting their care needs from their local authority either financially or in terms of arranging care.

Despite this decision, many of the policies designed to achieve the core principles of the Care Act have been introduced. These include the implementation of national eligibility criteria for social care, a social care system centred on personal needs and wellbeing, the right for all carers to receive a formal assessment and a greater focus on prevention services.

Over the past 12 months, we have been keen to find out how older people and their families have been experiencing these changes. We recognise that these changes were implemented at a very difficult time for local authorities, as they have had to cope with a reduction in overall funding of almost a third since 2010¹. Such pressures have led to 400,000 fewer people receiving a social care service in England in 2013/14 compared with 2009/10².

This report brings together research we have carried out in the past year looking at three specific areas affected by the Care Act:

- 1 Information and advice provision**
- 2 Older people's and carers' experience of assessments**
- 3 Families' experience of paying care home top-up fees**

What we did: our research projects on the Care Act

- A web and telephone audit of the quality of information and advice provided by all English local authorities on adult social care: [Information and advice since the Care Act – how are councils performing? June - July 2015](#)
- [Freedom of Information request to all English local authorities on top-up fees, September 2015](#)
- A public online survey of older people who use care services, older carers and carers of older people to find out about their experiences of accessing adult social care since the Care Act was implemented: Care Act Watch Online Survey, September 2015 – March 2016 (319 respondents)

The Care Act, and accompanying guidance, is clear about what local authorities need to be doing to meet their obligations in these three areas. However, our research shows that many local authorities are failing to demonstrate that they are following all of the new rules. As a result, they are compromising the delivery of care and support to older people.

Summary of findings

Information and advice provision

- Almost three quarters (70%) of local authorities are not providing online information in all the areas required under the Care Act.
- Information and advice available over the phone is highly variable. Despite some examples of excellent practice, some staff are clearly unaware of recent changes to care provision.

Experience of assessments

- Older people and their families are too often having to fight to have their needs recognised and to receive a timely assessment.
- Not everyone is receiving a record of their care assessment. Failure to provide this means that local authorities are not observing Care Act guidance.
- Almost a quarter (23%) of local authorities are failing to provide adequate online information on assessments and eligibility.

Experience of care home top-up fees

- In September 2015, 43% of local authorities (53 out of 122 local authorities who responded) were not complying with at least one of the requirements to:
 - (i) have a written agreement in place for all top-up fee arrangements in their area
 - (ii) ensure all top-up agreements involve all three parties (third party, provider and local authority)
 - (iii) carry out annual reviews of top-up agreements as a matter of course.



1 Spending Review 2015: a representation from across the care and support sector, ADASS, September 2015

2 Ibid

What we have learned and why this matters

Almost three quarters (70%) of local authorities are not offering information and advice in at least one of the areas required by the Care Act. This is very worrying as poor information and advice can leave older people and their families unaware of the support that's available to them.

Too many older people are still having to convince local authorities of their care and support needs before receiving an assessment. In addition, older people and their families are not always receiving a written record following their assessment. These two findings threaten the stated aims of the Care Act: for the new assessment process to be made available to all people who appear to need care and support, and for the assessment process to be accountable to carers and service users.

We also found that almost half (43%) of local authorities are failing to demonstrate good practice in terms of how they introduce and oversee third party top-ups fees in care homes. This is completely unacceptable. The rules about how a third party top-up can be introduced are very clear, and failure to follow them is leaving some families struggling to find the money for a care home placement they should never have been asked to fund.

Getting the Care Act back on track

Our findings reveal considerable variability among local authorities in how effectively they are delivering social care under the Care Act. However, despite some disappointing findings there is evidence of good, and at times excellent practice across all three areas. Our research should not be seen therefore as evidence that the Care Act is unachievable, but rather as a challenge for poorly performing local authorities to get their plans back on track. It is vitally important to older people and their families that all local authorities meet their legal responsibilities under the Care Act as soon as possible.



Information and advice



Key findings

- **The majority of local authorities are not providing online information in all the areas required under the Care Act.**
- **Information and advice available over the phone is highly variable. Despite some examples of excellent practice, some staff are clearly unaware of changes to recent care provision.**

What should be happening according to the Care Act?

Accessing information and advice will be many people's first contact with the social care system. We know from our own advice line that people's experiences of care can vary dramatically, depending on the accessibility and quality of the information and advice their local authority provides.

Under the Care Act, local authorities have new responsibilities to provide comprehensive information and advice about care and support services in their area. This should help people understand how care and support services work locally, the care and funding options available, and how people can access these services.

What is happening?

In summer 2015, Independent Age commissioned Qa Research to find out if local authorities are complying with their new duties. The research consisted of three exercises:

- a review of all English local authority websites to assess to what extent they are providing quality information across 12 topic areas, as outlined in the Care Act
- website testing by older people aged 70 and over to assess how easy it was in practice to access the relevant information
- a 'mystery shopping' exercise involving 151 local authorities³ to see how well they were able to respond to calls about adult social care.



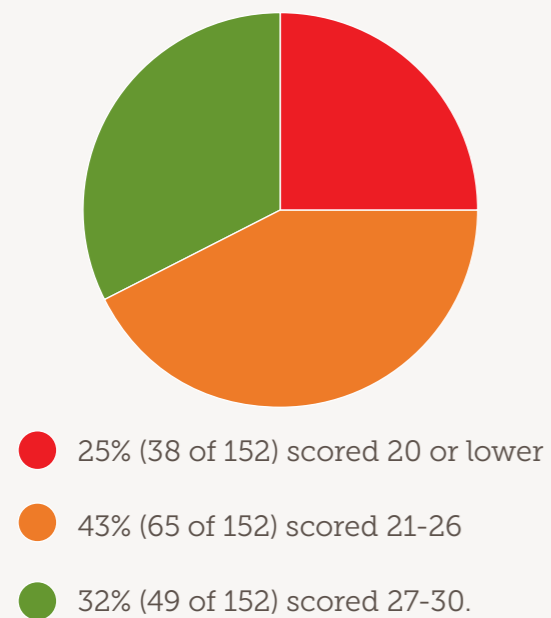
Independent Age – the older people's charity that offers clear, free and impartial advice on the issues that matter. A charity founded over 150 years ago, we're independent so you can be. 0800 317 6789

³ Excluding the Isles of Scilly

Website review

Each English local authority website was measured against 12 topic areas (eg, website contains information on the Care Act, information for carers). The highest score possible for this review was 30.

Local authority website review – the results



Worryingly, we found that just 45 of the 152 English local authorities (30%) have online information and advice that is fully Care Act compliant. We define Care Act compliance as a website that has present and accurate information across the seven key areas, which are legal requirements under the Care Act (eg, information on assessments and eligibility).

Older people – website testing

Following the website review we invited seven older people (aged 70 and over), with no previous knowledge of social care, to test eight local authority websites against five main questions. These questions included how long it took to find information on adult social care and information on assessments. The websites selected for the testing had already received a range of scores from the first round of website testing.

- In general, our testers were able to find information on adult social care, but some only did so by using the search option. Local authorities should not assume that all people will do so.
- In many cases, our testers expressed a desire for more information about assessments. Many websites only had a number to call for assessments, providing no detail of what assessments consisted of, or who might need one.
- Our testers would have also preferred more information about how assessments are carried out. Barnsley Council provided a leaflet and an online video on assessments which was widely praised.



'Mystery calls'

The final part of our testing involved Qa Research making a 'mystery call' to each local authority⁴. The call was made from the perspective of a relative of an older person seeking information and advice on social care. It was based on one of nine scenarios designed by Independent Age around the 12 topic areas used for testing the websites.

Findings

- Just over half of local authorities (52%) gave a good response to the questions we posed.
- More than a third (39%) gave a partial response or did not give a satisfactory answer to the question.
- The caller was unable to contact around a tenth (9%) of local authorities.
- There was clear evidence of local authority employees being unaware of changes to care provision under the Care Act with some suggesting callers 'look it up online'.
- In nearly a quarter (23%) of cases, it was very difficult to find the relevant number to call on the council website.



“The call handler did not have any basic information on the Care Act. She said, 'It's all on the website, and it depends on individual circumstances' and there was no information she could send out.”
Caller feedback from Qa Research report

⁴ Excluding the Isles of Scilly

Assessments



Key findings

- Our public online survey⁵ suggests older people and their families are still having to fight to have their needs recognised and receive a timely assessment.
- Our public online survey supports reports from our advice line that people are not receiving a written record following an assessment.
- A significant minority of local authorities are failing to provide adequate information and advice on assessments and eligibility.
- There appears to be low public and professional awareness of carers' assessments.

What should be happening according to the Care Act?

The Care Act introduced national eligibility criteria for assessing care and support needs. This states that a person should be found eligible for care and support if their wellbeing is significantly impacted by their inability to achieve two or more outcomes.

Such outcomes can range from maintaining personal hygiene to developing and sustaining personal relationships.

The Care Act also changed the rules for how carers get support from their local authority by lowering the amount of care they need to provide to qualify for an assessment. Before the Care Act, a carer had to provide 'a substantial amount of care on a regular basis' to qualify for an assessment⁶. The law has now changed so that a local authority must assess a carer in all circumstances where a carer appears to have such needs⁷.

A local authority must carry out an assessment of anyone who appears to require care and support, regardless of their likely eligibility for state-funded care. When assessing care and support needs, the local authority must not only account for personal care needs, but also consider the individual's general wellbeing and other sources of support that could help the person.

The Care Act is very clear that after an assessment, the local authority must give a written record of the needs assessment to the person to whom the assessment relates. The written record should explain the decision following the assessment and the reasons for that decision. Any dispute following an assessment would be based on this written record.

5 Care Act Watch Survey, Independent Age, September 2015 - March 2016
6 Factsheet 8 The Care Act – the law for carers, Department of Health, 2014
7 Ibid

What is happening?

Almost a quarter (35 of 152) of local authorities are failing to provide present and up-to-date online information regarding assessments and eligibility⁸.

One in seven (21 out of 152) local authorities are failing to provide information for carers, including setting out their right to an assessment and eligibility criteria⁹.

Getting an assessment

The finding that some older people and their families are having difficulties getting an assessment is supported by stories shared with us through our public online survey. It is clear from what we have heard that people are having to chase their local authority – sometimes for months – before receiving an assessment.

I approached my local authority in August for a care needs assessment for my mother and a carer's assessment. It took three emails and a telephone call before my mother and I were assessed. The assessment took place in October. My mother's income and capital then had to be assessed. That did not happen until December.

Survey respondent

8 Information and advice since the Care Act – how are councils performing?, Qa Research for Independent Age, January 2016
9 Ibid
10 Care Act Watch Survey, Independent Age, September 2015 - March 2016
11 Ibid

Our survey has also uncovered the further issue of poor practice in a number of cases following assessments.

I did not get a written report of our meeting for months. When I did it was rubbish. I emailed and said that I had not said what she claimed I had said. It did not represent what I had expressed as my needs and interests.

Survey respondent

Carers' assessments

Almost half (45%) of respondents to our survey identified themselves as either a carer aged 65 and over or a carer for someone aged 65 and over. However, when asked if they had received a carer's assessment since April 2015, 66% (93 out of 141) said they had not¹⁰. This suggests low awareness of carers' assessments among the general public and professionals¹¹.

I applied for assistance with my mother's care fees from the council in August. I had to write on a monthly basis over three months with increasing desperation before I got a response. The social worker to whom I spoke was helpful, kind and understood the issues, but I had to raise the carer's assessment with her.

Survey respondent

Care home top-up fees



Key findings

- Despite the Care Act introducing stricter rules concerning care home top-up fees, a high proportion of local authorities are failing to comply with at least one of the key requirements of the Act.
- Oversight by local authorities of care home top-up fees has improved since 2013. However, a number of families are still not being presented with a written agreement from their local authority before paying a care home top-up.

In the vast majority of cases, the person who pays the difference will be a family member and is referred to as a 'third party' – separate from the local authority and care home provider.

The local authority must have identified at least one care home placement that meets all care and support needs and requires no additional payment.

Top-up arrangements must only be paid for services or facilities that exceed the level of care and support needs. It is currently estimated that 50,000 care home placements involve a top-up payment¹².

What should be happening according to the Care Act?

The Care Act has tightened the rules regarding top-up arrangements. From April 2015, before a third party top-up is agreed, a local authority is required to:

- have a written agreement in place with the third party for all top-up fee arrangements in their area before the payment begins
- ensure all top-ups in their area are arranged with the involvement of the local authority
- carry out annual reviews of top-up agreements as a matter of course.

What is a third party top-up?

If a person qualifies for funding from the local authority to pay for a care home placement, the local authority will tell the person the total budget they have allocated for meeting all of the assessed care needs.

However if a person wants to move to a more expensive care home, then the difference between what the local authority has agreed to pay and the actual cost must be covered.

¹² Care of Older People UK Market Report, Laing Buisson, September 2015

What is happening?

In Autumn 2015 we submitted a Freedom of Information (FoI) request to all English local authorities (152) to assess how well they are fulfilling their new obligations regarding top-up fees. We received 122 responses.

Written agreements

Almost one third (36 out of 122) of local authorities who answered, reported that they have not presented all third parties with a written agreement on entering into a top-up arrangement.

Three party agreements

The Care Act guidance states that the local authority should maintain an overview of all top-up agreements. This is because if the top-up is no longer paid by the third party (for example, they can no longer afford it), the local authority remains liable for the full cost of care. The local authority is solely responsible for including all three parties in the arrangement: the third party, the care home provider and the local authority.

More than a quarter (32 out of 122) of local authorities reported that at least some third party arrangements did not involve the local authority.

Annual review

The Care Act guidance states that the local authority should review the top-up at least annually.

43%

of local authorities did not comply with at least one key requirement of the Care Act

A total of 28% (34 out of 122) of local authorities could not demonstrate they had procedures in place to review top-ups annually.

Overall, we found that 43% (53 out of 122) of local authorities who responded to the FoI did not comply with at least one of these three key requirements of the Care Act. Failure to meet these requirements means that families could be paying top-up fees unfairly and without the protection they are entitled to.

Conclusion

The Care Act has the potential to radically improve the way in which care and support services are accessed. Implementation in April 2015 marked the moment the Care Act moved from being a legal document to becoming a lived experience for thousands of older people and their families.

At Independent Age we have focused on three distinct stages involved in accessing care and support services.

1 Accessing information and advice about adult social care

2 Receiving an assessment from your local authority for your care and support needs

3 Paying for a care home placement: third party top-ups

Despite a number of local authorities performing well in each topic area, our research shows that many are failing to fulfil their obligations under the Care Act. We know that these failings are having a significant impact on the lives of older people and their families. Such failings can leave older people and their families completely unaware of their rights to care and support services, as well as leaving family members paying for care unnecessarily.

As the Care Act approaches its one year anniversary, we hope that this report acts as a challenge to all local authorities to hold themselves to account and deliver the best service possible for all older people.

Acknowledgements

Author: Adrian McDowell

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