



## FACTSHEET 8

### The Care Act – the law for carers

“The Care Bill in many respects marks a quiet revolution in our attitudes towards, and expectations of, carers. At last, carers will be given the same recognition, respect and parity of esteem with those they support. Historically, many carers have felt that their roles and their own well-being have been undervalued and under-supported. Now we have a once in a lifetime opportunity to be truly acknowledged and valued as expert partners in care” Dame Philippa Russell, Chair of Standing Commission on Carers

*For the first time, carers will be recognised in the law in the same way as those they care for. This factsheet describes how the Care Act sets out carers’ legal rights to assessments and support.*

#### **Who is a carer?**

A carer is someone who helps another person, usually a relative or friend, in their day-to-day life. This is not the same as someone who provides care professionally, or through a voluntary organisation.

The Care Act relates mostly to adult carers – people over 18 who are caring for another adult. This is because young carers (aged under 18) and adults who care for disabled children can be assessed and supported under children’s law.

However, the regulations under the Act allow us to make rules about looking at family circumstances when assessing an adult’s need for care, which means, for example, making sure that the position of a young carer within a family would not be overlooked. The Act also makes new rules about working with young carers, or adult carers of disabled children, to plan an effective and timely move

to adult care and support (see **factsheet 3** and **factsheet 11**).

#### **Why do we need to change the law?**

The existing law treats carers differently from the people they care for. It has been developed bit by bit and mixes up rights for carers of different ages. It is complicated, and makes it difficult for carers to understand how to get support themselves.

Currently, carers do not have a legal right to receive support, although local authorities can provide support at their discretion. This means that access to assessment and the range of support on offer can vary considerably.

#### **What does the Care Act do?**

##### *Assessments*

The Bill gives local authorities a responsibility to assess a carer’s needs for support, where the carer *appears* to have such needs. This replaces the existing law, which says that the carer must be providing “a substantial amount of care on a regular basis” in order to qualify for an assessment. This will mean more carers are able to have an assessment, comparable to the right of the people they care for.

The local authority will assess whether the carer has needs and what those needs may be. This assessment will consider the impact of the caring on the carer. It will also consider the things that a carer wants to achieve in their own day-to-day life. It must also consider other important issues, such as whether the carer is able or willing to carry on caring, whether they work or want to work, whether they want to study or do more socially.

If both the carer and the person they care for agree, a combined assessment of both their needs can be undertaken.

### ***Eligibility***

When the assessment is complete, the local authority must decide whether the carer's needs are 'eligible' for support from the local authority. This approach is similar to that used for adults with care and support needs (see **factsheet 3**). In the case of carers, eligibility depends on the carer's situation. The carer will be entitled to support if:

- they are assessed as having needs that meet the eligibility criteria;
- the person they care for lives in the local authority area (which means their established home is in that local authority area);
- if there is a charge (as there sometimes may be, as explained below) such charge is accepted by the carer (or the adult being cared for if it falls to them).

### ***Support planning***

The local authority and the carer will agree a support plan, which sets out how the carer's needs will be met. This might include help with housework, buying a laptop to keep in touch with family and friends, or becoming a member of a gym so that the carer can look after their own health.

It may be that the best way to meet a carer's needs is to provide care and support directly

to the person that they care for, for example, by providing replacement care to allow the carer to take a break. It is possible to do this as long as the person needing care agrees.

### ***Charging and financial assessment***

In most cases local authorities do not charge for providing support to carers, in recognition of the valuable contribution that carers make to their local community. However, this is something that the local authority can decide. If the local authority does decide to charge a carer for providing them with support, it must carry out a financial assessment to decide whether the carer can afford to pay.

If supporting a carer involves providing care to the person being cared for, and the local authority chooses to charge for that type of care, then the authority must carry out a financial assessment of the person who is being cared for. This is because the care would be provided directly to that adult, and not to the carer. The Act makes it clear that in such cases, the carer cannot be charged. For more information about charging see **factsheet 5**.

### ***Personal budgets***

Carers should receive a **personal budget**, which is a statement showing the cost of meeting their needs, as part of their support plan. It will include the amount the carer will pay, if any, and the amount the local authority is going to pay (see **factsheet 4**). Carers have a right to request that the local authority meets some or all of such needs by giving them a **direct payment**, which will give them control over how their support is provided.

### ***Young carers***

The Care Bill does not deal with assessment of people under the age of 18 who care for others. However, they can be supported under the law relating to children. The Children and Families Act gives young carers

(and parent carers) similar rights to assessment as other carers have under the Care Act.

Regulations under the Care Act set out how assessments of adults must be carried out to ensure the need of the whole family are considered. This could include assessing what an adult needs to enable them to fulfil their parental responsibilities towards their children, or to ensure that young people do not undertake inappropriate caring responsibilities.

### ***Adults caring for disabled children***

An adult caring for a disabled child can get support through children's services. This is usually the best way to meet their needs and so they are not covered by this Act. However,

there is provision in the Act for an adult carer of a disabled child to ask for an assessment of their caring needs in advance of the child reaching 18. Where a local authority carries out such an assessment, it has the power to provide support to the carer even though they are caring for a child not an adult. This would, for example, enable a local authority to provide support that is available through an adult carers' centre.

### ***Transition to adult services***

The Act says that adult care and support needs to be involved in planning the support a young carer may need once they reach 18 (see **factsheet 11**). This also applies to adult carers of children where it appears likely that the adult carer will have needs for support after the child turns 18.

### **How do I comment on the proposals?**

We have published regulations and guidance for local authorities that set out how they should carry out their responsibilities under the Care Act. This guidance is open for discussion and we want to receive your comments to make it right.

More information, including how to comment, is available at: [www.careandsupportregs.dh.gov.uk](http://www.careandsupportregs.dh.gov.uk)