

Version: 6a FOI Status: Public	Derbyshire County Council Adult Care Practice Guidance Eligibility	Issued: October 2019 Review Due: October 2021
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Derbyshire County Council Adult Care & Health Practice Guidance- Eligibility

Approval and Authorisation

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Change History

Version	Date	Name	Reason
V1	July 2003		New document
V1.1	July 2007	Carol Riley	Minor alterations
V2	September 2007	Carol Riley	Final approved version
V3	July 2012	Jenny Hudson	Change of eligibility
V4	July 2014	Jenny Hudson	Change of eligibility threshold with effect from 26 June 14
V5	April 2015	Jenny Hudson	Changes to eligibility due to the Care Act 2014
V6	April 2017	Jenny Hudson	Document Review – removal of reference to higher moderate – no other changes
V6a	September 2019	Shaun Astbury- Grocott	Reviewed. No changes.

This document will be reviewed on a regular basis – if you would like to make any comments, amendments, additions etc. please email Phil Robson – Policy and Procedures, phil.robson@derbyshire.gov.uk

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1. Introduction

[The Care Act 2014](#) signifies a shift away from duties to provide services to the concept of meeting needs. It identifies that the core purpose of adult care and support is to help people achieve the outcomes that matter to them in their life. In doing so we must promote wellbeing when carrying out any adult care and support function or making a decision. Part 1 of the Act is implemented from 1 April 2015.

The national eligibility criteria set a minimum threshold for adult care and support needs which local authorities must meet. [Care and Support Statutory Guidance \(2014\)](#) states that determination of eligibility is:

“on the basis of significant impact on wellbeing where the person has needs caused by a physical or mental impairment or illness which mean they are unable to achieve two or more outcomes specified in the Eligibility Regulations” (paragraph 6.112,).

There is no hierarchy of needs or of areas of wellbeing.

It is essential that in using these guidance notes you adopt a holistic and person-centred approach. This means considering the unique impact on the individual (and of any carer involved) of the particular combination of their difficulties and personal circumstances. You need to understand their needs in the context of what is important to and for him or her.

Where appropriate, for people with substantial difficulty in being involved in the assessment and planning processes, you should already have secured the service of an independent advocate. This is a new duty within the Care Act 2014. See [Independent Advocacy Practice Guidance](#).

This guidance intends to support determination of eligibility in relation to adults referred for care and support needs *after* an assessment is completed.

Separate eligibility guidance is available for Carers who for the first time can be eligible for support in their own right. See [Carers Practice Guidance](#).

Please note that if the threshold for enquiries about safeguarding concerns is met then the normal eligibility determination described in this document does NOT apply.

2. Legal Context

The statutory duties and responsibilities around eligibility are set out in:

- [The Care Act 2014 \(Section 13\)](#)
- [Care and Support Statutory Guidance 2014](#)
- [The Care and Support \(Eligibility Criteria\) Regulations 2014 \(the ‘Eligibility Regulations’\)](#).

Links to other legislation of relevance are:

- [Mental Capacity Act 2005](#)
- [Mental Health Act 1983](#)

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- [Children Act 1989](#)
- [Children and Families Act 2014](#)
- [Equality Act 2010](#)
- [Housing Grants, Construction and Regeneration Act 1996 \(For Disabled Facilities Grants\)](#)

3. The National Eligibility Threshold

The eligibility threshold is based on identifying how a person's needs affect their ability to achieve relevant outcomes, and how this impacts on their wellbeing. The Eligibility Regulations stipulate that *all three* of the following conditions need to be met to identify a need as 'eligible':

3.1. "The adult's needs arise from or are related to a physical or mental impairment or illness;"

The first condition requires you to be satisfied that the person's needs for care and support are due to a physical or mental impairment or illness and not by other circumstantial factors. At this stage a number of health conditions could apply including physical, mental, sensory, learning or cognitive disabilities or illnesses, substance misuse or brain injury. You should use your judgement on the assessment of the adult and a formal medical diagnosis is not required.

3.2. "As a result of the adult's needs the adult is unable to achieve *two or more of the outcomes specified in paragraph (2)*;"

In deciding whether the adult is 'unable to achieve' two or more outcomes (see 3.25 below) you must include consideration of the following circumstances. The person is:

3.2.1 Unable to achieve the outcome without assistance. This would include where an adult would be unable to do so even when assistance is provided. It also includes where the adult may need prompting, for example, some adults may be physically able to wash but need reminding of the importance of personal hygiene;

3.2.2 Able to achieve the outcome without assistance but doing so causes the adult significant pain, distress or anxiety. For example, an older person with severe arthritis may be able to prepare a meal, but doing so will leave them in severe pain and unable to eat the meal;

3.2.3 Able to achieve the outcome without assistance, but doing so endangers or is likely to endanger the health or safety of the adult, or of others – for example, if the health or safety of another member of the family, including any child, could be endangered when an adult attempts to complete a task or an activity without relevant support;

3.2.4 Able to achieve the outcome without assistance but takes significantly longer than would normally be expected. For example, an adult with a physical disability is able to dress themselves in the morning, but it takes them a long time to do this, leaves them exhausted and prevents them from achieving other outcomes.

3.2.5 The Range of Outcomes

The Eligibility Regulations list ten outcomes that should be considered when determining the person's eligibility for care and support. They are broad life areas where people might experience difficulty in achieving the personal outcomes they want.

The extract below is from the Care and Support Statutory Guidance 2014 and helpfully provides some examples of how you should consider each outcome listed:

“(a) **Managing and maintaining nutrition** - Local authorities should consider whether the adult has access to food and drink to maintain nutrition, and that the adult is able to prepare and consume the food and drink.

(b) **Maintaining personal hygiene** - Local authorities should, for example, consider the adult's ability to wash themselves and launder their clothes.

(c) **Managing toilet needs** - Local authorities should consider the adult's ability to access and use a toilet and manage their toilet needs.

(d) **Being appropriately clothed** - Local authorities should consider the adult's ability to dress themselves and to be appropriately dressed, for instance in relation to the weather to maintain their health.

(e) **Being able to make use of the home safely** - Local authorities should consider the adult's ability to move around the home safely, which could for example include getting up steps, using kitchen facilities or accessing the bathroom. This should also include the immediate environment around the home such as access to the property, for example steps leading up to the home.

(f) **Maintaining a habitable home environment** - Local authorities should consider whether the condition of the adult's home is sufficiently clean and maintained to be safe. A habitable home is safe and has essential amenities. An adult may require support to sustain their occupancy of the home and to maintain amenities, such as water, electricity and gas.

(g) **Developing and maintaining family or other personal relationships** - Local authorities should consider whether the adult is lonely or isolated, either because their needs prevent them from maintaining the personal relationships they have or because their needs prevent them from developing new relationships.

(h) **Accessing and engaging in work, training, education or volunteering** - Local authorities should consider whether the adult has an opportunity to apply themselves and contribute to society through work, training, education or volunteering, subject to their own wishes in this regard. This includes the physical access to any facility and support with the participation in the relevant activity.

(i) **Making use of necessary facilities or services** in the local community including public transport and recreational facilities or services. Local authorities should consider the adult's ability to get around in the community safely and consider their ability to use such facilities as public transport, shops or recreational facilities when considering the impact on their wellbeing. Local authorities do not have responsibility for the provision of NHS services such as patient transport; however they should consider needs for support when the adult is attending healthcare appointments.

(j) **Carrying out any caring responsibilities the adult has for a child**, Local authorities should consider any parenting or other caring responsibilities the person has. The adult may for example be a step-parent with caring responsibilities for their spouse's children." (Para. 6.105, page 96, Care and Support Statutory Guidance 2014)

3.3 "As a consequence there is, or is likely to be, a *significant impact* on the adult's wellbeing"

This is the third and final condition to be met in order for the person to have needs that are considered to be eligible. It entails consideration as to whether the inability to achieve the outcomes identified causes or risk causing **a significant impact on the person's wellbeing**.

The regulations do not define 'significant' but the Statutory Guidance suggests that its 'ordinary meaning' should apply. Consideration will need to be given as to whether the person's needs and their inability to achieve the relevant outcomes will have "an important, consequential effect on their daily lives, their independence and wellbeing." (Para. 6.109, Care and Support Statutory Guidance, 2014).

As such those needs having a low or moderate impact on a person's wellbeing will not be considered eligible.

The Care Act (Section 1) sets out very clearly what is meant by wellbeing and it is the subject of a separate Adult Care Practice document. The [Wellbeing Practice Guidance](#) will enhance your understanding of this key guiding principle in fulfilling all adult care and support functions.

In the statutory guidance 'wellbeing' is described as a broad concept related to the following areas in particular:

- 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 provided and the way it is provided)
- participation in work, education, training or recreation
- social and economic wellbeing
- domestic, family and personal
- suitability of living accommodation
- the individual's contribution to society

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The eligibility decision is relevant where the person is unable to achieve more than one outcome and the **cumulative effect** of being unable to achieve the outcomes is one of a “significant impact on wellbeing”. It is not the case that each individual outcome has to be considered separately.

Adopting a flexible approach that allows for a focus on which aspects of wellbeing matter most to the person concerned will ensure that judgements are made in the context of what is important to and for the person.

Fluctuating needs – It is important that when determining eligibility, consideration is given to the person’s needs over an appropriate period of time. The length of time may differ from person to person and a judgement should be made for each person with fluctuating needs. Where you are uncertain you should consult with other professionals who have expertise in the relevant health condition.

A summary of the Eligibility Decision process is shown as Appendix one.

4. Considering the Needs Met by Carers in Eligibility Determinations

The eligibility determination must be made based on the adult’s needs and how these impact on their wellbeing. You must only take consideration of whether the adult has a carer and what needs may be met by a carer after the eligibility determination when a care and support plan is prepared.

The council is not required to meet any eligible needs which are being met by a carer, but those needs should be recognised and recorded as eligible during the assessment process. This is to ensure that should there be a breakdown in the caring relationship, the needs are already identified as eligible, and therefore steps should be taken to meet them without further assessment.

5. Resources

Giving consideration to the conditions indicated in Section 3, as the assessor, you are responsible for identifying whether the person has eligible care and support needs giving due regard to the particular and relevant circumstances of each person.

The council has a responsibility to ensure that all eligible care and support needs are appropriately met. This will involve considering a range of factors including:

- action available to each person to reduce the need for assistance (self-help)
- access to and availability of universal services and community resources such as funded voluntary sector services, housing related support and community groups
- the contribution willingly made by family carers and informal support
- the contribution of reablement and intermediate care services (reducing or removing the need for long-term care and support)

The objective is to ensure the provision of adequate support (as outlined above) to meet the assessed eligible social care and support needs and achieve the agreed outcomes at best value.

Equality and human rights issues need to be addressed as an integral part of your practice.

6. Recording Eligibility Decisions

A judgement on impact will need to be made within each outcome domain given that eligibility needs to be determined on the basis of the 3 part test outlined in detail earlier in Section3:

1. Does the need arise from a physical or mental impairment or illness?
2. Does it impact on 2 or more outcomes?
3. Is there a significant impact on the client's wellbeing?

Both the document formats and the process are designed in a way that ensures that recording requirements are met.

In addition, where the impacts are not significant in the individual domains but collectively they add up to an overall significant impact on the person's wellbeing we will need to ensure we capture this judgement.

7. What to do after Eligibility is Determined

When you have made your eligibility determination you must provide the person to whom the determination relates with a copy of your decision. This is both for people who are eligible and ineligible for support.

Where the person is found to have no eligible needs you must provide information and advice on what can be done to meet or reduce the needs (for example what support might be available in the community to help) and what can be done to prevent or delay the development of needs in the future.

This package of information should be tailored to the needs which the person does have, with the aim of delaying deterioration and preventing future needs, and reflect the availability of local support.

A copy of the assessment and reasons for your decision must also be provided.

8. Related Documents and Information

[The Care Act 2014](#)

[Care and Support \(Eligibility Criteria\) Regulations, 2015](#)

[SCIE Eligibility Quick Guide](#)

[Eligibility Quick Guide Practice Guidance](#)

Appendix One - Eligibility Decision Process

Eligibility Decision Process		
1. Needs	2. Outcomes	3. Wellbeing
The adult's needs arise from or are related to a physical or mental impairment or illness.	<p><i>As a result of the needs, the adult is unable to achieve two or more of the following:</i></p> <ul style="list-style-type: none"> a) managing and maintaining nutrition; b) maintaining personal hygiene; c) managing toilet needs; d) being appropriately clothed; e) maintaining a habitable home environment; f) being able to make use of the home safely; g) developing and maintaining family or other personal relationships; h) accessing and engaging in work, training, education or volunteering; i) making use of necessary facilities or services in the local community including public transport and recreational facilities or services; j) carrying out any caring responsibilities the adult has for a child. 	<p><i>As a consequence, there is or is likely to be a significant impact on the adult's wellbeing, including the following:</i></p> <ul style="list-style-type: none"> a) personal dignity (including treatment of the individual with respect); b) physical and mental health and emotional wellbeing; c) protection from abuse and neglect; d) control by the individual over day-to-day life (including over care and support provided and the way it is provided); e) participation in work, education, training or recreation; f) social and economic wellbeing; g) domestic, family and personal relationships; h) suitability of living accommodation; i) the individual's contribution to society.

(Paragraph 6.112, page 100, extracted from *Care and Support Statutory Guidance*, October 2014).