

Eligibility determination for the Care Act 2014





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The Social Care Institute for Excellence improves the lives of people of all ages by co-producing, sharing, and supporting the use of the best available knowledge and evidence about what works in practice. We are a leading improvement support agency and an independent charity working with organisations that support adults, families and children across the UK. We also work closely with related services such as health care and housing.

We improve the quality of care and support services for adults and children by:

- identifying and sharing knowledge about what works and what's new
- supporting people who plan, commission, deliver and use services to put that knowledge into practice
- informing, influencing and inspiring the direction of future practice and policy.

First published in Great Britain in January 2015 by the Social Care Institute for Excellence; updated December 2020

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Introduction

The aim of this guide is to build on the Care Act statutory guidance by outlining what local authorities need to consider when making an eligibility determination, using the national eligibility criteria. The guide summarises the process and key elements to consider in relation to making an eligibility determination for an adult requiring care. It brings useful resources together in one place, including the Skills for Care training material.

It should be read in conjunction with The [Care and Support \(Eligibility Criteria\) Regulations 2014](#), with Chapter 6 of the Care Act [statutory guidance](#) ('Assessment and eligibility') and with the [other SCIE products on eligibility](#).

For brevity and simplicity, the term 'individual' is used throughout this guide to refer to an adult with care and support needs or a carer with support needs.

Key messages

- The Care and Support (Eligibility Criteria) Regulations 2015 set out **national eligibility criteria** for access to adult care and support, and for access to carer support. The new national minimum threshold for eligibility was implemented in April 2015. The same eligibility threshold applies across the country and local authorities cannot restrict eligibility beyond this level.
- Eligibility determination must be made **after** the needs assessment.
- Local authorities have a duty to meet the eligible needs of **carers** and the regulations and guidance set out how the eligibility threshold applies to carers.
- Local authorities have the power to meet needs that are not considered eligible. This means that local authorities can support people **at an early stage** to help maintain **wellbeing and independence**, and potentially delay a situation where longer-term care and support might be required.
- The national eligibility criteria require that in order for needs to be eligible, they must relate to an impairment or illness, mean a person cannot achieve at least two outcomes in their day-to-day life, and that as a result there is a significant impact on their wellbeing. The eligibility determination must be made **without regard to** whether a carer might be meeting those needs at the given time.

Definition

The national eligibility criteria set a minimum threshold for adult care and support and carer support. All local authorities must at a minimum meet needs at this level.

The threshold is based on identifying how an individual's needs affect their ability to achieve relevant desired outcomes, and whether as a consequence this has a significant impact on their wellbeing.

The overall aim of adult care and support is to help people meet their needs to achieve the outcomes that matter to them in their lives and which in turn promote their wellbeing. It is important to distinguish between the two ways in which outcomes are discussed within the Care Act and guidance:

- **Desired** outcomes (of the individual): these are the outcomes a person wishes to achieve in order to lead their day-to-day life in a way that maintains or improves their wellbeing. They will vary from one person to another because each individual will have different interests, relationships, demands and circumstances within their own life. These are the outcomes that the assessment should focus on.
- **Eligible** outcomes: these are listed within the [eligibility regulations](#). There is one list for adults with care and support needs and another list for carers with support needs. These outcomes set out the minimum criteria that local authorities must meet in order to comply with the new national eligibility threshold for adults needing care and support and carers needing support. These are the outcomes that the eligibility determination should be based on.

What outcomes are listed in the eligibility regulations?

Full notes about each of the outcomes listed below can be found in the [statutory guidance](#).

Outcomes for adults with care and support needs

- Managing and maintaining nutrition
- Maintaining personal hygiene
- Managing toilet needs
- Being appropriately clothed
- Being able to make use of the home safely
- Maintaining a habitable home environment
- Developing and maintaining family or other personal relationships
- Accessing and engaging in work, training, education or volunteering
- Making use of necessary facilities or services in the local community, including public transport, and recreational facilities or services
- Carrying out any caring responsibilities the adult has for a child.

Outcomes for carers with support needs

- Carrying out any caring responsibilities the carer has for a child
- Providing care to other persons for whom the carer provides care
- Maintaining a habitable home environment in the carer's home, whether or not this is also the home of the adult needing care
- Managing and maintaining nutrition
- Developing and maintaining family or other personal relationships
- Engaging in work, training, education or volunteering
- Making use of necessary facilities or services in the local community, including recreational facilities or services
- Engaging in recreational activities.

How is wellbeing understood?

A full definition of the different aspects of wellbeing that are relevant can be found in the [statutory guidance](#) – ‘Chapter 1. Promoting wellbeing’.

‘Wellbeing’ is a broad concept. It is described as relating 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 their day-to-day life (including over care and support provided and the way they are provided)
- participation in work, education, training or recreation
- social and economic wellbeing
- domestic, family and personal domains
- suitability of the individual’s living accommodation
- the individual’s contribution to society.

There is no hierarchy in the areas of wellbeing listed above – all are equally important. There is also no single definition of wellbeing, as how this is interpreted will depend on the individual, their circumstances and their priorities.

Wellbeing is a broad concept applying to several areas of life, not only to one or two. Therefore, using a holistic approach to ensure a clear understanding of the individual’s views is vital to identifying and defining wellbeing in each case.

Outcomes for adults with care and support needs

The eligibility decision-making process for adults with care and support needs involves the consideration of the following three criteria:

- Do the needs arise from a physical or mental impairment or illness?
- Do these needs mean that the adult is unable to achieve two or more of the listed outcomes?
- Is there consequently a significant impact on the adult's wellbeing?

Eligibility outcome

Managing and maintaining nutrition

What to consider

Does the adult have access to food and drink to maintain nutrition and are they able to prepare and consume the food and drink?

Examples of circumstances affecting the ability to achieve the outcome

If the adult is eating a restricted or unhealthy diet (e.g. only eats toast):

- they may have difficulty in getting to the shops to buy food
- they may be able to prepare food but have swallowing problems.

Maintaining personal hygiene

What to consider

What is the adult's ability to wash themselves and launder their clothes?

Examples of circumstances affecting the ability to achieve the outcome

If the adult cannot reach to wash themselves all over, this is not hygienic.

If the adult does not have access to a washing machine and their mobility is poor, clothes and linen may not be properly clean.

If the adult cannot buy cleaning products, or cognitively understand how to operate a washing machine, their clothes and linen may not be properly clean.

Managing toilet needs

What to consider

Is the adult able to access and use the toilet and manage their own toilet needs?

Examples of circumstances affecting the ability to achieve the outcome

If the toilet is no longer accessible due to mobility problems or if the adult takes too long to get to the toilet, they may not be managing their toilet needs.

If the adult is unable to maintain their night-time continence, they may not be managing their toilet needs in a way that promotes their dignity

Being appropriately clothed

What to consider

Is the adult able to dress themselves and be appropriately dressed, for example in relation to the weather or the activities they are undertaking, which could include work/ volunteering?

Examples of circumstances affecting the ability to achieve the outcome

If the adult cannot put on or fasten their clothes, they are unlikely to be appropriately dressed. If the adult cannot acquire new clothes when needed, they may not be appropriately dressed e.g. for the change in seasons.

The adult may be able to dress themselves in casual clothes unaided but may not be able to dress themselves in more formal work clothes e.g. put on a tie, zip up a dress or clean their shoes, and so would not be appropriately dressed for their circumstances.

If they are severely visually impaired, for example, they may be able to dress themselves but not know if clothes are appropriate or clean.

Note: This may also affect another outcome in relation to accessing work or volunteering.

Being able to make use of the adult's home safely

What to consider

Is the adult able to move around the home safely, including climbing steps, using kitchen facilities and accessing the bathroom/toilet?

This also includes their immediate environment e.g. steps to the home.

Examples of circumstances affecting the ability to achieve the outcome

If the adult cannot reach certain rooms, they may not be using the home safely or may be unreasonably confined e.g. having to spend all day in bed.

If the adult cannot get in or out of the front door (e.g. because they cannot manage the steps), they are unlikely to be using the home safely or have proper access to it.

If the adult is unable to use home appliances properly and safely (e.g. cooker, heater), they may not be meeting this outcome.

Maintaining a habitable home environment

What to consider

Is the adult's home sufficiently clean and maintained to be safe, including having essential amenities?

Does the adult require support to sustain the home or maintain amenities such as water, electricity and gas or pay their rent or mortgage?

Examples of circumstances affecting the ability to achieve the outcome

If the adult is unable to pay their rent or utility bills (e.g. due to mental or physical incapacity), they will not be able to sustain their home.

It may not be a habitable home environment if:

- the home is damp or in very poor repair
- the adult is unable to clean their kitchen, leading to infestation

- the adult is hoarding excessively (note: hoarding per se does not determine eligibility; however, the impact of excessive hoarding on the individual's ability to achieve their outcomes, and thereby on their wellbeing, will affect eligibility).

Developing and maintaining family or other relationship

What to consider

Is the adult lonely or isolated?

Do their needs prevent them from maintaining or developing relationships with family and friends?

Examples of circumstances affecting the ability to achieve the outcome

The adult's physical or psychological state may prevent them from making or maintaining relationships e.g. mental ill-health, autism.

If the adult is unable to communicate easily and regularly – e.g. they may not have, or be able to use, a phone or computer, they may be unable to leave their home safely, they may be unable to communicate successfully or interact with others – this may prevent them from maintaining or developing relationships with family, friends and others.

Accessing and engaging in work, training, education or volunteering

What to consider

Does the adult have the opportunity and/or wish to apply themselves and contribute to society through work, training, education or volunteering?

This includes physical access to any facility and support with participation in the relevant activity.

Examples of circumstances affecting the ability to achieve the outcome

If the adult is unable to leave their home safely, or communicate successfully, or interact with others, they may not be able to access work, training, education or volunteering.

If the adult is unable to access information about opportunities available to them, they are unlikely to be able to engage in activities.

Making use of necessary facilities or services in the local community, including public transport, and recreational facilities or services

What to consider

Is the adult able to get around in the community safely and able to use facilities such as public transport, shops and recreational facilities?

This includes the need for support when attending health care appointments.

Examples of circumstances affecting the ability to achieve the outcome

If the adult is unable to walk, or to use public transport unattended or to organise alternative transport (e.g. someone giving them a lift), or does not have money for a taxi, they may not be able to access services locally.

As well as formal appointments e.g. health care appointments, this could include informal appointments e.g. being able to go to the library or to meet a friend in a cafe or pub.

Carrying out any caring responsibilities the adult has for a child*What to consider*

Does the adult have any parenting or other caring responsibilities e.g. as a parent, step-parent or grandparent?

Examples of circumstances affecting the ability to achieve the outcome

If the individual is not able to take care of others, or feels overwhelmed because of their condition, they may not be able to carry out their caring responsibilities for a child.

Outcomes for carers with support needs

The eligibility decision-making process for carers with support needs involves the consideration of the following three criteria:

- Do the needs arise because the carer is providing care and support?
- Is the carer's physical and mental health affected or at risk of deteriorating, or is the carer unable to achieve any of the listed outcomes?
- Is there consequently a significant impact on the carer's wellbeing?

Eligibility outcome

Carrying out any caring responsibilities the carer has for a child

What to consider

Does the carer have any parenting responsibilities for a child in addition to their caring role for the adult, e.g. as a parent, step-parent or grandparent?

Examples of circumstances affecting the ability to achieve the outcome

If the carer role takes most or all of their time or energy, the carer may not be able to carry out caring responsibilities for a child e.g. responsibilities as a grandparent caring for a child while their parent goes to work.

Providing care to other persons for whom the carer provides care

What to consider

Does the carer have any caring responsibilities to other adults, e.g. for a parent, as well as the adult with care and support needs?

Examples of circumstances affecting the ability to achieve the outcome

If the carer role takes most or all of their time or energy, the carer may not be able to carry out caring responsibilities for other people in their lives.

Maintaining a habitable home environment in the carer's home, whether or not this is also the home of the adult needing care

What to consider

Is the carer's home a safe and appropriate environment to live in?

Does it present a significant risk to the carer's wellbeing?

A habitable home should be safe and have essential amenities such as water, electricity and gas.

Examples of circumstances affecting the ability to achieve the outcome

If the carer's role means that they are unable to pay their bills, or do not have time to deal with the maintenance of their home e.g. if there is a damp problem, they may not be maintaining a habitable home.

If the carer is caring for somebody in their own home, and there is not enough space in the home, it may not be a habitable environment.

If the carer and the adult with care and support needs share a home, and the adult's condition means that they have high expectations about the home maintenance that the carer 'struggles' to meet, the carer may be not meeting this outcome.

Managing and maintaining nutrition

What to consider

Does the carer have time to do essential shopping and to prepare meals for themselves and their family?

Examples of circumstances affecting the ability to achieve the outcome

If the carer lacks the time or opportunity to shop for or cook appropriate meals, they and their family may eat a restricted or unhealthy diet

If the carer is not eating or avoiding eating certain foods to maintain a health condition, they may not be maintaining nutrition for themselves.

Developing and maintaining family or other personal relationships

What to consider

Does the carer's role prevent them from maintaining or developing relationships with family and friends?

Examples of circumstances affecting the ability to achieve the outcome

If the carer is unable to keep in touch with their family and friends, they may not be able to maintain or develop friendships and other relationships.

This could occur due to the attention and time commitment of their caring role, meaning that they are unavailable at times when family members or friends are free e.g. in the evenings and at weekends; or because they do not have a phone or computer and/or are tied to the house due to their caring role.

If the carer has no time or energy left after fulfilling their caring role, e.g. when looking after an adult child with care and support needs, they may not be able to maintain existing or develop other relationships.

Engaging in work, training, education or volunteering

What to consider

Is the carer able to continue in their job contribute to society, apply themselves in education, volunteer to support civil society or have the opportunity to get a job, if they are not in employment?

Examples of circumstances affecting the ability to achieve the outcome

If the carer has no time or energy left after fulfilling their caring role, they may not be able to engage in work, training, education or volunteering.

If the carer has to take too many days off work or has to use all of their holiday entitlement to fulfil their caring role, they may not be able to find or maintain suitable employment or commit to a regular volunteering role.

Making use of necessary facilities or services in the local community, including recreational facilities or services

What to consider

Does the carer have opportunities to make use of local community services and facilities e.g. library, cinema, gym or swimming pool?

Examples of circumstances affecting the ability to achieve the outcome

If the carer has no time or energy left after fulfilling their caring role, they may not be able to make use of necessary facilities or services.

If an adult with care and support needs disapproves of their carer making use of the facilities or services in the local community, or prevents them from doing so, this may have an impact on the carer's desired outcomes/wellbeing.

Engaging in recreational activities

What to consider

Does the carer have leisure time, e.g. some free time to read or engage in a hobby?

Examples of circumstances affecting the ability to achieve the outcome

If the carer has no free time for themselves – or no energy left when they do have some free time – they may not be able to engage in activities to maintain their own interests or hobbies e.g. walking or other forms of exercise, being a member of a club or choir, or taking part in pastimes at home such as knitting or reading a favourite book or magazine.

Eligibility criteria for adults with care and support needs

When determining eligibility, local authorities must consider the following three conditions.

Condition 1

The adult's needs for care and support arise from or are related to a physical or mental impairment or illness and are not caused by other circumstantial factors.

This includes if the adult has a condition as a result of physical, mental, sensory, learning or cognitive disabilities or illnesses, substance misuse or brain injury.

Condition 2

As a result of the adult's needs, the adult is unable to achieve two or more of the outcomes specified in the regulations and outlined in the section '[Eligibility outcomes for adults with care and support needs](#)'.

Local authorities must also be aware that 'being unable' to achieve an outcome includes any circumstances where the adult is:

- unable to achieve the outcome without assistance. This includes 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.
- able to achieve the outcome without assistance but doing so causes the adult significant pain, distress or anxiety. For example, an older individual 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.
- 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. This would include, for example, situations where the health or safety of another member of the family, including a child, could be endangered when an adult attempts to complete a task or an activity without relevant support;
- able to achieve the outcome without assistance but takes significantly longer than would normally be expected. For example, a physically disabled adult 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.

Local authorities must consider the whole range of outcomes contained in the criteria when making the eligibility determination.

There is no hierarchy to the eligibility outcomes – all are equally important.

Condition 3

As a consequence of being unable to achieve these outcomes, there is, or there is likely to be, a significant impact on the adult's wellbeing. Local authorities should determine whether:

- the adult's needs impact on at least one of the areas of wellbeing in a significant way or
- the cumulative effect of the impact on a number of the areas of wellbeing means that they have a significant impact on the adult's overall wellbeing.

The term 'significant' must be understood to have its everyday meaning, as it is not defined by the regulations, but see the section ['What does significant impact mean?'](#) in this guide for further clarity.

Eligibility for carers with support needs

Carers can be eligible for support in their own right. The threshold is based on the impact their caring role has on their wellbeing.

When determining carer eligibility, local authorities must consider the following three conditions.

Condition 1

The carer's needs for support arise because they are providing necessary care to an adult.

Carers can be eligible for support whether or not the adult for whom they care has eligible needs.

The carer must also be providing 'necessary' care (i.e. activities that the individual requiring support should be able to carry out as part of normal daily life but is unable to do so). If the carer is providing care and support for needs that the adult is capable of meeting themselves, the carer may not be providing 'necessary' care and support. However, necessary care includes care provided to support needs that are not eligible.

Condition 2

As a result of their caring responsibilities, the carer's physical or mental health is either deteriorating or is at risk of doing so or the carer is unable to achieve any of the outcomes as specified in the regulations and as summarised in the section [Eligibility outcomes for carers with support needs](#)'.

Local authorities must also be aware that 'being unable' to achieve an outcome includes circumstances where the carer:

- is unable to achieve the outcome without assistance. This includes where the carer would be unable to achieve an outcome even if assistance were provided. For example, a carer might be unable to fulfil their parental responsibilities unless they receive support in their caring role.
- is able to achieve the outcome without assistance, but doing so causes or is likely to cause significant pain, distress or anxiety. For example, a carer might be able to care for the adult and undertake full-time employment, but if doing both causes the carer significant distress, the carer should not be considered able to engage in employment.
- is able to achieve the outcome without assistance but doing so is likely to endanger the health or safety of themselves or any adults or children for whom they provide care. For example, a carer might be able to provide care for their family and deliver necessary care for the adult with care and support needs, but, where this endangers the adult – for example, because the adult receiving care would have to be left alone while other responsibilities are met – the carer should not be considered able to meet the outcome of caring for their family.

Local authorities must consider the whole range of outcomes in the eligibility criteria when making the eligibility determination.

There is no hierarchy to the eligibility outcomes – all are equally important.

Condition 3

As a consequence of being unable to achieve these outcomes, there is, or there is likely to be, a significant impact on the carer's wellbeing, determining whether:

- the carer's needs impact on at least one of the areas of wellbeing in a significant way or
- the cumulative effect of the impact on a number of the areas of wellbeing means that they have a significant impact on the carer's overall wellbeing.

The term 'significant' must be understood to have its everyday meaning, as it is not defined by the regulations, but see the section 'What does significant impact mean?' in this guide for further clarity.

What does significant impact mean?

A given situation could have a 'significant impact' on one individual but not on another. Therefore, professional judgement and analysis of the information gathered in the assessment are crucial to establishing whether there is indeed 'significant impact' on the individual's wellbeing.

The following are examples of what 'significant impact' could mean:

- Significant impact could be a consequence of a single effect: this means that the inability to achieve two or more outcomes affects at least one of the areas of wellbeing in a significant way.
- Significant impact could be a consequence of a cumulative effect: this means that the individual may have needs across several of the eligibility outcomes, perhaps at a relatively low level, but as these needs affect the individual in various areas of their life, the overall impact on the individual is significant.

For example, an adult is struggling to manage and maintain their nutrition, personal hygiene and toilet needs as their standards are reducing due to low social interaction and decreasing mobility around the home. The adult is consequently very close to becoming unable to meet most of the outcomes.

It could be argued that the adult does not meet condition 3 of the eligibility criteria for adults with care and support needs due to the level of needs being relatively low. However, taking a holistic view of the level of impact of the individual's mobility needs, and the accumulation of a number of the 'low/medium' levels of needs, this adds up to a 'significant impact' in the adult's wellbeing.

- Significant impact could be a consequence of a domino effect: this means that currently the individual may have needs in relation to few eligibility outcomes, but it can be anticipated that in the near future other outcomes will be affected, causing a significant impact on the individual's wellbeing.

For example, an individual has identified needs around their inability to maintain relationships with their family and in making use of facilities or services in the local community, but currently does not have any problems with managing and maintaining their nutrition, personal hygiene, toilet needs or a habitable home environment. However, the individual is depressed, affecting their ability to interact socially. As a result, their emotional situation is decreasing further to the extent that it is clear that in the near future they also will not be able to manage or maintain nutrition, personal hygiene, toilet needs or a habitable home. Therefore, the impact on the individual's wellbeing is significant.

How to make an eligibility determination

There are a number of key elements to consider when making an eligibility determination following assessment:

- Use the knowledge and information gathered during the assessment

- Apply the national eligibility criteria (The Care and Support (Eligibility Criteria) Regulations 2015; see the sections in this guide entitled 'Eligibility outcomes for adults with care and support needs' and 'Eligibility outcomes for carers with support needs')
- Consider principles of risk in relation to wellbeing
- Enable effective decision-making
- Be transparent and collaborative
- Ensure that decisions are evidenced appropriately

Use the knowledge and information gathered during the assessment

Making an eligibility determination requires:

- consideration of the evidence, i.e. the information gathered in the assessment about what is important to the individual, what needs they have and what outcomes they want to achieve
- the assessor's professional judgement to establish what impact the person's needs have on their wellbeing.

The eligibility determination cannot be made until **after** the assessment when the full extent of the person's needs has been identified, except when urgent need is being met – see [SCIE's Assessment guides](#). There are two types of outcomes to be considered:

- the desired outcomes of the individual to live their day-to-day life, which are the starting point for the needs assessment
- the outcomes specified in The Care and Support (Eligibility Criteria) Regulations 2015, which are used to determine eligibility (see the section '[Definition](#)' in this guide).

The local authority must consider an individual's need over an appropriate period of time to ensure that their needs have all been accounted for when eligibility is being determined. Please see the [SCIE guide on fluctuating needs](#).

Information on the care being provided by a carer can be captured during assessment, but the eligibility determination must be based solely on the adult's needs regardless of whether they are met by the carer.

Apply the national eligibility criteria

([The Care and Support \(Eligibility Criteria\) Regulations 2015](#); see the sections in this guide called 'Eligibility criteria for adults with care and support needs' and 'Eligibility criteria for carers with support needs')

The process draws on the information gathered during assessment and considers how that is weighted in terms of significant impact on the individual's wellbeing in relation to the outcome criteria. Consideration of wellbeing will be different for each individual when making the eligibility determination.

Local authorities are required to provide a **record of the eligibility determination** and the reasons for the determination. This may well include a record of what the person is unable to achieve, or only able to achieve with assistance. This has to be **carer blind**, which means

that any impact on wellbeing that would be reduced or minimised by what carers are currently doing must be ignored for the sake of the determination itself. What care and support is provided by the carer should, however, be taken into consideration when the local authority makes its care and support plan.

The Care and Support (Eligibility Criteria) Regulations 2015 require assessors to **think causally** when determining eligibility. Deciding whether unachieved outcomes constitute a significant impact on a person's wellbeing has to be a plausible but ultimately tentative judgement. If it is felt that there is not enough information to make an eligibility determination, assessment should be resumed.

Determining whether needs arise from or are related to **physical or mental impairment or illness** should be simple. However, the assessor should not interpret this test to mean that the person's general practitioner must be consulted or that a formal diagnosis is required. It may help the assessor to consider whether the person would likely have been able to achieve a given outcome, if they did not have a physical or mental impairment or illness.

The information gathered about needs and outcomes can be extracted through **conversation** with the individual, and other people if it seems necessary to triangulate what the person is communicating. Needs and outcomes are most likely observable or 'testable', although the assessor should of course take care to consider fluctuating or underlying needs.

When discussing outcomes with the person, it may be helpful to think of the specified outcomes in the regulations simply as usual **domains** in a person's life. The person themselves may phrase their desired outcomes not in terms of 'developing and maintaining family or other personal relationships' but instead say that they quite enjoy watching a game of football in a pub. It is up to the assessor to think through the person's life and check whether an inability to access a social space means that the person cannot access the community or will not maintain their social relationships, or both. If there are other things in their lives contributing to the same outcomes, the game in the pub may not be that important, but on the other hand, that single activity could fill several voids in the person's life. This means that the assessor should not interpret the 'specified outcomes' in the eligibility regulations as the only ones to consider. They are indications of what would normally be said to constitute a full life.

Making the eligibility determination requires **professional judgement** of how the person's wellbeing is affected as a result of their needs. The assessor will build this judgement as they go through the assessment with the person. So while the eligibility **determination** can only be made after the assessment when the collection of information about the person is complete, the assessor's judgement of how the person's wellbeing is affected, is in reality shaped alongside the assessment.

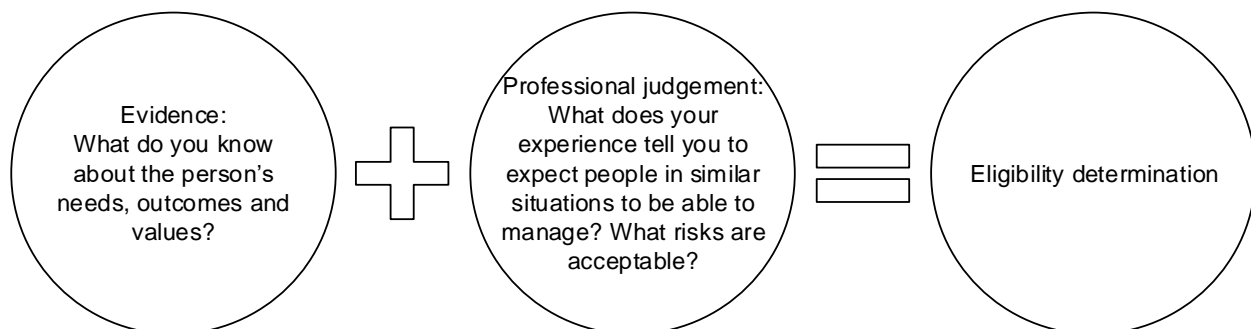
Wellbeing is defined in the Care Act 2014. Section 1 of the Care Act 2014 sets out the areas of wellbeing. These are listed in this guide in the section 'How is wellbeing understood?'. The areas of wellbeing can help the assessor to conceptualise impact on the person. No single area of wellbeing is legally more important than the other, but to the individual, personal dignity may for instance matter more than their ability to contribute to society. Where the inability to achieve two or more outcomes affects only one area of wellbeing, the assessor should be aware that the impact may be so significant that the other unaffected areas of wellbeing are irrelevant; the person could still be considered eligible.

The assessor's conversation with the person should provide a basis for understanding the **person's values and priorities**. Reliance on this, which the assessor should consider recording as evidence to support the justification of their decisions later, will enable the assessor to take a personalised approach to eligibility determinations.

In judging what impact there may be on a person's wellbeing, the assessor may find it helpful to ask themselves questions, to help bring out a clearer picture of the person's requirements for care and support. For example, they may wish to consider the following:

- Why has the person approached the local authority in the first place?
- How does their inability to achieve x and y outcomes make the person feel?
- Are other people affected too?
- What would happen if their carer(s) did not do x and y for them?
- What will most likely happen if the person does not receive information and advice/care services/is not put in touch with a voluntary organisation?
- What would we reasonably expect should be in a person's life?
- How often does the person say they need support? Occasionally? Frequently? Always?
- Would the person describe the impact on their life as none? Some? Or major? Does the assessor have reason to doubt their own assessment?
- What risks are the person currently choosing to take (for instance to maintain control over their life or independence) and are these acceptable?

The following diagram gives a pictorial representation of the eligibility determination process.



Consider principles of risk in relation to wellbeing

The Care and Support (Eligibility Criteria) Regulations 2015 allow assessors to consider risk, just as many may already be doing.

It is important for practitioners to analyse risk using the information they have gathered during the assessment, along with their knowledge of the person within their social context.

It is the risk of being unable to achieve the outcomes that causes, or risks causing, a consequential significant impact on the person's wellbeing. The assessor's decision-making

on whether the impact on the individual's wellbeing is significant will always be a matter of professional judgement.

Risk factors that should be considered include:

- likelihood
- severity
- imminence
- physical safety
- self-harm
- self-neglect
- abuse (safeguarding)
- harm to others.

The assessor should note that where a **safeguarding risk** is uncovered, a safeguarding enquiry must be undertaken. The safeguarding enquiry is a separate process, running in parallel with the assessment.

It is important to consider how the risks identified may impact upon **social domains** such as the individual's health, ability to live independently and/or ability to fulfil social roles such as education or work.

Existing structures within a local authority or other organisations may be used to review risk and, if appropriate, may involve partnership working and/or the wider community to support risk management. In addition, existing local authority assessment processes may include a section on risk and risk factors gleaned from these processes should be borne in mind when determining eligibility.

Effective risk management allows people to make appropriate choices for themselves, ensuring that support is provided to maximise the individual's independence. For practitioners, this means having the confidence to analyse and weigh up risks, to understand the consequences of decisions made, and to identify mitigating factors as well as the contingencies that need to be in place to avoid negative consequences.

Enable effective decision-making

Eligibility determinations will consider the consequential significant impact (or effect) on wellbeing through the three conditions in the eligibility criteria (see the sections in this guide called 'Eligibility criteria for adults with care and support needs' and 'Eligibility criteria for carers with support needs'). It is important to note that the Care Act considers the impact (or effect) on wellbeing rather than on 'unmet need'.

Effective decision-making balances the proportionality of risk involved in relation to the impact (or effect) on the individual's wellbeing. In considering the relevant risks, it is vital to ensure that professionals develop confidence in making good decisions, which includes recognising that there will be differences between individuals. Similarly, different 'tools' or resources to support decision-making will suit different people.

One example is the risk influences tool (from *Good decision-making: Practitioners' handbook*; Research in Practice, 2013), which can be used to identify how common concerns and biases may affect decision-making. It includes consideration of six main areas:

- repetition
- adjustment
- wariness of lurking conflict
- credibility
- availability/recall
- prejudice.

Repetition

Explanation

Believing what we have been told most often and by most sources

Examples question to check bias

Where have I heard about this kind of situation before?

Adjustment

Explanation

Selectively processing information to support judgements that have already been made

Example question to check bias

Have I already made up my mind about this situation?

Wariness of lurking conflict

Explanation

Anxiety that a decision may impact negatively on working relationships or lead to complaints, criticism or assault

Example question to check bias

Am I worried I might upset someone in this situation?

Credibility

Explanation

Being more likely to accept a statement from someone we like, or less likely to believe people, groups or organisations we have a bias against

Example question to check bias

What is my relationship with the person/people who told me about this situation?

Availability/recall

Explanation

Overestimating the likelihood of events familiar to us, or events excessively reported by the media

Example question to check bias

Does this situation seem familiar?

Prejudice

Explanation

Bias from conscious or unconscious stereotyping

Example question to check bias

How do my values and beliefs affect my view of this situation?

Be transparent and collaborative

The local authority and the individual work jointly in relation to eligibility, which includes taking the individual's view into account where appropriate. It is important to use a strengths-based approach and to consider positive risk-taking, by enabling individuals to contribute to eligibility decisions that support them to achieve their desired outcomes and to promote their independence.

However, the final decision on the eligibility determination remains with the local authority.

Ensure that decisions are evidenced appropriately

Decisions made must be accompanied by appropriate evidence to show how the determination has been arrived at, what has been considered, and what risks have been taken into account. Good decisions do not have to be 'right': what is important is to show how they have been considered and demonstrate this through appropriate evidence. This evidence will be recorded in the eligibility statement.

Good decision-making: Practitioners' handbook

'Every day practitioners in adult social care have to make decisions that change lives. There are increasingly high expectations placed on professional judgement. It is essential that practitioners develop both their understanding of, and their skills in, decision-making in order to improve the quality of their decisions.'

(Credit: Research in Practice for Adults, 2013)

What must local authorities do once an eligibility determination has been carried out

Whether or not the local authority decides that an adult with care and support needs or a carer with support needs has eligible needs, it must inform the individual of its eligibility determination and the reasons for it. It must also provide the individual with a written record of the determination and reasoning.

If **no eligible needs** have been identified, the local authority must provide information and advice for the individual on:

- what can be done to meet or reduce the needs that are not eligible
- what services are available in the community that can support the individual in meeting those needs
- what can be done to prevent or delay the development of needs in the future.

See further detail on [providing information and advice](#).

If **some but not all** of the individual's needs are eligible, the local authority must:

- provide information and advice for the individual about the needs that are not eligible:
 - what can be done to meet or reduce those needs
 - what services are available in the community that can support the individual in meeting the needs
 - what can be done to prevent or delay the development of needs in the future
- consider how the eligible needs will be met
- carry out a financial assessment where it proposes to make a charge for meeting those needs.

If the individual has **eligible needs**, the local authority must:

- consider how those needs will be met
- carry out a financial assessment where it proposes to make a charge for meeting the needs.

In all cases, any **preventative measures** should be considered, regardless of the outcome of the eligibility determination, such as telecare, enablement/reablement.

The local authority should bear in mind that **eligibility may change over time** due to changing circumstances or needs e.g. moving location, changing general practitioner.

The local authority must establish whether the adult is **ordinarily resident** in its area, and meet:

- eligible needs of adults who are ordinarily resident.

- eligible needs of carers where the adult they are supporting is ordinarily resident. This is the case even if the carer lives in a different area.

Implications for practitioners of the national eligibility threshold

The Care Act represented a fundamental shift for practitioners to thinking holistically about the assessment process and eligibility determinations. The key changes in the way eligibility is determined included the following:

- Eligibility determination must follow the completion of a needs assessment. The needs assessment must be appropriate, proportionate and holistic.
- Eligibility determination is no longer based on level of risk, but on the individual's inability to achieve desired outcomes. However, the level of risk should be considered in relation to understanding individual needs and their impact on wellbeing.
- Practitioners are required to make professional judgements, using the information described and discovered during an assessment, on how specific needs and circumstances impact on an individual's wellbeing. It is therefore vital to have good conversations during the whole process so that eligibility determinations can be clearly based on the information gathered and it is evident what needs to be considered.
- All needs must be accounted for and local authorities must ensure that the eligible ones are met. However, needs can be met through various means, ranging from care and support provided via the local authority or support by the carer, through to information and advice or targeted interventions.
- Practitioners are required to have:
 - knowledge of the related legislation and guidance
 - awareness of the information and resources available within the area they cover
 - confidence in their own decision-making.
- The eligibility determination is based on three conditions, which must be linked. It is important for local authorities to conduct the assessment in such a way that they can establish the links between the individual's needs, their desired outcomes and the eligibility outcomes and assess the impact these have on the person's wellbeing.

The national eligibility threshold provides greater transparency in decision-making. The overall process should ultimately be a shared process with the adult/carer. The assessment/eligibility determination process should be done in partnership. However, the final decision regarding eligibility rests with the local authority.

Practitioners need to think broadly about what support might be available in the local community, including support for carers so that they are able to sustain their caring role. Similarly for carers, it may be sensible to invest in a little more care for the individual for whom they provide care to help improve the carer's ability to sustain their support for that individual.

Support for all adults/carers: eligible, ineligible and those who have not approached social services

The Care Act requires each local authority to establish and maintain a service for providing people in its area with information and advice relating to care and support for adults and support for carers. This includes **all adults** in its area – beyond those who have an immediate need for care or support. [Chapter 3 of the statutory guidance for the Care Act](#) provides more information on this. **Prevention** and **early intervention** are at the heart of the system – if an individual has needs that are not eligible, the local authority must provide information and advice on other preventative services.

The Think Local Act Personal partnership has produced a set of [three reports](#) designed to support local areas to improve their provision of information, advice and brokerage for people who need social care.

[Beyond eligibility: Universal and open access support and social care](#). In 2012, Age UK commissioned a study to better understand councils' approaches to universal and open access support for older people whose needs do not meet the eligibility threshold for publicly financed adult social care.

Checklist of core duties for local authorities

The checklist below provides a very brief summary of the core duties for local authorities in relation to making an eligibility determination. It should be read in conjunction with The Care and Support (Eligibility Criteria) Regulations 2015 and Chapter 6 of the [statutory guidance](#).

- An eligibility determination can only be made on the basis of an assessment. This means that local authorities must carry out a needs or carer's assessment in order to determine whether an individual's needs are eligible.
- When determining eligibility of adults with care and support needs or carers with support needs, local authorities must consider whether all three conditions are met. These revolve around needs, desired outcomes or circumstances, and the impact on an individual's wellbeing. An individual is only eligible if they meet all three conditions.
- When determining eligibility, local authorities must ignore care and support being provided by a carer. What care and support is provided by the carer can, however, be taken into consideration when the local authority makes its care and support plan, meaning that local authorities do not have to meet needs that are already being met by a carer if the carer is willing and able to continue to provide the care.
- If an individual's needs fluctuate, local authorities must take account of this and ensure that all of their needs have been accounted for when determining eligibility.
- Local authorities must also establish whether the adult needing care with eligible needs, or the adult who the carer who has eligible needs is caring for, is ordinarily resident in their area.
- If it is determined that an individual has eligible needs and is ordinarily resident in the local authority area, local authorities must consider how those needs will be met, and where relevant, ensure those needs are met on the basis of a financial assessment.
- Anyone who has had an assessment must receive a record of their eligibility determination and the reasons for it.
- If someone is found to have no eligible needs, local authorities must provide information and advice and consider what is available that could prevent, meet or reduce the needs that are not eligible.
- Local authorities must notify the relevant clinical commissioning group if it appears that an individual may be eligible for NHS continuing healthcare.

Resources

As mentioned, if it appears that an individual may be eligible for NHS continuing healthcare, local authorities must notify the relevant clinical commissioning group. See National framework for NHS continuing healthcare and NHS funded nursing care for more information.

- Local authorities and clinical commissioning groups in each local area must agree a local disputes resolution process to resolve cases where there is a dispute between them about:
 - eligibility for NHS continuing healthcare
 - the apportionment of funding in joint-funded care and support packages
 - the operation of refunds guidance.
- For more information on charging and financial assessment, see [chapter 8](#) of the statutory guidance

Learning resources and training

Skills for Care has developed [materials](#) to support the adult social care workforce in the changes. This includes topics on identifying needs.



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About this report

The aim of this guide is to build on the Care Act statutory guidance by outlining what local authorities need to consider when making an eligibility determination, using the national eligibility criteria. This is a living document and will be updated to highlight good practice in using Care Act eligibility criteria as it develops.

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