

# Adult Social Care and Health OP/PD and DCALDMH

## Information and Advice Policy and Practice Guidance

To be read with the Care and Support Statutory Guidance, Regulations issued under the Care Act 2014 by the Department of Health.

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<b>Review Date:</b>	July 2021  This policy replaces the April 2015 Information and Advice Policy and Practice Guidance
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Changes:

- Added a section about GDPR
- Added Care Act definitions of Information and Advice
- Removed reference to Equality Act 2010 and replaced with section on Accessible Information Standard.

## Executive Summary

The aim of this policy is to provide a framework for:

- all staff working in Kent County Council Adult Social Care & Health Directorate
- staff of partnership organisations who have a responsibility to provide information and advice to current and potential individuals seeking help, including self-funders.

It seeks to ensure that practitioners understand their statutory duties regarding providing information and advice and are given access to useful resources to be able to undertake those duties.

The information and advice policy sets out:

- The legal basis for providing information and advice
- The guiding principles underpinning this policy
- The generic roles and responsibilities of social care staff & partnership staff responsible for delivering integrated services
- The specific responsibilities of social care staff & partnership staff responsible for delivering integrated services
- The resources available to support staff

### **Key Messages:**

- **All staff have a responsibility to ensure the information they provide to individuals is accurate and relevant.**
- **Therefore staff have a responsibility to keep their knowledge of policies/ processes/ new development / legal history up to date in line with their professional development.**
- **Staff have a responsibility to ensure the information is given in a way that is meaningful and accessible to the person receiving it.**

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## A. Policy

### 1. Legal context

This policy and practice guidance document is based on:

- The Care Act 2014
- The Care and Support (Independent Advocacy Support) (No.2) Regulations 2014
- The Care and Support Statutory Guidance 2014

This policy and guidance should be read in conjunction with:

- The MCA statutory principles, which underpin **ALL** the work we do in social care - Mental Capacity Act 2005 and Deprivation of Liberty Safeguards Policy and Practice Guidance (to be found on the KNet Adult Social Care Policy page).
- The Adult safeguarding policy, protocols and guidance for Kent and Medway (to be found on Kent.gov.uk)
- All the social care policies supporting the work undertaken by both Social Care and Mental Health practitioners.

### 2. Kent County Council's duties

The Care Act 2014, section 3, **Providing information and advice**, states that:

3.2 A local authority **must 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.**

3.23 The service must provide information and advice on the following matters in particular:

- (a) how the system operates in the authority's area;
- (b) how to access the care and support that is available;
- (c) the choice of types of care and support, and the choice of providers, available to those who are in the authority's area;
- (d) how to access independent financial advice on matters relevant to the meeting of needs for care and support; and
- (e) how to raise concerns about the safety or well-being of an adult who has needs for care and support.

3.27 & 3.34 Information and advice provided under this section must be accessible to, and proportionate to the needs of, those for whom it is being provided.

### 3. Scope

**This document applies to all relevant staff in all locations who, as part of their work, have to give information and advice to people who currently access or may need support in the future, self-funders and their support networks.**

Kent County Council's duty to provide and maintain an information and advice service applies to the whole population of Kent, not just those with care and support needs or in some way already known to the system.

This policy is specifically for practitioners and is not a strategic statement for the council. It seeks to clarify the specific roles and responsibilities practitioners have to undertake to meet the Care Act requirements.

### 4. Principles

The practice principles underpinning this policy are:

- Information and advice is fundamental to enabling people, carers and families to take control of, and make well-informed choices about, their care and support and how they fund it.
- Information and advice form a vital component of preventing or delaying people's need for care and support.
- By providing good information and advice, we increase people's ability to exercise choice and control, which underpins the overarching principle and legal duty of the Care Act 2014 to "**Promote wellbeing**".
- "**Wellbeing**" is a broad concept, and 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 day-to-day life (including over the 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 relationships;
  - suitability of living accommodation; and
  - the individual's contribution to society.
- Accurate, up to date and accessible information supports the concept of “independent living” which, although not mentioned specifically in the way that “wellbeing” is defined, forms a core part of the wellbeing principle.

## **5. Definitions**

The Care and Support Statutory Guidance defines information as “the communication of knowledge and facts regarding Care and Support” and advice as “helping a person to identify choices and/or providing an opinion or recommendation regarding a course of action in relation to Care and Support (3.8).”

## B. Guidance

### **Important:**

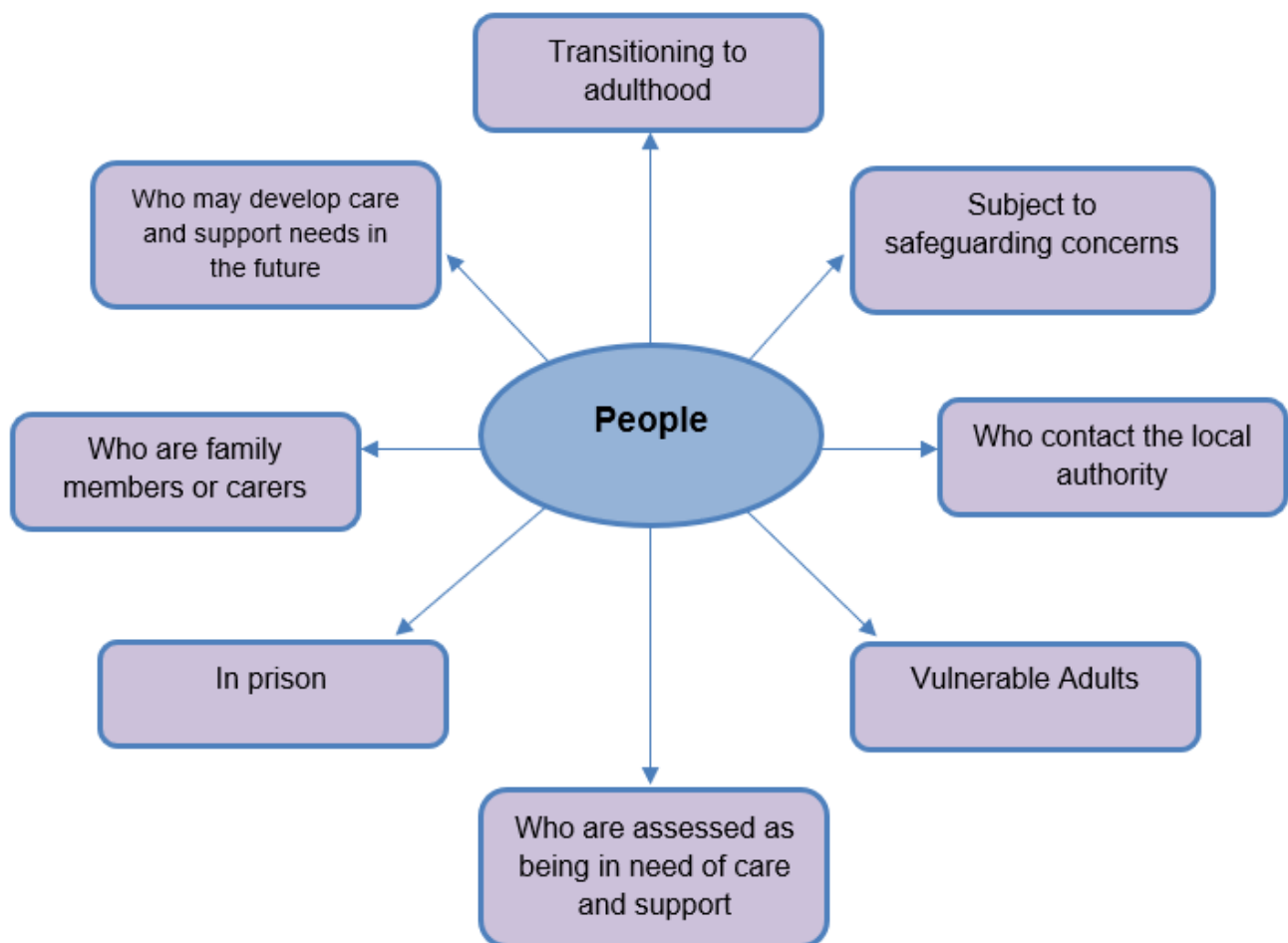
**Communication is a 2 way process, therefore it is important when giving information, to check out what the person has understood. The most straightforward way is to ask someone to recap on what you have just discussed, or you can rephrase what you have just said and check the person's understanding.**

### **1. Practitioners' generic roles and responsibilities regarding providing information and advice**

- Familiarise yourself and be able to explain:
  - The assessment process
  - The eligibility criteria
  - The care and support planning process
  - The review process
  - How an individual may be affected by The General Data Protection Regulations (2016) when they access Kent County Council's Services (See section 5.5)
  - How to complain (see section 5.1)
  - When independent advocacy should be provided (see section 5.2)
  - Charging arrangements for care and support costs
  - How a person might plan for their future care and support needs and how to pay for them
  - How a person might plan for a time when they lack capacity
  - Prevention and enablement services
  - Choice of types of care and support and likely costs
  - Choice of care providers in Kent County Council
  - Support for carers
  - How to access the care and support available locally
  - How to access independent financial advice on matters relating to care and support
  - How to raise concerns about the safety or wellbeing of an adult with care and support needs or a carer with support needs (see section 5.4)
  - Where to find information to support the individual's wellbeing
  - Areas related to the practitioner's specialism be it the OT aspects of the business (LA housing departments, grants departments, NHS therapy services, voluntary organisations) ; Specific Sensory services or the work of the Autistic Spectrum Conditions team

- While a person's eligible needs may be met by the provision of information and advice, this will be an individual response following a needs or a carer's assessment however information and advice may not always be an appropriate way of meeting eligible needs.
- Practitioners must provide personalised information on a person's specific needs.

## 2. The audiences for information and advice service





### 3. Making information accessible to all

#### **Important:**

**When making first contact with someone, we have a duty to establish at the outset the person's communication needs and preferred method of communication.**

**Make sure that it is not something you only think about when you become aware that someone may have communication difficulties.**

As required under the Accessible Information Standard, all staff have a duty to identify, record and take steps to ensure individuals receive information they can access and understand and received communication support if they need it.

Please refer to the Accessible Information Standard Policy and Guidance for detailed information on how to fulfil your duty.

For further information on making information accessible, please click on the link below:  
<http://knet.ourcouncil/Pages/alternative-formats.aspx>

Advice and information should, where possible, be provided in the manner preferred by the person and will therefore often need to be available in a number of different formats such as:

- Face to face contact
- Telephone or email
- Via leaflets
- Kent.gov.uk website

### 4. Timing of information and advice

Information and advice may be given at any of the following times:

- first point of contact
- when we give out a Privacy Notice
- as part of needs or carer's assessment

- during enablement
- around and following financial assessment
- when considering a financial commitment such as deferred payment agreement or top up agreement
- during or following an adult safeguarding enquiry
- when considering take up of a personal budget or direct payment
- during the care and support planning process
- during the review process
- when a person may be considering a move to another local authority
- during transition
- when asked

**Important:**

**People do not know what they need to know in relation to their care and support. This can prevent them asking the right questions and can mask the articulation and identification of needs that they have, for which they could benefit from information and advice. All contact for information and advice should take account of this and be able to respond with an assessment of needs when appropriate.**

## **5. Practitioners' specific roles and responsibilities regarding providing information and advice**

### **5.1 Providing information about complaints**

People wishing to make a complaint will be given the "**Have your Say**" booklet which details the customer care and complaints processes and procedures in line with the Local Authority Social Services and NHS complaints Regulations 2009.

For people with a learning disability, practitioners will hand out:

- "**What we do for adults with a learning disability**"
- an **easy read complaints leaflet**

and, where reasonably practicable, will offer assistance to enable people to understand the complaints procedure.

Where people are raising complaints about Mental Health services, they should be directed to the Patients Experience team in the Kent and Medway Partnership Trust.

## 5.2 Providing information about Care Act Advocacy

Kent County Council and KCC staff working in KMPT **must** arrange an independent advocate to facilitate the involvement of a person in KCC processes, such as:

- assessment
- preparation of the care and support plan
- review of the care plan

There is also a separate duty to arrange an independent advocate for adults who are subject to a Safeguarding enquiry or Safeguarding Adults Review (SAR).

To qualify for access to Care Act advocacy, **2 conditions** need to be met:

1. The individual should have **substantial difficulty** in being involved in any care and support process. This means having substantial difficulty in any of these 4 areas:

- understanding the information provided
- retaining the information
- using or weighing up the information as part of the process of being involved
- communicating their views, wishes and feelings

2. Where there is **no one thought to be appropriate to support or represent the person's wishes** either because there is no family member or friend willing and available or if the individual does not want them to be part of the assessment. The supporter cannot be paid or professionally engaged in providing care or treatment to the person or their carer.

For Adult Social services, it is expected that ARMS will be in a good position to consider whether the individual may need an **Independent Advocate** to help them through a face to face assessment. ARMS will send the request for referral to the senior practitioner who will organise an advocate and schedule an appointment.

Any professional can make a referral to 'Kent Advocacy' for Care Act advocacy, by making an online referral on the following link: <http://www.seap.org.uk/local-authority/kent.html>

### **5.3 Providing information about finance**

Practitioners cannot provide financial advice but can use the [Local Kent Directory](#) to direct someone or refer the service user to the site.

Practitioners can also hand out either the “Access to the Residential Charging” booklet (the Red book) and /or the “Charging for care provided in your own home and support in the community” booklet (the Blue book) to clients to help them understand charges. These are available on [www.Kent.gov.uk/careandsupport](http://www.Kent.gov.uk/careandsupport)

Practitioners should familiarise themselves with:

- The Direct payment process and principles
- The Kent County Council webpage on Direct Payments so as to be able to signpost people to it: <http://www.kent.gov.uk/social-care-and-health/care-and-support/paying-for-care/paying-with-direct-payments>

### **5.4 Providing information about safeguarding**

Practitioners must familiarise themselves with safeguarding processes and procedures so as to provide reliable information and advice on how to raise concerns about the safety or wellbeing of an adult who has needs for care and support.

Practitioners need to explain what could happen after someone has raised a concern and will point out the “Staying Safe” page of the “Guide to adult social care” or give out the relevant leaflets such as:

- “Safeguarding - What happens”
- “Safeguarding Adults experience (feedback form) and easy read version”
- “How to Protect Yourself from Abuse” (including easy read version)

The main source of information for Safeguarding processes and procedures is “The Adult safeguarding policy, protocols and guidance for Kent and Medway” (to be found on [Kent.gov.uk](http://Kent.gov.uk)).

## 5.5 Providing Information about The General Data Protection Regulations (GDPR)

Practitioners must understand GDPR and how it will affect individuals who access services offered by Kent County Council, in order to facilitate a transparent, trustworthy and informed relationship.

### Key Points:

- GDPR comes into effect at the point of engagement with a living person when information about them is being collected and processed.
- Privacy Notices have been developed to explain how individuals will be affected by GDPR; the relevant privacy notice (there are different notices for different types of engagement e.g. third parties) should be issued as soon as possible when you begin to engage with a person. It explains what information we will collect, why we need to collect it, where else we might collect it from or who we may share it with and why we are allowed to process it.
- When considering whether or not information about an individual can be shared, ASCH will **not** seek an individual's consent. Under GDPR, it has been made clear that consent must be freely given and must be retractable, which is not possible when local authorities are undertaking statutory duties. The legal bases for this and the supporting legislation are outlined in the Privacy Notice.

For more information please refer to the ['Frequently Asked Questions'](#) guidance and the [General ASCH Privacy Notice](#) on the Adult Social Care and Health Policies site.

All of the KCC Privacy Notices, including only those relevant to ASCH, are available online at: [www.kent.gov.uk/privacy](http://www.kent.gov.uk/privacy)

## **C. MONITORING**

### **1. Required outcomes**

This policy seeks to ensure that:

- All staff working in Kent County Council Adult Social Care and Health Directorate who have a responsibility to provide information, advice and guidance under the Care Act 2014 are fully aware of their roles and responsibilities.
- This in turn will ensure that Kent residents who approach them can feel confident that they are getting the relevant, accurate and proportionate level of information at the time they need it.

### **2. Review of the policy**

- A member of the policy team will review the policy within 3 years of issue date.
- They will check that all contents are still relevant, engage with key stakeholders to look at practice issues; incorporate the audit recommendations and rewrite or amend contents as appropriate.
- The amended policy will be presented to DMT for approval, if appropriate.
- Comments and suggestions for improving this policy can be sent to [policyandstandardsteam enquiries@kent.go.uk](mailto:policyandstandardsteam enquiries@kent.go.uk)