

The Care Act 2014

Reforming Care and Support

What will we cover?

- A brief history of care and support
- The reform timeline
- Consultation
- What does the Care Act do?
- Summary of the Act
- Impact for Slough

A brief history of care and support

Social care law and policy has evolved over more than 65 years, incorporating around 30 Acts of Parliament, but reform has usually been piecemeal.

1948 National Assistance Act

1970 Chronically Sick & Disabled Persons Act

1990 NHS and Community Care Act

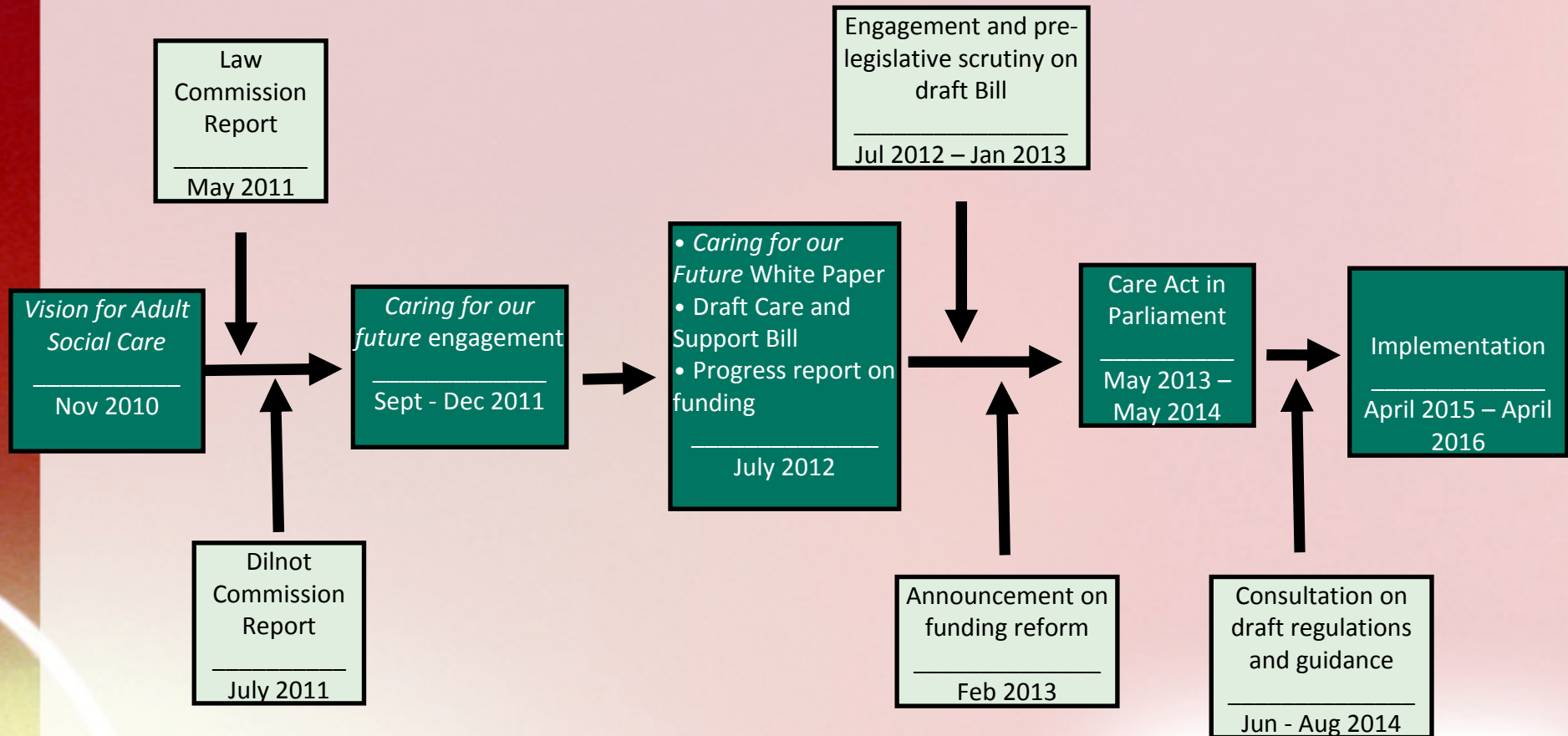
1995 Carers (Recognition and Services) Act

1996 Community Care (Direct Payments) Act

2000 Carers and Disabled Children Act

2001 Health and Social Care Act

The reform timeline



Caring for our future White Paper



- Promote people's **wellbeing**
- Enable people to **prevent and postpone** the need for care and support
- Put **people in control** of their lives so they can pursue opportunities to realise their potential

Consultation

- The **primary legislation** - the Care Act 2014 sets the legal duties and powers
- Now consulting on **secondary legislation** - the regulations. The scope of regulations is set by the Care Act.
- Consulting on the **statutory guidance** on how to meet legal obligations in the Bill. This sets out the expectations of local authorities when exercising their functions
- Developing **practice guidance**, toolkits and other products which help support implementation.

What does the Care Act do?

Put's Carers on the same footing.



People's Wellbeing



Prevention



Personal Budgets



What does the Care Act do?

*The Act makes care and support **clearer and fairer**, it:*

- extends financial support to those who need it most, and protects everyone from catastrophic care costs through a **cap on the care costs** that people will incur.
- will ensure that people do not have to sell their homes in their lifetime to pay for residential care, by providing for a new **deferred payments** scheme;
- provides for a **single national threshold for eligibility** to care and support;
- supports people with **information, advice and advocacy** to understand their rights and responsibilities, access care when they need it, and plan for their future needs;
- gives new guarantees to ensure **continuity of care** when people move between areas, to remove the fear that people will be left without the care they need;
- includes new protections to ensure that **no one goes without care if their provider fails**, regardless of who pays for their care.

General responsibilities and universal services

1. The wellbeing principle

- The wellbeing principle underpins the entire legal framework, and influences the way all functions are carried out in relation to individuals
- How to define wellbeing – and how it relates to other areas in the Act.
- Duties and powers to “meet needs” replace previous entitlements to services.

2. Preventing, reducing and delaying needs

- Universal duty: applies equally to those not receiving services and their carers.
- Primary, Secondary and Tertiary prevention
- Strategic approaches and working with partners and voluntary services.
- Regulations cover charging for prevention: limits and specific free provision.

General responsibilities and universal services

3. Information and advice

- Universal duty, but tailored information and advice for specific groups will be vital.
- Sets out how to provide information and advice, and to whom.
- Role of financial information and advice and how to help people benefit.

4. Market shaping and commissioning

- Commissioning focused on outcomes and promoting wellbeing.
- Promoting choice to drive quality and sustainability.
- Importance of workforce development and pay.

5. Managing provider failure

- Local authorities' responsibilities to meet needs in cases of provider failure. Emphasis on contingency planning and early warning.
- Regulations set out when there is a "business failure" to trigger local authority duty.
- New CQC oversight regime of financial health of "difficult to replace" providers. Regulations set out criteria for which providers are in regime.

First contact and identifying needs

6. Assessment and eligibility

- Duty to assess on appearance of need – for people who use care and carers.
- Must involve the person, and focus on their desired outcomes alongside needs.
- Must be proportionate to the person's needs, goals and circumstances.
- Consider how to prevent or delay needs, and whether other types of support available locally may also benefit, alongside the assessment.
- Regulations set out requirements around assessment, including training/expertise.
- New **national minimum eligibility threshold** ensures more consistency, designed to maintain existing levels of access. Local authorities can meet other needs.
- Regulations set out eligibility criteria, based on “significant impact on wellbeing”.

7. Independent advocacy

- Duty to provide an independent advocate where someone has substantial difficulty being involved in the process and there is no one to act on their behalf.
- Regulations define “substantial difficulty” in involvement, requirements for an advocate, and what their role looks like.

Charging and financial assessment

8. Charging for care and support

- Charging framework clarified for 2015/16 but largely unchanged. Questions on small changes to 12-week disregard of property after entering a care home; and treatment of investment bonds/pre-paid funeral plans.
- Includes right to **choice of accommodation** and ability to make top-up payments. Question extension to other types of accommodation (e.g. extra care housing).
- Regulations set out process of financial assessment (including monies to be disregarded), limitations on power to charge and choice of accommodation.

9. Deferred payment agreements

- A person can 'defer' paying the costs of their care and support, so they do not have to sell their home at a point of crisis.
- New duty to offer to certain people.
- Amount that can be deferred usually based on loan-to-value ratio of home. Power to charge interest to offset risk and make cost-neutral.
- Questions on interest rate; extending scheme to extra care housing and supported living; and allowing people to keep some rental income.
- Regulations set out the criteria for DPA's, and other conditions.

Care and support planning

10. Care and support planning

- Duty to prepare a care and support plan for all those whose needs are being met, including carers.
- Must involve people in the planning process.
- Legal framework for combining or integrating plans for different people where appropriate.

11. Personal budgets

- Sets out what it will cost the local authority to meet the person's needs.
- Must be included with each plan.
- Process for calculating budget must be transparent.
- Can be combined with other public money, e.g. personal health budgets.
- Regulations specify that intermediate care and reablement are not included in a personal budget.

Care and Support Planning

12. Direct payments

- Right to request the amount identified in a personal budget as a cash payment, which people can use to purchase their own care and support.
- Direct payments must have proper oversight and be reviewed regularly, without being too burdensome.
- Questions on having first review after 6 months instead of 12; and easing restriction on paying family members to manage.
- Regulations set out situations where a local authority must not, or may not, offer a direct payment; and other conditions.

13. Reviews

- Review must be ongoing to ensure needs continue to be met over time.
- Planning and sharing timescales for regular reviews, and responding to a request for a review.
- Proportionality and timeliness of reviews.

Adult safeguarding

14. Safeguarding Definitions of “abuse” and “neglect”.

- The local authority role: new duty to carry out **enquiries** where risk of abuse or neglect.
- May require independent advocate.
- Requirement for all areas to establish a **Safeguarding Adults Board (SAB)**: to coordinate activity of partners to protect adults from abuse and neglect.
- Multi-agency working: roles, responsibilities and information-sharing. LA, NHS and police as core members of SAB: local discretion for others?
- SABs to carry out **safeguarding adults reviews** into cases of concern, to ensure lessons are learned.
- New ability for SABs to require information sharing from other partners to support reviews or other functions

Integration and partnership working

15. Integration, cooperation and partnerships

- Promoting **integration** with NHS and other services (including housing).
- Requirement to work collaboratively and cooperate with other public authorities, both generally and in specific cases
- **Working with the NHS** and managing the legal boundary with local authority responsibilities.
- Regulations set out details and the process for dispute resolution.
- Managing delayed transfers of care out of hospitals. Largely replicates existing scheme, but discretionary not mandatory. Regulations set out processes to follow.
- **Working with housing** to integrate provision and ensure focus on suitability of living accommodation. Considers how housing supports core responsibilities in the other parts of the guidance.
- **Working with employment and welfare services** – also often highly relevant to care and support and JobCentre Plus is “relevant partner” for cooperation.

Integration and partnership working

16. Transition to adult care and support

- Duty to assess young people and their carers in advance of transition from children's to adult services, where likely to need care and support as an adult.
- How to determine where there is "significant benefit" for timing of assessment.
- Regulations set out process for providing services to adult carers of children.

17. Prisons and approved premises

- Each local authority responsible for prisoners in custodial settings in its area.
- Principle of equivalence with those in the community, however complicated in some areas, e.g. aids & adaptations. Some rights do not apply.

18. Delegation of local authority functions

- New power for authorities to delegate certain functions to another organisation.
- Local authorities retain ultimate responsibility for how functions are carried out, so people always have redress.
- Good contract management and avoiding conflicts of interest essential.

Moving between areas

19. Ordinary residence

- Local authority responsible for meeting the eligible needs of all those ordinarily resident in their area (who may be living elsewhere some or all of the time).
- Example scenarios to help decisions and aid dispute resolution between areas.
- Regulations set out the types of accommodation where ordinary residence applies in relation to “out of area” placements and the process for dispute resolution.

20. Continuity of care

- When someone moves area, current local authority must share the care and support plan and other information relating to the person and their carer.
- Information before the move, assessment and arranging to meet the needs on the day of arrival, based on the previous care and support plan.
- Regulations set out the requirements on the day of the move.

21. Cross-border placements

- New power ability to arrange care home placements across the UK.

Other areas

22. Sight registers

- Local authorities must keep a register of adults who are severely sight impaired and sight impaired in their area.
- Regulations define who should be treated as sight-impaired or severely sight-impaired.
- Local authorities may also maintain registers of other people with disabilities.

23. Transition to the new legal framework

- Transition in 2015/16: passporting people currently in the system under the new legal framework in the Care Act.
- No automatic need for re-assessment or new eligibility determination; will depend on previous local policies
- Preparing for 2016/17: steps to take in 15/16 to prepare for funding reform: understanding likely demand, awareness-raising, capacity-building, and early assessments

What happens next?

Consultation ends	August 2014
Finalise 2015/16 regulations and guidance	October 2014
Ongoing work to develop practice guides, Toolkits and implementation support	Summer 2014 Autumn 2014
Separate consultation later this year on those elements of the Act that come into force in April 2016 (e.g. funding reform).	Late 2014
New statute comes into force	April 2015
Funding reforms come into effect	April 2016

Responding to the consultation

Comment online www.careandsupportregs.dh.gov.uk

E-mail us at careactconsultation@dh.gsi.gov.uk

Share your thoughts [#careact2014](https://twitter.com/careact2014)

Write to
Whitehall, London, SW1A 2NS
Care and Support Consultation,
Room 313, Richmond House, 79

Please make sure all consultation responses are received
by **15 August 2014**

Impacts For Slough

- Financial implications for new ways of working, assessment functions and new responsibilities – carers
- Financial implications of funding reform – care capping
- Integration with the NHS/Better Care Fund
- Wellbeing and prevention approach
- Capacity to deliver the changes
- Financial position of the council and current/future efficiency savings
- Relationships with the market – profit/not for profit sector
- New ways of working and systems
- Cultural change and awareness