

Round Table Discussion Notes:

Care Act (2014) - Assessments and Effective Conversations

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Participants:

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Discussion Overview: The Care Act 2014 (section 9) places on local authorities a duty to carry out assessments that understand:

- the impact of the adult's needs for care and support on their wellbeing
- the outcomes that the adult wishes to achieve in day to day life
- to what extent, the provision of care and support could contribute to the achievement of those outcomes
- **Challenge 1:** To meet this duty, most local authorities have introduced complex and time consuming assessment processes. The content of the process is frequently driven not by the individual but by perceptions about: the need to gather data that will be of use to the authority and regulators (even if there is no evidence of the data ever being of any actual use); risk and; the need to identify who is eligible or not for precious resources.
- **Challenge 2:** The processes for undertaking assessments are driving waiting lists and frustrations. Frequently staff go into the person's home, whether it is needed or not (and often some months after the initial contact), and ask pages of questions, whether they are relevant or not, and invest significant time in writing up the assessment and seeking permissions to act.
- **Challenge 3:** Many people being assessed do not understand the point of much of the process and are not satisfied that their needs have been explored or the outcomes offered are suitable.

The processes adopted by most local authorities are not necessary and do not deliver a responsive or effective service

A Care Act compliant assessment can comprise a good conversation carried out in a way that is proportionate to the person's needs and circumstance if the person is informed of its purpose and has a record of that conversation.



A number of local authorities have been exploring how to replace ineffective assessment processes with meaningful conversations. A good assessment is a process which should start with that conversation. In many situations, it may need to go no further to comply with the terms of the Act.

Having a conversation with the person is not simply rebranding the current data gathering and recording process

The style, content and recording of the conversation has to be genuinely coproduced with people with experience of being subject to assessment processes. **Conversations need to be about the person. This means being led by their needs, aspirations and assets.** It also means having an appropriate and proportionate style in terms of how the conversation takes place, where and how it is recorded and followed up.

The systems used by local authorities to support conversations also need to be appropriate and proportionate

This will include staff training, staff support, delegated decision making, monitoring and review.

Effective Conversations are already having positive results

As a result of this change, local authorities are identifying improved satisfaction from people and staff, significantly reduced waiting lists and better targeting of resources.

There is a need for clarity of the legal framework and a sharing of the emerging evidence about effective, proportionate conversations.

For further information on this note please contact bill.love@ndti.org.uk

Reflections from Participants...

Reflecting on the implications for social care

David Brindle

Public Services Editor, The Guardian

The Care Act was welcomed as the most significant legislation in respect of adult social care since the establishment of the welfare state. But it has so far failed to realise its potential. While this can be partly attributed to the climate of austerity, it is also the case that many social workers have yet fully to embrace the act's underpinning philosophy.

<https://www.independentage.org/policy-research/research-reports/information-and-advice-since-care-act-how-are-councils-performing>

Caring for our Future, the white paper that led to the act, spelled out two core principles: that everything possible should be done to “prevent, postpone and minimise” people’s need for formal care and support; and that people should be in control of their own care and support. Effective conversations meet both those objectives.



<https://www.gov.uk/government/publications/caring-for-our-future-reforming-care-and-support>

There were 1.8 million requests for care and support in England in 2014-15. While we have no data on how long people are waiting for assessment, anecdotal evidence suggests the process can take many weeks. We do have data for how long people already receiving services are waiting for reassessment, which is supposed to be at least annually. In 2015-16, 55% of people had not been reassessed in the previous 12 months. This points clearly to a system that is struggling.

<http://www.communitycare.co.uk/2016/10/05/councils-fall-behind-care-act-reviews/>

Reflecting on the legal position

Emma Watt

Solicitor, Anthony Collins Solicitors

Duty to assess

The duty to carry out an assessment is contained within section 9 of the Care Act 2014. It confirms that an “assessment” must include an assessment of:

- the impact of the adult’s needs for care and support on their wellbeing (outlined within section 1 of the Care Act 2014);
- the outcomes that the adult wishes to achieve in day to day life; and
- whether, and if so to what extent, the provision of care and support could contribute to the achievement of those outcomes.

Sections 9-13 of the Care Act 2014 go on to explain how that assessment process should be facilitated and who else may need to be involved, particularly where an individual lacks capacity. The other relevant piece of legislation is the Care and Support (Assessment) Regulations 2014 which confirms that assessments must be “appropriate and proportionate to the needs and circumstances of the individual” (paragraph 3 of the Regulations).

A proportionate assessment

When determining whether an assessment is proportionate, local authorities must have regard to (paragraph 6.42 of the Care Act Guidance):

- the person’s wishes and feelings
- the severity and overall extent of the person’s needs
- the potential for the individual’s needs to fluctuate and change over time

The Regulations also confirm that assessors must be appropriately trained and have “the skills, knowledge and competence to carry out the assessment in question” (paragraph 5 of the Regulations). Individuals can also carry out a self-assessment (jointly with the local authority) and I expect that this is something that local authorities will wish to explore further as a ‘triage’ option.



Information for individuals

The Regulations confirm that local authorities must give individuals information about the assessment process, in advance “wherever practicable”. Local authorities must also give a written record of the needs assessment to the individual concerned, any carer or any other person nominated by the individual (section 12 of the Care Act 2014).

Assessment as a process

The Care Act 2014 is designed to be a flexible framework, around which local authorities can build best practice; without being constrained by tick-box or checklist exercises. It aims to encourage innovation, a genuinely person-centred approach and to avoid a ‘one size fits all’ approach to assessment and commissioning.

It may well be appropriate and proportionate for somebody to call and have an assessment over the phone without this escalating to a detailed questionnaire. The key is to ensure that the right resource has been provided and the right risks considered at each stage of the assessment process.

We of course would not want to burden vulnerable individuals with sole responsibility for identifying their own needs and what support they require; at the same time, it is not helpful for local authorities to become so risk adverse that their policies fail to achieve action on the ground. This is a difficult balance to strike, particularly where resources are under pressure and we have seen many organisations tackle difficult conversations about their commissioning priorities and what they can realistically achieve.

Further information can be found here:

<https://newsroom.anthonycollins.com/ebriefings/when-is-a-care-assessment-not-a-care-assessment/>

Reflecting on people who receive an assessment

Clenton Farquarson

Person who uses care and support services and Chair of TLAP

Whilst the Care Act sets out a very straightforward approach to the assessment, the process has become overly complex and bureaucratic. It feels like there’s a paradox in that local authorities have developed very complicated approaches to assessment in order to be Care Act compliant whilst the actual requirements of the Care Act are very straightforward and urge proportionality.

Any change needs to understand the experiences of eligibility changes and welfare cuts that have been experienced by many disabled people. Some citizens have real concerns that any assessment or conversation could be used to screen people out of personal budget eligibility. People could perceive this as a smokescreen for cuts.



This could lead to (perhaps already has) an overstating/over emphasis on deficit and needs because citizens are concerned that they will not get the support they need (eg a personal budget).

People want support to have a life not a service and strength based approaches should facilitate this. However, it can't be enough to signpost people to community centred support without investment in community resources. In the absence of this investment, local govt leaves itself open to accusations of using the Strength Based Assessment (Conversation) as a money saving exercise.

There is a strong sense that local govt sees funding as its money, rather than public money – disabled people being part of that public. This seems to be the case with direct payments for example where there are examples of citizens being prevented from taking a direct payment because they are not trusted with the money. The introduction of pre-payment cards feels like a clear acknowledgement of this lack of trust.

It can feel like the person carrying out the assessment lacks confidence. Lacks confidence in their ability to identify strengths (and an understanding of how do this) lacks confidence in what they are able to do once strengths have been identified (don't feel they have permission to be innovative) and finally, lack confidence in the citizen being able to identify their own strengths and needs and as an expert in their own care and support needs.

Reflecting on good conversations

Jenny Pitts

NDTi

Typically, statutory assessment processes are prescriptive, deficit based and have a 'one size fits all' interpretation of assessing need, further hampered by the IT care management systems that dictate the process and the information that needs to be collected. A 'good conversation' cannot:

- be shoe horned into the existing format
- be a cut down of existing 'assessment' formats

To be effective, good conversations must:

- reflect a framework, style and way of recording that has been genuinely coproduced at a local level (this coproduction must include people who have experience of using health and social care services, family members, community members and social workers, OTs and other staff)
- have recording that is proportionate
- take place and take time in a way that reflects the individual's aspirations and needs;
- be flexible
- happen in a timely way, soon after the initial contact with services



Good conversations need to be embedded in cultural and system change and not bolted on to cumbersome processes. Our experience is they can only be effective if they are supported by other complementary changes, illustrated below as key 'pieces of the jigsaw'.

