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Adult and Wellbeing Care and Support and Meeting your Needs Policy

**(Care Act revised version of Adult and Wellbeing
Community Care and Meeting your Needs Policy 2013)**

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Forward

To ensure we meet the care and support needs of adults and carers in our community fairly, equitably, transparently and in accordance with the law, it is important that the council has a clear policy on how it will meet needs and support people to be at the centre of all processes and decisions about their care.

Individuals with care and support needs, their families and carers must have a clear understanding of what support is available from the council and what the council is prepared to fund. This policy explains the council's approach to the delivery of care and support for individuals and carers with eligible and non-eligible support needs and sets out the approach we will take in order to meet the requirements set out in national legislation and guidance.

Herefordshire's adult social care service is facing challenging times, due to the county's ageing population and the challenges that living in a rural county brings in terms of delivering services. I hope that you will find this document a useful guide whether you are an individual with care and support needs, a family member, a carer or someone who works within adult social care who is responsible for carrying out assessments and support planning.

If you require this document in any other format please either ring us on the following number, or ask someone to do this on your behalf (01432) 260101



Councillor Graham Powell Cabinet Member for Health and Wellbeing

1. Introduction

1.1. Overview

- 1.1.1. Herefordshire Council aims to deliver a personalised and flexible approach to care and support, ensuring that what we provide is fair, equitable and transparent to all.
- 1.1.2. The Care Act 2014 places a duty on the council to meet the needs of adults and carers assessed as having eligible needs. Promoting wellbeing and meeting needs is not always about direct service provision, as other means of support may be more appropriate to meeting an individual's needs, such as information and advice, universal services, preventative interventions, community resources, carers and direct payments.
- 1.1.3. This policy sets out an overview of the adult social care process in Herefordshire. It does not change any of the council's existing policies; it simply codifies and confirms current practices.
- 1.1.4. The individual must always be at the centre of all processes and decisions about their own care. In line with the Care Act 2014 and the council's determination to promote wellbeing and support people to live independently with an active involvement in their communities, this policy reflects a strategic shift towards prevention and early intervention to prevent needs escalating and avoiding the need for more intensive, specialist and targeted services.

1.2. Who does the policy apply to?

- 1.2.1. Herefordshire Council is responsible for the delivery of care and support for adults normally resident in the area. "Adult" generally refers to individuals aged 18 or over, but in certain circumstances also applies to young adults under the age of 18 years. For more information about determining whether an adult is normally resident in Herefordshire refer to the Adult and Wellbeing policy on Ordinary Residence (in development).
- 1.2.2. This policy applies to all adults with care and support needs and carers, including those with eligible and non-eligible needs, which may include:

<input type="checkbox"/> People with a physical disability	<input type="checkbox"/> People with a sensory disability
<input type="checkbox"/> People with a learning disability	<input type="checkbox"/> People with a cognitive disability
<input type="checkbox"/> People with an acquired brain injury	<input type="checkbox"/> People who have mental health problems

Young people in transition

Carers of young people in transition

Young carers approaching 18 years

Carers

1.2.3. As well of applying to individuals with care and support needs and their families, friends and carers, this policy is of relevance to individuals that work in the care and support sector, including social care staff within the council.

1.3. **Legal context**

1.3.1. This policy is a revision of the Herefordshire Council “Adult and Wellbeing Community Care Meeting Your Needs Policy” (published 2014) to reflect the new legal requirements placed on the council by the Care Act 2014. The Care Act 2014 replaces much of the legislation underpinning the policy and places duties on the council towards adults with eligible care and support needs and carers and also duties towards those whose needs are not eligible.

1.3.2. Links to the Care Act and other relevant legislation can be found in Appendix 1. Appendix 1 also contains a list of the repealed legislation, which will be replaced by the Care Act.

1.4. **Our vision**

1.4.1. By 2016, the council will have a different role in the delivery of services due to changes in legislation, government policy, reductions in resources and changes in public and community expectations. Against this background the council will fulfil its duties in a manner that makes efficient use of public resources and delivers longer-term health and wellbeing advantages for our residents.

1.4.2. Our vision is:

“To enable residents to live safe, healthy and independent lives and to maintain service provision, to those with need, within the available resources”

1.5. Our guiding principles for adult social care in Herefordshire

1.5.1. When carrying out its care and support functions Herefordshire Council will have regard to the following key principles as set out in the Care Act 2014:

<p>1. The importance of beginning with the assumption that the individual is best placed to judge their own well-being. The Council should not make assumption as to what matters most to a person</p>	<p>2. The importance of an individual's views, wishes, feelings and beliefs, in relation to their life and their care. This is especially important where a person has expressed views in the past , but no longer has capacity to make decisions themselves</p>
<p>3. The importance of preventing or delaying the development of need for care and support and the importance of reducing needs that already exist.</p>	<p>4. The need to ensure that decisions are made having regard to all the individual's circumstances</p>
<p>5. The importance of the individual participating as fully as possible in decisions about them and being provided with the information and support necessary to enable them to do so.</p>	<p>6. The importance of achieving a balance between the individual's well-being and that of any friends or relatives who are involved in caring for the individual; considering the individual's needs in the context of their family and support networks</p>
<p>7. The need to protect people from abuse and neglect</p>	<p>8. The need to ensure that any restriction on the individual's rights or freedom of action that is involved in the exercise of the function is kept to the minimum necessary for achieving the purpose for which the function is being exercised.</p>

9.The importance of **assuming that an individual has capacity** unless it is established that they lack capacity

10.The need to be confident at all times that the individual is able to be, or fully supported, to be involves as far as possible, including **appointing independent advocates where required**

2. General responsibilities and universal services

2.1.1. This section outlines the care and support functions that the council will provide to all individuals that come into contact with the care and support system, regardless of whether they have needs assessed as eligible for council support.

2.2. Promoting wellbeing

2.2.1. To achieve its vision, the council will actively work to promote the wellbeing of the residents of Herefordshire when carrying out its care and support functions. The council will consider how any actions it proposes may affect the individual in relation to the nine areas listed below:

- Personal dignity (treating the individual with respect)
- Physical and mental health and emotional well being
- Protection from abuse and neglect
- Control by the individual over day to day life (including over care and support)
- Participation in work, education, training and recreation
- Social and economic well being
- Domestic, family and personal relationships (“think family”)
- Suitability of living accommodation
- The individual’s contribution to society.

2.2.2. How the council promotes an individual’s wellbeing will vary depending on the circumstances, needs, goals and wishes of the individual. It is likely that some aspects of wellbeing will be more relevant to one individual than another.

2.3. **Preventing, reducing or delaying needs**

- 2.3.1. The council will arrange, and work with partners to develop, services, facilities and resources that help prevent, delay or reduce people's needs for care and support.
- 2.3.2. Regardless of whether the individual is ultimately assessed as having any eligible needs or not, when an individual comes into contact with the care and support system, they will be proactively directed towards, and supported to access, preventative interventions and information and advice wherever this is appropriate and might help prevent, delay or reduce the development of their needs.
- 2.3.3. When the council provides an individual with, or supports them to access, a preventative intervention, the council will provide the individual with information in relation to the services offered or measure undertaken:
- 2.3.4. The individual must agree to the provision of any prevention intervention or other step proposed by the council. Where they refuse but continue to have needs for care and support, the council will proceed to offer the individual an assessment.
- 2.3.5. The council will always look to identify if reablement is likely to be of benefit to an individual with care and support needs in order to maximise independence. If a reablement intervention is arranged, eligibility for council support will be evaluated under the Care Act eligibility threshold after the reablement intervention has taken place.
- 2.3.6. Carers play a significant role in preventing the care and support needs of the individual they care for from escalating. As such, the council will seek to support carers from developing care and support needs themselves.

2.4. **Information and advice**

- 2.4.1. Information and advice are fundamental to promoting wellbeing and enabling people to take control of, and make well-informed decisions about their care and support and can also help prevent and delay people's need for care and support.
- 2.4.2. Information and advice will be available and offered to people in need of care and support irrespective of whether they have been assessed as having eligible needs.
- 2.4.3. The council will make available to all individuals information and advice on care and support and carers through a variety of channels and formats, this includes, but is not exclusive to, face-to-face, telephone, online and printed media. Any information and advice which people access, or are provided with, will be:

- Clear, comprehensive and impartial
- Consistent, accurate and up-to-date
- Given at an early or appropriate stage
- Appropriate and proportionate
- Provided in an appropriate format

3. Assessment and identifying your needs

3.1. Assessment overview

- 3.1.1. If an individual has care and support needs or a carer has support needs, they may request, or the council may suggest, that an assessment of their needs is undertaken to better identify what support is required and whether they have eligible needs for council support. The duty to offer or arrange an assessment applies regardless of any other concerns or queries, such as ordinary residence. The issue of ordinary residence must be considered after an assessment which has identified eligible needs.
- 3.1.2. The outcome of the assessment is to provide a full, but proportionate, picture of the individual's needs so the council can provide appropriate response at the right time to meet the level of the individual's needs.
- 3.1.3. An assessment is a 'service' in its own right, even if no other services or support are being provided to an individual. If in doubt, an assessment should always be offered/undertaken as enquiries/referrals cannot always be taken at face value.
- 3.1.4. Undertaking an assessment is not a commitment by the council to provide or arrange adult social care services, but is a means of collecting relevant information to inform the decision as to what support an individual does require and whether they are eligible for support through the council.
- 3.1.5. Before undertaking an assessment, the individual will be offered the choice of completing the assessment as a supported self-assessment. Individuals are not obliged to undertake a supported self-assessment and may prefer to be assessed, or it may be more appropriate to be assessed, by a social care practitioner. Whichever format of assessment an individual chooses; the assessment will use the same materials and capture the same information.

3.2. Principles of assessment

- 3.2.1. In line with the Care Act, any assessment will abide by the following principles:

1. Assessments must be appropriate

Assessments must be carried out in a manner that has regard to the individual's situation, preferences and outcomes.

2. Assessments must be proportionate

Assessments should only be as intrusive as necessary to establish an accurate picture of needs of the individual. This involves hearing and understanding the initial presenting problem, not taking this at face value and ensuring underlying needs are explored and understood.

3. Assessments must be person-centred

The individual must be at the centre of the assessment process as the expert in their own life. Assessments should be collaborative, with the individual involved in the process as much as possible, or as much as they wish.

4. Assessments should use a strengths-based approach

Assessments should identify the strengths the individual has which could be mobilised to help them achieve their outcomes. A strengths-based approach recognises personal, family and community resources that individuals can make use of.

5. Assessments should use a whole family approach

Assessments should take a holistic view of a person's needs to consider the impact on family and wider networks. Where a young carer is identified, the practitioner must make a referral for a young carers assessment

6. Assessments are a key element of the prevention strategy

Assessments must consider whether the individual would benefit from available preventative interventions. Assessments can include a pause while the person receives such services.

7. Assessments should be outcomes-focussed

Assessments should explore what the individual wants to achieve and how this might be done.

3.2.2. The assessment process takes the individual from initial contact through to supported self-assessment or face-to-face assessment, support planning and review. The assessment informs eligibility determination and the allocation of resources to meet eligible unmet needs.

3.3. The supported self-assessment process

3.3.1. Supported self-assessment is an assessment led by the individual with appropriate help from a family member, friend, carer or advocate, and supported by the council as required. The objective is to place the individual in control of the assessment process and enable them to lead as fully in the process as they wish to.

3.3.2. The council will offer supported self-assessment as a form of assessment if the adult or carer is willing, able and has the capacity to undertake such an assessment. If the individual does not wish, or is unable to self-assess, then a face-to-face assessment will be undertaken.

3.3.3. **Supported self-assessment verification process**

As required by the Care Act, the council will assure itself that the self-assessment is a complete and accurate reflection of the individual's needs.

3.3.4. Where possible, the verification process will not repeat the full assessment process. However, where the supported self-assessment is incomplete or inaccurate, it may be necessary to repeat part or all of the assessment.

3.3.5. Providing the individual gives their consent, the practitioner may consider it useful to seek the views of those who are in regular contact with the individual, such as their carer(s) or other appropriate people from their support network, and any professional involved in providing care (e.g. GP, district nurse, housing support officer).

3.4. **The face-to-face assessment process**

3.4.1. An assessment should commence within 48 hours of receiving the referral or initial contact i.e. the date at which the person being referred/making the enquiry has been contacted directly by the department either on the telephone or in person (in line with national standards).

3.4.2. The assessor will work with the individual to establish clear expectations at the assessment/review stage regarding the purpose of the assessment.

3.5. **Fluctuating needs**

3.5.1. In establishing needs, the council will consider the individual's care and support history over a suitable period of time to take account of potential fluctuation of needs.

3.5.2. Fluctuating needs refers to needs which may not be apparent at the time of assessment, but have been an issue in the past and are likely to arise again in the future. Care needs over a suitable period of time should be fully explored to establish as complete a picture of the range of fluctuation as possible. What is a "suitable"

length of time will vary from person to person and will be determined on an individual basis.

3.6. **Advocacy and participation support**

3.6.1. The council must be confident at all times that the individual is able, or is fully supported, to be involved as far as possible in the process. As defined by the Care

Act, if the individual has substantial difficulty in any of the following areas they require assistance:

1. Understanding relevant information
2. Retaining information
3. Using or weighing the information as part of engaging
4. Communicating views, wishes and feelings

3.6.2. If the individual may have substantial difficulty in independently engaging in the process, the council will involve an appropriate individual who can help. This can be a family member, informal carer, friend or interpreter. If there is no appropriate individual to support and represent them to facilitate their involvement, the council will appoint an independent advocate.

3.7. **Assessing Capacity**

3.7.1. It must be assumed that an individual has capacity unless it is established they lack capacity. The council will establish the individual has the mental capacity to fully understand and be involved with the assessment by checking they understand the questions being asked, are capable of providing answers, understand the implications on their personal circumstances of the overall process and have the capacity to express their wishes and feelings.

3.7.2. Where an individual appears to lack the capacity to assess their own support needs, an assessment under the Mental Capacity Act (MCA) 2005 will be undertaken

3.8. **What happens after the assessment?**

3.8.1. The practitioner will ensure the individual and those involved are in agreement with the content of the assessment. If agreement is not feasible, the assessment should reflect who is and isn't in agreement with everything stated in the document.

- 3.8.2. The individual will be provided with a written copy of their assessment. The assessment will also be shared with anyone else the individual requests it to be shared with.
- 3.8.3. Where an independent advocate is involved in supporting the individual, the practitioner will keep the advocate informed so they can support the adult to understand the outcome of the assessment and its implications.

3.9. **Transitions**

- 3.9.1. Effective person-centred transition planning is essential to help young people and their families prepare for adulthood. The Care Act identifies three particular groups in relation to “transitions” – young adults approaching adulthood, carers of those young adults, and young carers approaching adulthood.
- 3.9.2. The council must undertake a transition assessment of anyone in the three groups when there is significant benefit to the young person or carer in doing so. Assessments should take place at the right time for the young person or carer and at a point the council can be reasonably confident about what the young person’s or carer’s needs for care and support will look like after the young person turns 18.
- 3.9.3. For more information about transitions, refer to the [Herefordshire Multi-Agency Transition Protocol for Children and Young People with Disabilities and Complex Needs](#).

3.10. **Refusal of assessment**

- 3.10.1. The council is not required to carry out assessment where an individual with possible care and support needs or a carer feels they do not need care or do not want local authority support. This can be overridden where the individual lacks the capacity to take that decision and an assessment would be in their best interest or they are experiencing, or at risk of, any abuse or neglect.

3.11. **Urgent need**

- 3.11.1. The Care Act (Section 19) permits the council to meet needs which appear to be urgent, without having first conducted a needs assessment, financial assessment or eligibility criteria determination. The council will respond to urgent need wherever possible by undertaking an assessment, but in some urgent situations will proceed to meet need in order to provide a safe environment for the individual at risk.

3.11.2. The council may meet urgent needs regardless of whether the adult is ordinarily resident in its area.

3.11.3. The council's duty to meet needs will be applied when urgent needs arise as a result of service failure of a provider, including unregistered providers (i.e. providers of unregulated social care activity).

4. Determining your eligibility

4.1. The national eligibility criteria

4.1.1. Section 13 of the Care Act 2014 sets out the provision on eligibility criteria. It is supported by the Care and Support (Eligibility Criteria) Regulations 2014. The national eligibility criteria introduce a minimum eligible threshold establishing what level of needs must be met by local authorities.

4.1.2. Regardless of the format of assessment takes, the final decision on eligibility sits with the council. Following an assessment, the council will determine whether the person is eligible for care and support, by applying the national threshold as outlined below:

National eligibility criteria for adults with care and support needs

An adult's needs meet the eligibility criteria if:

a. The **adults needs arise from, or are related to, a physical or mental impairment, or illness** (includes conditions such as physical, mental, sensory, learning or cognitive disabilities or illness and brain injuries)

PLUS

b. as a result of the adult's needs, the adult is **unable to achieve two or more of the outcomes** specified (see appendix 2);

PLUS

c. as a consequence there is, or is likely to be, a **significant impact on the adult's wellbeing**

****An adult's needs are only eligible when they meet ALL THREE of the conditions (a-c) above) ****

4.1.3. In relation to “c” above, the term “significant” is not defined by legislation. The council will consider whether the adult’s needs and their consequent inability to achieve the relevant outcomes will have an important, consequential effect on their daily lives, their independence and their wellbeing. In making this judgement, the council will look to understand the adult’s needs in the context of what is important to him or her. The impact of needs may be different for different individuals as what is important to the individual’s wellbeing may not be the same in all cases. Circumstances which create a significant impact on the wellbeing of one individual may not have the same effect on another. All cases will be considered on an individual basis using professional judgement and analysis of the information gathered in the assessment.

National eligibility criteria for carers

A carer’s needs meet the eligibility criteria if:

- a. their needs arise as a consequence of providing necessary care for an adult;
PLUS
- b. the effect of the carer’s needs is that any of the circumstances specified in the Eligibility Regulations apply to the carer (see appendix 3);
PLUS
- c. as a consequence of that fact there is, or is likely to be, a significant impact on the carer’s wellbeing

****A carer’s needs are only eligible when they meet ALL THREE of the conditions (a-c) above)****

Determining eligibility and informing the individual

4.1.4. Determining eligibility for council support may be undertaken at various stages of the process depending on the individuals’ needs and will involve evaluation of all available assessment information.

4.1.5. In order to ensure that care and support services are delivered in a fair, equitable and transparent way, the council will apply the national eligibility criteria to each individual to determine whether they are eligible for adult social care services.

4.1.6. The eligibility decision will be made within two working days of the assessment being completed. The decision will be put in writing to the person with an explanation for the basis of that decision. At the same time they will be advised that they will need to be

reassessed if their circumstances change. The notification of a decision will include council contact numbers and details of how to use the complaints procedures to challenge decisions if they are unhappy with them.

- 4.1.7. In certain cases where individuals with eligible needs are offered reablement services, they will receive a subsequent assessment which may establish that they no longer have eligible needs.

4.2. **What happens if someone does not meet the national criteria?**

- 4.2.1. In some cases the council may provide support to individuals who have assessed needs that fall below the national eligibility threshold. The council has no obligation to meet these needs but will assess available resource and consider the provision of low, preventative services.
- 4.2.2. If a person has unmet care and support needs that fall below the eligibility threshold, in addition to written notification of eligibility (as per paragraph 4.2.4), the council will also provide information and advice on what support might be available in the wider community, or what preventative measures might be taken to prevent, reduce or delay the condition progressing. The council must be satisfied that their needs will not become greater in the foreseeable future and undermine their independence. If individuals need other services, they will be signposted to the relevant agencies or organisations.

4.3. **What happens if someone does meet the national criteria?**

- 4.3.1. When it is clear that the individual's needs are above the national eligibility threshold they will be offered help to find options to meet their needs within the resources available. The level of funding they may receive will be determined by the completion of a financial assessment. . For more information about financial assessments please read the Care and Support Charging Policy.

5. Allocating funding to unmet eligible needs (personal budget)

5.1. Overview

- 5.1.1. The Care Act places personal budgets in law – everyone whose needs are met by the council, whether those needs are eligible or if the council has chosen to meet other needs, will receive a personal budget.
- 5.1.2. The personal budget gives the individual clear information regarding the money that has been allocated to meet needs identified in the assessment. Whilst the assessment identifies all needs for eligibility determination, the council is only required to provide support for assessed eligible needs that are not met (e.g. an individual may have some eligible needs which are being met by a carer).
- 5.1.3. The Care Act prescribes three principles for the allocation of resources to need – timeliness, transparency and sufficiency.
- 5.1.4. In Herefordshire, the system by which resources are allocated to individuals with assessed eligible unmet needs (not including carers) is the Resource Allocation System (RAS). The RAS is integrated into the assessment process through the council's assessment tool built into the council's case management system. For details on how the RAS works, refer to Appendix 4.

5.2. The indicative budget (estimated resource allocation)

- 5.2.1. Following assessment the RAS provides an estimated resource allocation (an “indicative budget”) to give the individual an early estimate of how much money it is likely to cost to get the support needed to meet their unmet eligible needs
- 5.2.2. The indicative budget will be shared with the individual at the start of support planning to allow them to make informed and appropriate decisions about how their needs are met. The individual will be made aware that the initial indicative budget may be decreased or increased depending on decisions made during development of the support plan.

5.3. **The personal budget**

- 5.3.1. The final, actual allocation (the “personal budget”) is agreed as part of the support planning process. In certain circumstances the final personal budget may be substantially different to the estimated amount in the indicative budget.
- 5.3.2. The personal budget will be an amount sufficient to meet the individual’s identified unmet care and support needs and will be broken down into:
- a. the amount the individual must pay (established following a financial assessment if needs are to be met through services which are charged for), and
 - b. the amount the council will pay.
- 5.3.3. If the individual or a third-party on their behalf is making a top-up payment in order to secure the care and support of their choice (where this costs more than the council would pay for such a type of care), the top-up payment will not form part of the personal budget as the budget must reflect the costs to the council of meeting the needs. For more information about top-up contributions refer to the council “[Residential and Nursing Homes Third Party Contributions \(Top-ups\) Policy](#)”.
- 5.3.4. Costs for reablement and intermediate care will not be included in the personal budget.
- 5.3.5. Where exceptionally high support needs are identified during the assessment/ review process the council will work with the individual to find the best solution for their eligible unmet needs. These will be discussed on a ‘case by case’ basis and if the need can be met by two or more alternatives, the council will seek to use the most cost effective support to meet the eligible needs. Cases may be discussed at a professionals panel if there is a requirement under the process of delegated authority to authorise care packages.

5.4. **Use of the personal budget**

- 5.4.1. The individual can choose how their personal budget is deployed, this is likely to be one, or a combination of, the following ways:
- i. managed account held by the council, with support provided in line with the individual’s wishes
 - ii. managed account held by a third party (known as an Independent Service Fund - ISF)
 - iii. direct payment (for more information on direct payments refer to the Adult and Wellbeing Direct Payments Policy)

5.4.2. Whatever way the personal budget is used, the decision will be recorded in the support plan.

5.4.3. The personal budget will be kept under review to ensure needs continue to be met. If an individual's needs change fundamentally a review of their needs will be undertaken and a new revised personal budget allocated as required.

5.5. **How does the resource allocation process support carers?**

5.5.1. The support provided by a carer does not affect the eligibility determination for an individual with care and support needs. Calculation of the RAS for the individual with care and support needs will however reflect the contribution made by carers in meeting the individual's needs.

5.5.2. If it is identified that carers may benefit from services, or if requested, a separate carers assessment will be completed to deal specifically with their needs. Carers are entitled to an assessment even if the service user does not agree to undertake an assessment.

5.5.3. Instead of using the RAS, carers' personal budgets are calculated using a ready reckoner approach, whereby the budget amount is calculated based on what the carer might receive using traditional services.

5.5.4. The Care Act specifies that a carer's need for support can be met by providing care to the person they care for. Where a service is provided directly to the adult needing care, even though it is to meet the carer's needs (e.g. replacement care), the adult will be liable to pay any charge. It is important that the adult with needs agrees to receive that type of care.

6. Meeting your eligible needs

6.1. Overview - ways of meeting needs

- 6.1.1. Following assessment, if an individual is determined to have eligible needs, the Care Act 2014 requires a plan to be provided where the council is to meet needs or decides to meet needs. Through a further assessment and support planning process, in which to meet an individual's unmet needs will be considered, including where appropriate and proportionate accessing universal services, community based services for a range of eligible needs where appropriate to do so. The support plan will set out how needs are to be met and will be regularly reviewed to determine progress against expected outcomes.
- 6.1.2. Personal budgets enable creative approaches to be taken to meet an individual's eligible need, and also reduce reliance on traditional services.
- 6.1.3. There are a range of approaches designed to promote wellbeing and support people to remain in their own home as well as to support informal carers to continue to provide care to maintain the person at home. These range from prevention interventions and community resources to more formal support such as home & community support services and services designed to support independent living and reablement.

6.2. Services commissioned by the council

- 6.2.1. If the individual chooses to use some, or all, of their personal budget as a managed account held by the council, the council arranges for the individual's needs to be met in line with their wishes, using services commissioned by the council.
- 6.2.2. Services for those living at home (community-based services)**
- Within the personal budget, day services or support to access day services, are usually only funded for those people who live in their own home.
- 6.2.3. Day care funding within the personal budget will not normally expect to exceed 2 days per week unless there is an exceptional need or it forms part of the carers' assessment and plan for respite under an agreed shared care arrangement by an informal carer and the council to support those with intensive needs to remain at home
- 6.2.4. People living in 24 hour funded care should receive appropriate day time activity, stimulation and access to community facilities as part of that 24 hour care.

6.2.5. Support to access community facilities will focus on developing independence and skills, training, paid work and volunteering opportunities unless the individual's assessment indicates a particular need for an identified service. The time limit of the support should be clearly linked to that need and based on an enablement approach. Risks will be clearly outlined against the need, including any risks posed by others.

6.2.6. **Residential & Nursing Homes**

6.2.7. As outlined in the Care and Support (Choice of Accommodation) Regulations 2014, where the council is responsible for meeting an individual's care and support needs and their needs are assessed as requiring a particular type of accommodation, the individual has the right to choose between different providers of that type of accommodation.

6.2.8. If an individual chooses an accommodation setting that is more expensive than the amount identified for the provision of accommodation in their personal budget, top-up arrangements can be put in place to facilitate this. For more information on choice of accommodation and top-ups, refer to the council policy "[Residential and Nursing Homes Third Party Contributions \(Top-ups\) Policy](#)".

6.2.9. Instances may arise where individuals, particularly those ready to be discharged from hospital, insist they will only accept a placement in a chosen home or homes. If a place is available in that home, they can use their right to choice; if there is no place they obviously cannot. In such cases a full discussion and appropriate risk assessment and risk management plan should be undertaken and the Council will try and offer satisfactory alternatives.

6.2.10. The council will ensure that at least one option is available and affordable within a person's personal budget and will try to ensure that there is more than one where possible.

6.3. **Guidance for expenditure for community-based packages**

6.3.1. Where a proposed support plan for community-based care exceeds the usual maximum expenditure of weekly costs of a care home placement (plus the potential of an additional agreed percentage (guideline up to 10%)) and both placements are identified as meeting assessed eligible needs, alternative ways of meeting needs will be explored. Where needs are capable of being met in two or more ways the council will fund the most cost effective placement.

- 6.3.2. The individual may wish to achieve their preferred method of support by supplementing the personal budget through their own private resources. The plan will be examined to see how needs can be met appropriately in less expensive ways, e.g. with the help of informal support. The council must be satisfied that the revised support plan is able to meet the agreed needs and appropriately manage risks. Where the community-based support plan cannot be agreed the social worker will look at care home placement with the individual and their representatives.
- 6.3.3. It is not intended that the council will force people into residential care but the council will not normally fund higher costs in the community than it would for the equivalent costs within residential care. This is a reasonable starting point for meeting needs in the community and working with individuals to develop a package of care that balances choice, cost and risk, in a context that recognises that choice is not limitless. The council will not apply a blanket amount (cap) and will always be clear how eligible needs can be appropriately met. Where needs can be met in two or more ways, personal preferences will be taken into account but the council will take into account its resources when making any decision
- 6.3.4. There may be times when the council cannot safely meet a person's needs in the community. If there are very significant risks it may be that residential care is the most appropriate way to meet that need. In this context people's best interests will be considered under the Mental Capacity Act 2005 where necessary.
- 6.3.5. This guidance is not intended to set a 'cap' that applies to all individuals because this would be unlawful. The council will meet its statutory duty to meet assessed eligible needs in line with personalisation principles in the most cost effective way. However this does not mean that it is required to meet an individual's preference as to how their needs are to be met, if to do so would mean the council is required to fund a more expensive package when an appropriate alternative is available at lower cost.

6.4. **Services for carers**

- 6.4.1. Services provided primarily for carers will be separately identified from any provision for the cared for person via a carers assessment and carers personal budget.
- 6.4.2. The council commissions a range of services to meet eligible assessed needs that support carers health and wellbeing and enable them to continue in their caring role.
- 6.4.3. When assessing and meeting the needs of carers and individuals with care and support needs, the council will adopt a "think family" approach, which aims to respond to the needs of both the individual and carer equally.

6.5. **Support and services not normally covered by personal budgets**

- 6.5.1. The following costs are not included in the RAS calculation of an indicative budget – leisure activities, college courses, veterinary bills, securing a property and transport to an activity or service, *unless those activities or costs represent an appropriate means of meeting eligible unmet needs for care and support.*
- 6.5.2. If the individual chooses to take their personal budget as a direct payment, refer to the Adult and Wellbeing Direct Payments Policy for guidance use of direct payments.
- 6.5.3. The council does not have responsibility for provision of NHS services such as patient transport.

6.6. **The position of NHS services**

- 6.6.1. All NHS health care is free at the point of delivery; there is no concept of “top-up” fees for individual contributions to fund elements of NHS care. The NHS must ensure that (where appropriate) individual need is assessed and eligibility criteria for Continuing NHS health care are applied to determine which elements of an individual’s needs should be met by the NHS.
- 6.6.2. In providing care packages to meet the assessed health need of an individual each Clinical Commissioning Group (CCG) has to be mindful of its overall responsibilities to provide care for the whole population within its available resources. Therefore the appropriate care packages for each individual must be decided upon on a case by case basis.
- 6.6.3. The NHS does not have to provide care in the community if it is more expensive than providing care in a residential setting. However there should be clear evidence that a full range of options for care have been explored in partnership with the individual and their carer. This should include clear evidence that patient choices and shared risk management approaches have been considered as a means of meeting individuals’ preferences within available resources.

6.6.4. For all service users, where the guidance on upper cost parameters of community based care may be relevant, it must be ensured that screening for eligibility for Continuing NHS Health Care has taken place.

6.7. **Treating each case differently**

6.7.1. Exceptions may be required in individual cases. Factors that will be taken into account in the exercise of discretion include the potential for further reablement and the eventual reduction of support needed, cultural issues requiring a specialist agency or exceptional family circumstances such as the separation of family members.

7. **Reviewing your needs**

7.1. The council has a statutory duty to re-assess each individual's support needs at least annually, and may do so more frequently if necessary. The review will be used to ensure that needs are being met and support is appropriate. Frequency of reviews will be agreed and included in the support plan. Individuals and carers are entitled to request a review of their overall situation in the interim should they wish to do so.

8. **Recording**

8.1. All community care processes per individual client is recorded on the council's electronic client record database. Adherence to the Data Protection Act 1998 and Freedom of Information Act 2000 is mandatory. For more information on case recording refer to the Council Policy "Care With Recording: Adult and Wellbeing Case Recording Policy and Procedures".

9. **Safeguarding**

9.1. If at any point the council has reasonable cause to suspect that an adult in its area is experiencing, or is at risk of, abuse or neglect, it must make enquiries, or cause others to do so.

For more information refer to Safeguarding adults: multi-agency policy and procedures for the West Midlands (currently under review).

9.2. The decision to carry out a safeguarding enquiry does not depend on the person's eligibility

10. Compliments, comments, complaints and disputes

10.1. Any dispute will follow the council compliments, comments and complaints process.

10.2. Individuals, their families or carers who wish to make a complaint, comment or complement should contact the Information Access Team, based at:

Herefordshire Council
Plough Lane,
PO Box 4
Hereford
HR4 0XH

11. Standards

11.1. Qualified Social Workers and Occupational Therapists are required to adhere to the standards set out by the Health and Care Professionals Council. For more information refer to www.hpc-uk.org/

Our appreciation goes to the following organisations and groups for their input in the development of this policy:-

- Herefordshire Clinical Commissioning Group
- Wye Valley NHS Trust
- 2Gether NHS Trust
- Services for Independent Living
- Herefordshire Carers
- Hereford Disability United
- Herefordshire's Making it Real steering group
- Adult social care staff
- Benchmarked other West Midlands Local Authorities

Appendix 1: Legislation & repealed legislation

Relevant legislation

- Care Act 2014 www.legislation.gov.uk/ukpga/2014/23/contents/enacted
- Children Act 1989 www.legislation.gov.uk/ukpga/1989/41/contents
- Children and Families Act 2014 www.legislation.gov.uk/ukpga/2014/6/contents/enacted
- Data protection Act 1998 www.legislation.gov.uk/ukpga/1998/29/contents
- Disabled persons (Employment) Act 1944 www.legislation.gov.uk/ukpga/Geo6/7-8/10
- Freedom of Information Act 2000 www.legislation.gov.uk/ukpga/2000/36/contents
- Health and Social Care Act 2012 [/www.legislation.gov.uk/ukpga/2012/7/contents/enacted](http://www.legislation.gov.uk/ukpga/2012/7/contents/enacted)
- Mental Capacity Act 2005 www.legislation.gov.uk/ukpga/2005/9/contents
- Mental Health Act 1983 [/www.legislation.gov.uk/ukpga/1983/20/contents](http://www.legislation.gov.uk/ukpga/1983/20/contents)

Repealed legislation

The following legislation will be replaced by the Care Act and will therefore **not apply from 1 April 2015**:

1. Repealed primary legislation

<ul style="list-style-type: none">• Carers (Recognition and Services) Act 1995• Carers (Equal Opportunities) Act 2004• Carers and Disabled Children Act 2000• Chronically Sick and Disabled Persons Act 1970• Community Care (Delayed Discharges etc.) Act 2003• Disabled Persons (Services, Consultation and Representation) Act 1986	<ul style="list-style-type: none">• Health Services and Public Health Act 1968• Health and Social Care Act 2001• Health and Social Services and Social Security Adjudications Act 1983• Local Authority Social Services Act 1970• National Assistance Act 1948• National Health Service Act 2006• National Health Service and Community Care Act 1990
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2. Repealed secondary legislation

- Approvals and directions under S.21(1) NAA 1948 (LAC (93)10)
- National Assistance (Assessment of Resources) Regulations 1992
- National Assistance Act 1948 (Choice of Accommodation) Directions 1992
- National Assistance (Residential Accommodation) (Relevant Contributions) Regulations 2001
- National Assistance (Residential Accommodation) (Additional Payments and Assessment of Resources) Regulations 2001
- Delayed Discharges (Mental Health Care) (England) Order 2003
- Delayed Discharges (England) Regulations 2003
- National Assistance (Sums for Personal Requirements) Regulations 2003
- Community Care (Delayed Discharges etc.) Act (Qualifying Services) Regulations 2003
- Community Care Assessment Directions 2004
- Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009
- NHS Continuing Healthcare (Responsibilities) Directions 2009
- Ordinary Residence Disputes (National Assistance Act 1948) Directions 2010

3. Cancelled statutory guidance

- Prioritising need in the context of Putting People First: a whole system approach to eligibility for social care (2010)
- Fairer Charging Policies for Home Care and other non-residential Social Services (2013) and LAC (2001)32
- Charging for residential accommodation guidance (CRAG) (2014)
- Guidance on direct payments for community care, services for carers and children's services (2009)
- The Personal Care at Home Act 2010 and Charging for Reablement (LAC (2010)6)
- Charging for residential accommodation guidance (CRAG) (2014)
- Identifying the ordinary residence of people in need of community care services (2013)
- Transforming Adult Social Care (LAC (2009)1)
- Guidance on National Assistance Act 1948 (Choice of Accommodation) Directions 1992 and National Assistance (Residential Accommodation) (Additional Payments) Regulations 2001 (LAC (2004)20)
- The Community Care (Delayed Discharges etc.) Act 2003 guidance for implementation (LAC (2003)21)
- Fair Access to Care Services (FACS): Guidance on eligibility criteria for adult social care (2002)
- Carers and people with parental responsibility for disabled children (2001)
- No secrets: guidance on developing and implementing multi-agency policies and procedures to protect vulnerable adults from abuse (2000)
- Caring for people: community care in the next decade and beyond (1990)

Appendix 2: Specified outcomes for eligibility

For **adults with care and support needs**, the specified outcomes referred to in the national eligibility criteria, of which 2 or more must be unable to be achieved, are as follows:

Specified outcome	Examples of how the council should consider each outcome (<i>not an exhaustive list</i>)
(a) Managing and maintaining nutrition	Does the adult have access to food & drink? Is the adult to prepare and consume the food and drink?
(b) Maintaining personal hygiene	Is the adult able to bathe/wash themselves? Can they launder their clothes?
(c) Managing toilet needs	Can the adult access the toilet unaided? Can they manage their toilet needs?
(d) Being appropriately clothed	Can they to dress themselves & be appropriately dressed? Are they able to dress appropriate for different weather conditions
(e) Being able to make use of their home safely	Can the adult access their property & move around home safely? E.g. are there steps up to property, can they use kitchen facilities, access the bathroom? Fire safety risks?
(f) Maintaining a habitable home environment	Is the home sufficiently clean and maintained to be safe? Do they need support to sustain their occupancy & maintain amenities such as water, electricity & gas?
(g) Developing or maintaining family or personal relationships	Is the adult lonely or isolated? Do their needs prevent them maintaining/developing personal relationships?
(h) Accessing and engaging in work training education or volunteering	Does the adult have the opportunity to apply themselves & contribute to society through work, training, education or volunteering? Can they physically access facility/support to participate?
(i) Making use of necessary facilities/services in the local community including public transport and recreational facilities or services.	Can they get around community safely & use facilities such as public transport, shops or recreational facilities? Is support needed to attend healthcare appointments (note the council is not responsible for provision of NHS services such as patient transport)
(j) Carrying out any caring responsibilities the adult has for a child	Does the adult have any parenting or caring responsibilities?

An adult is to be regarded as being unable to achieve an outcome if the adult:

- a) is unable to achieve it without assistance;
- b) is able to achieve it without assistance but doing so causes the adult significant pain, distress or anxiety;
- c) is able to achieve it without assistance but doing so endangers or is likely to endanger the health or safety of the adult, or of others; or is able to achieve it without assistance but takes significantly longer than would normally be expected

Appendix 3: Specified circumstances for carers eligibility

For **carers**, the specific circumstances referred to in the national eligibility criteria for carers are as follows:

- (a) the carer's physical or mental health is, or is at risk of, deteriorating; (b) the carer is unable to achieve any of the following outcomes:
- i. carrying out any caring responsibilities the carer has for a child; ii. providing care to other persons for whom the carer provides care;
 - iii. maintaining a habitable home environment in the carer's home (whether or not this is also the home of the adult needing care);
 - iv. managing and maintaining nutrition;
 - v. developing and maintaining family or other personal relationships; vi. engaging in work, training, education or volunteering;
 - vii. making use of necessary facilities or services in the local community, including recreational facilities or services; and
 - viii. engaging in recreational activities.

A carer is to be regarded as being unable to achieve an outcome if the carer:

- a) is unable to achieve it without assistance;
- b) is able to achieve it without assistance but doing so causes the carer significant pain, distress or anxiety; or
- c) is able to achieve it without assistance but doing so endangers or is likely to endanger the health or safety of the carer, or of others.

Appendix 4: How is the resource allocation established?

The Resource Allocation System (RAS) translates unmet support needs into a resource budget. The purpose of the system is to provide an equitable and transparent way of allocating resources. The RAS is based on the assessment of an individual's needs, the eligibility of those needs and the availability of resources to meet those needs.

The information collated during assessment of the individual's needs will be recorded on the overview assessment form. A copy of the overview assessment is shared with the individual and will also include a summary which clearly sets out their eligible outcomes from the following:

- Your ability to maintain a habitable home environment
- Your ability to manage and maintain your nutrition
- Your ability to managing toilet needs
- Your ability to maintain personal hygiene
- Your ability to be appropriately clothed
- Your ability to develop and maintain family or other personal relationships
- Your ability to make use of necessary facilities or services in the local community
- Your ability to access and engage in work, training, education or volunteering
- Your ability in carrying out any caring responsibilities for a child
- Your ability to be able to make use of your home safely

For each of the areas listed above an answer, or set of answers, is recorded on the assessment that reflects the individual's situation. These answers are then put into a formula designed to provide an accurate estimate of the amount of money that may be required to meet eligible needs. The formula was developed by looking at the scores and support packages of thousands of people from around the country and working out the best method of making an accurate prediction of the costs of meeting people's needs.

The formula gives different 'weightings' to different answers in the assessment. For example, if an individual needs help with dressing in the morning, the formula would apply a different weighting if the need was determined as 'Unable to manage – needs **one** other to undertake' than it would do if your need was determined as 'Unable to manage – needs **two** others to undertake'. The formula then looks at whether some of the needs could be met at the same time (how the support required for one task could also cover other tasks). For example, if someone needs help with dressing in the morning and preparing a meal in the evening and also needs someone to drop by once or twice a day to make sure they are safe then these

checks could be done in the morning at the same time as dressing and in the evening along with helping to prepare the meal. So, in this situation the individual would not need any additional money in their budget to ensure they stay safe. The formula then combines all of the different areas in which support is needed and allocates an appropriate amount of money to help you achieve the individual's outcomes across all of these areas.

Where an individual has family, friends or neighbours that are providing some or all of the (unpaid) support, the assessment should capture to what extent they are able and willing to continue providing support. The recorded levels of 'ongoing' support they will provide in different areas are then used to adjust the indicative personal budget accordingly.

If an individual receives support from family, friends or neighbours, their assessment should also capture whether or not they will require regular breaks in order for them to continue in their caring role. If this is the case, extra money may then be added into their indicative personal budget to provide these breaks, depending on the amount of support they provide and the impact on their own independence.

The indicative personal budget enables the Care and Support planning process to begin. The indicative budget must be validated before it can be physically allocated as the final personal budget. This validation is undertaken following agreement of the support plan (and brokerage of the support required if the personal budget is used as a managed account held by the council).

The RAS is aligned to the council's medium term financial strategy and the council will review the RAS annually, or as and when circumstances arise, to ensure it remains equitable and transparent and allows service users to meet their assessed needs.

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		Date
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0.03	Draft	20150306	Care Act refresh	Legal compliance	All
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0.05	Draft	20150312	Removal of appendix: transformation of ASC in Herefordshire	No longer relevant	Appendix 2
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