



THE 3 R'S PROJECT FACTSHEET

**Determining eligibility
for support and the
statutory assessment
of need**

If the local authority believes an individual may be in need of support, they will arrange for a social worker to be allocated to assess whether or not the person has eligible needs. This FACTSHEET sets out some of the issues to be taken into consideration when an individual is to have their needs assessed.

The general principles of the assessment

When an assessment of a person's needs is carried out, the focus must be on supporting that person to identify and achieve their personal 'outcomes'. The outcomes are goals that the person hopes to achieve from their support. This recognises that social work policy and practice has moved away from providing people with services, and should concentrate on allowing people to focus on the difference to be made to their life. This is done through completing an 'outcomes focussed assessment'.

The person being assessed should be an equal partner in identifying and determining the support required to achieve their outcomes. This is a move away from identifying deficits, and focussing instead on the strengths and abilities of the person being assessed. This change, alongside



the emphasis on choice, control and flexibility, should inform the local authority's approach to assessment across adult, children and carers' services.

The general principles of collaboration, involvement and informed choice are set out in the self-directed support, specifically the Social Care (Self-directed Support) (Scotland) Act 2013 (referred to as the 2013 Act).

Collaboration

The authority must collaborate with a supported person in relation to the assessment. It should work with people, and aim towards the identification, development and subsequent delivery of their outcomes. It should encourage the active contribution of the person as a partner in working towards a shared goal.

Involvement

The person must have as much involvement as they wish to have in the assessment.

Informed Choice

The person being assessed must be provided with any assistance that is reasonably required to enable them to express any views about the process.



Determining a person's eligibility for support

The initial purpose of the assessment is to identify the person's needs with a view to determining whether the authority has an obligation to meet those needs. In other words, it is used to determine the *eligibility* for support. For an adult, before they qualify for any support, the local authority must decide that the person is a 'person in need'. This means that they are in need because of frailty, or age, or require support because of illness, mental disorder or physical disability.

In relation to adults, the local authority will choose to apply their own, local, eligibility criteria in order to determine whether a person's needs are *eligible* needs. It is a matter for the individual local authority to determine the detail of its approach. Where the person is over 65 and eligible for personal care, or where the person is eligible for nursing care, the local authority must take account of the relevant national eligibility set out opposite:

National eligibility framework for adults

Critical Risk

Indicates that there are major risks to the person's independent living or health and wellbeing likely to require immediate or imminent provision of social care services (high priority).

Substantial Risk

Indicates that there are significant risks to the person's independence or health and wellbeing likely to require immediate or imminent provision of social care services (high priority).

Moderate Risk

Indicates that there are some risks to the person's independence or health and wellbeing. These may require provision of some social care services managed and prioritised on an on-going basis or they may simply be manageable over the foreseeable future without service provision, with appropriate arrangements for review.

Low Risk

Indicates that there may be some quality of life issues, but a low risk to the person's independence or health and wellbeing with very limited, if any, requirement for the provision of social care services. There may be some need for alternative support or advice and appropriate arrangements for review over the foreseeable future or longer term.

While originally developed for older people, the criteria were designed to apply consistently across all adult care groups.

In carrying out the assessment, the local authority should take account of how the person's needs and risks might change over time, and should support the relevant professionals to consider the impact of failure to intervene, and whether this would lead to escalation of need in the future. It should take a well-rounded approach, recognising that risks to participation in society (living an ordinary life, engaging with others) are valid alongside risks to dignity (personal care, "life and limb" support).

The local authority can take into account its overall resources when determining eligibility criteria. However, once it has decided that a person's needs fall within their eligibility criteria (they have passed a certain threshold), the authority then has a duty to meet those needs. It should also consider how urgently service provision is called for, and what interim measures may be appropriate pending any long-term support.

If, after assessment, it is determined that a person does not meet the eligibility for funded support or services they should still be provided with information and advice about alternative forms of assistance.

The local authority's response to need should take into account the requirement for continuing review of the person's needs.

Further exploration of the person's needs and outcomes – resources

The local authority should ensure that when they look at a person's needs and outcomes, they also consider all of the possible resources available to a person, both non-financial and financial. This could be support through friends, relatives and neighbours; known collectively as 'circles of support'. These additional assets should run alongside and be complementary to the provision of support. They should not be seen simply as a replacement for funded support.

Where the person is considered to be eligible for support, the local authority will wish to consider a fair and transparent means to determine the appropriate level of funding. This is known as 'resource allocation'.

There is no single approach to resource allocation, nor any single method recommended by Scottish Government. There are several models the local authority can use to determine the cost of the service, such as the 'equivalence model' or 'resource allocation system'. In addition, decisions about budgets may be made on a case-by-case basis. Regardless of the specific approach to allocating resources, the authority should take steps to inform the person of the amount of support available under each of the options and to explain clearly how the resource allocated has been decided on.

The local authority should ensure that the support and the level of funding meets the person's eligible needs.

Children and families

Under the 'Getting it Right For Every Child' (GIRFEC) approach, each child who requires support, whether from a single universal service or from several services, should have this support co-ordinated and recorded within a *single plan for the child*.

Where an assessment takes place, an approach based on personal outcomes will focus on the views of the child and the family as to what they want to achieve. It will help to ensure that the social care assessment can contribute to the single plan for the child. When undertaking the assessment, the local authority should have regard to the SHANARI framework (Safe, Healthy, Achieving, Nurtured, Active, Respected/Responsible and Included).

Under the 2013 Act, if the child is 16 or older then s/he will have the right to make decisions about their own support and to choose how they wish to arrange this support. If the child is under 16 years of age, then the person with parental responsibility for the child (called the appropriate person in the 2013 Act) should make decisions about the child's support. The *appropriate person* should have regard to the views of the child (depending on their age and maturity) in making key decisions about their support.

Where the child is about to move onto adult services, the local authority should advise the family about legal routes available to ensure the appropriate person continues to have the power to make decisions about their support. If the child lacks capacity, now or may lack capacity in the future, the local authority should make the family aware of the ability to apply to court for a Guardianship Order, and point them to the Office of the Public Guardian (www.publicguardian-scotland.gov.uk).

Carers' assessments

Currently a carer who provides a *substantial amount* of care on a *regular basis* has the right to request an assessment of their own needs. This applies to both carers of adults and carers of children, and by law the local authority must comply with the request. The local authority is obliged to inform the carer of their right to an assessment. The assessment should involve collaboration between the carer and the professional with a focus on personal outcomes. The law as it stands does not define 'substantial' and 'regular' but in practice, this has come to reflect the threshold required to receive Carers Allowance, i.e. caring for 35 hours a week or more. Local authorities may choose to undertake a carers' assessment even when this threshold is not met if the health and wellbeing of the carer is deemed at risk due to the impact of their caring role.

The Carers (Scotland) Act 2016 will come into force on 1 April 2018. This removes the regular and substantial element, enabling all carers to request an assessment of need. Eligibility for services for carers under the new legislation will be determined locally by local eligibility criteria to be set by each local authority.

If a carer does not meet the threshold for an assessment, s/he can still benefit from local support and the local authority should still provide information on its availability. This can include a local carers' centre, whether for adults or children.

If you would like further clarification on any of the information contained in this FACTSHEET, please contact the 3 R's Project on 0131 467 2994 or email them at:

Janet@mecopp.org.uk

Jennifer@mecopp.org.uk