

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Care and Support

Assessing needs

Section 13 – The eligibility criteria

110. Having carried out a needs assessment or a carer’s assessment, this section requires local authorities to determine whether a person’s needs are “eligible” needs. In other words, whether they meet the eligibility criteria which are to be set out in regulations. “Eligible” needs are those needs of a level or nature which the local authority may be under a duty to meet. The use of the word “eligible” here refers only to the person’s needs, not to their financial resources or other circumstances.
111. As *subsection (1)* sets out, provided that a local authority is satisfied on the basis of an assessment that an individual has any needs, of whatever level, the first requirement following an assessment is for the local authority to establish whether those are needs which the local authority must meet. Everyone will receive a written record of that decision, whether their needs are eligible or not.
112. If the person or carer does have eligible needs, *subsections (3) and (4)* require the local authority to establish the adult’s ordinary residence and consider the support (of whatever form) that could be provided to meet those needs.
113. *Subsection (3)(b)* requires the local authority to ascertain whether the adult wants to have their needs met by the local authority. This allows individuals who do not want the local authority to meet their needs to take an independent personal budget (as set out at section 28) and start their care account. This duty is not replicated for carers in *subsection (4)*, as the cap on costs does not apply to carers.
114. Where the individual or carer’s needs do not meet the eligibility criteria, *subsection (5)* requires the local authority to provide them with advice on what services are available in the community to meet the needs they do have and to prevent or delay their need for care and support. This will ensure people are helped to access local services, which may be provided by the local authority or by another organisation.
115. *Subsection (6)* provides for the Secretary of State to set out the eligibility framework in regulations. The regulations will set out how a local authority must go about determining whether an adult’s needs meet the eligibility criteria. It provides the power for Secretary of State to set out which needs are “eligible” needs, to enable local authorities to make the determination required in *subsection (1)*.
116. *Subsection (7)* specifies that a person’s needs will meet the eligibility criteria if they are of a description specified in the regulations. The regulations will prescribe the minimum level of needs which local authorities must meet, subject to the conditions set out in section 18. Local authorities can decide to arrange services to meet needs at a lower level.