

Assessment & Eligibility Policy for Adults in need

London Borough of Barnet

POLICY COVER SHEET

POLICY NAME	Assessment and Eligibility (Adults in need) Policy		
Document Description	This document sets out Barnet Council's approach to carrying out assessments for adults in need and its eligibility policy pursuant to the Care Act 2015.		
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Status (Live/ Draft/ Withdrawn)	Live	Version	Final V1.0
Last Review Date	March 2015	Next Review Due Date	April 2016
Approval Chain:	Adults and Safeguarding Committee	Date Approved	19 March 2015

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1. Introduction

The Care Act 2014 places a duty on local authorities to assess adults' needs for care and support and determine whether any of the needs are eligible for care and support. Barnet Council's policy is to meet those needs that meet the national eligibility criteria. This document sets out Barnet Council's approach to carrying out needs assessments and making eligibility determinations.

The Council's needs assessments will be person-centred, proportionate and will involve key individuals in addition to the adult concerned. This assessment will help people to understand the needs they have, how these impact on their wellbeing, the outcomes they wish to achieve and whether the provision of care and support could contribute to achieving those outcomes.

This assessment will form the basis of the eligibility determination i.e. whether a person's assessed needs are eligible for care and support and what could be done to meet those needs. This policy sets out the new national eligibility criteria which Barnet Council will apply when making this determination.

2. Key definitions and principles applicable to this policy

2.1 Adult

An adult means a person aged over 18.

2.2 Carer

A carer means an adult who provides or intends to provide care for another adult, however, an adult will not normally be regarded as a carer where care is being provided under a contract (e.g. for employment) or as part of voluntary work¹. A carer may be a relative or friend of the adult who may have care and support needs.

2.3 Assessments

A 'needs assessment' means the assessment in relation to an adult who may have needs for care and support.

A 'carer's assessment' means the assessment in relation to a carer who may have needs for support in relation to or as a result of their caring role.

¹ S10(3) Care Act 2014 subject to s10(9) and s10(10) Care Act 2014

2.4 Eligibility criteria

These are the conditions that must be satisfied when deciding whether care and support needs identified in the assessment must be met with the provision of care and support.

2.5 Wellbeing and key guiding principles

Wellbeing is defined in section 1 of the Care Act 2014. Promoting an individual's wellbeing is a core principle when undertaking assessments and making eligibility determinations. **'Wellbeing'** includes:

- (a) personal dignity (including treatment of the individual with respect),
- (b) physical and mental health and emotional wellbeing,
- (c) protection from abuse and neglect,
- (d) control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided),
- (e) participation in work, education, training or recreation,
- (f) social and economic wellbeing,
- (g) domestic, family and personal relationships,
- (h) suitability of living accommodation and
- (i) the individual's contribution to society.

The **key principles**² in the Care Act to which the Council will have regard when carrying out assessments and making eligibility determinations are set below:

- (a) the importance of beginning with the assumption that the individual is best-placed to judge the individual's well-being;
- (b) the individual's views, wishes, feelings and beliefs;
- (c) the importance of preventing or delaying the development of needs for care and support or needs for support and the importance of reducing needs of either kind that already exist;

² Section 1(3) Care Act 2014

- (d) the need to ensure that decisions about the individual are made having regard to all the individual's circumstances (and are not based only on the individual's age or appearance or any condition of the individual's or aspect of the individual's behaviour which might lead others to make unjustified assumptions about the individual's well-being);
- (e) the importance of the individual participating as fully as possible;
- (f) 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;
- (g) the need to protect people from abuse and neglect;
- (h) 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.

3. Legal framework

This policy is written in accordance with the statutory framework and guidance. The relevant provisions are set out in **Appendix 1** of this document.

The duty to assess is triggered by appearance of need for care and support regardless of the level of those needs or the adult's financial resources.

The eligibility criteria are defined in the Care and Support (Eligibility Criteria) Regulations 2014.

The general duty to promote an individual's wellbeing will apply when discharging all care and support functions.

4. Assessing adults in need

4.1. When an assessment will be carried out

Where it appears that an adult may have needs for care and support, the Council will assess whether the adult does have needs for care and support and if so, what those needs are. This is regardless of the level of those needs or an adult's financial resources.

4.2. Purpose of assessment

The purpose of the 'needs assessment' is to identify needs and assess:

- (a) The impact of the adult's needs for care and support on their wellbeing,
- (b) The outcomes that the adult wishes to achieve in day to day life, and

- (c) Whether and to what extent the provision of care and support could contribute to the achievement of those outcomes.

The Council's aim is to gain a full picture of an individual's needs so that an appropriate response at the right time can be provided, which may range from provision of information and advice to arranging services to meet eligible needs.

The Council will therefore seek to establish the total extent of needs and take a holistic view of the adult's needs considering their strengths as well as other support that might be available in the community to meet needs. The assessment will capture all care and support needs, including any care and support being provided by a carer. Consideration will also be given as to how the adult, their support network and the wider community can contribute towards meeting the outcomes the adult wishes to achieve.

4.3. Who will be involved in the assessment

The assessment will involve:

- (a) the adult,
- (b) any carer the adult has,
- (c) any person whom the adult asks the Council to involve or where the adult lacks the capacity to ask the Council to do that, any person who appears to the Council to be interested in the adult's welfare,
- (d) an independent advocate where the adult has substantial difficulty in being involved in the assessment process³,
- (e) an Independent Mental Capacity Advocate where the adult lacks capacity⁴.

4.4. Method of assessment

The assessment method will be tailored to the circumstances, needs and wishes of the individual so that the most appropriate and proportionate method is selected. The Council recognises that the individual is best placed to understand the impact of their condition(s) on their outcomes and wellbeing and it will ensure that the individual is able to participate in the assessment process as effectively as possible.

³ The Care and Support (Independent Advocacy) Regulations 2014

⁴ Mental Capacity Act 2005

When deciding on the most appropriate method of assessment the Council will have regard to the adult's wishes and preferences, their desired outcomes from the assessment and the severity and overall extent of the adult's needs⁵. For example, an individual with more complex needs will require a more detailed assessment involving appropriate professionals, whereas a person with less complex needs may require a less intensive response.

The Council will take into account relevant history to get a complete picture of an individual's needs in those cases where the individual's needs fluctuate over time. This is to ensure that the assessment properly establishes the individual's needs.

The method of assessment could include but is not limited to:

- A face to face assessment between the adult and assessor;
- A supported self-assessment (using the same materials used for a face to face assessment but completed by the adult and assured by the local authority as an accurate reflection of the adults' needs by consulting relevant professionals or people who know the adult with their consent);
- An online or phone assessment (for less complex cases or where the adult is already known to Barnet Council and there is a change in needs or circumstances);
- A joint or integrated assessment involving relevant professionals from relevant agencies or organisations to bring together all of the individual's needs and avoid multiple assessments (for example, where shared expertise is required);
- A combined assessment (for example combining an adult's assessment with a carer's assessment so that interrelated needs are properly captured and the process is as efficient as possible).

4.5. Information about the assessment process

From the very first contact with the Council, the individual being assessed will be provided with as much information as possible about the assessment process in a suitable accessible format. This will include a list of topics, subjects or questions that will be covered in the assessment and details of what can be expected during the assessment process with regard to:

- format
- timescales
- complaints process

⁵ Regulation 3 of the Care and Support (Assessment) Regulations 2014

- access to independent advocacy

This will enable adults to prepare for the assessment and really consider what their needs are and the outcomes they seek to achieve. For adults with severe communication needs (for example, adults with profound and multiple learning disabilities, autistic spectrum disorder or those who are deaf or blind) the Council will ensure this information is in a suitable accessible format or that support is available to enable such adults to engage in the assessment process.

4.6. Who will carry out the assessment?

Appropriately trained assessors with the right skills, knowledge and competence will carry out needs assessments. Assessors will ensure that the assessment process identifies the person's needs, their desired outcomes and how they impact on their wellbeing. They will also consider and advise on what universal services might help improve their wellbeing.

For particularly complex cases involving multiple needs, an assessor may require the support of another expert (s) to carry out the assessment. Another expert may need to be consulted if the assessor does not have the required level of expertise with regard to particular conditions, for example, autism or mental health. This will be decided on a case by case basis taking into account the particular condition and complexity of needs of the individual. If it is decided that another expert is required, this expert may be consulted, before or during the assessment.

4.7. Specialist assessments for individuals who are deafblind

If an assessment relates to an individual who is deafblind, a specialist assessment will be carried out by an assessor who has had specific training and expertise in this regard⁶. 'Deafblind' means where an individual has combined sight and hearing impairment which causes difficulties with communication, access to information and mobility. This will include people with a progressive sight and hearing loss⁷. The type and degree of specialism will be determined on a case by case basis according to the extent of the condition and communication needs. The Council will ensure that the assessor has any relevant information it has about the individual being assessed.

Where the assessor identifies there is a risk of the deafblindness deteriorating, the assessor in considering future needs as well as current needs may advise on alternative forms of communication before the condition deteriorates to the extent that the current form of communication is no longer suitable.

⁶ The assessor will have training of at least QCF or OCN level 3, or above where the person has more complex needs

⁷ Care and support for deafblind children and adults policy guidance, December 2014 and Think Dual Sensory, Department of Health, 1995

In any event the assessor will ensure that the person being assessed is involved as far as possible and their needs, outcomes and impact of needs on their wellbeing are accurately identified.

Where a person has a condition affecting communication, such as autism, blindness or deafness the assessor will make arrangements for the provision of an interpreter if appropriate. A family member or family carer will only be used as an interpreter in such circumstances if it is considered appropriate by the assessor and any relevant experts or professionals.

Where the adult being assessed lacks capacity an independent interpreter will be used unless it is considered appropriate and in the adult's best interest for a family member or family carer to be used. Where assessments are delegated to another person, body or organisation, the Council will ensure that assessment requirements are met in compliance with the Care Act 2014, relevant Regulations and Guidance.

4.8. Independent advocacy

The Council will arrange for an independent advocate to facilitate the involvement of the adult being assessed where two criteria are met:

- The adult would have substantial difficulty in being fully involved in the assessment, and
- There is no appropriate individual available to support and represent the adult's wishes who is not paid or professionally engaged in providing care or treatment to the adult or their carer.

In determining whether a person has a substantial difficulty in being involved with the assessment, care planning or care review processes, the Council will consider the following four criteria:

- Whether the individual understands relevant information;
- Whether the individual is able to retain information;
- Whether the individual is able to weigh up information, in order to fully participate fully and express preferences for or choose options; (for example weighing up advantages and disadvantages of moving into a care home);
- The individual's ability to communicate their views, wishes and feelings.

4.9. Supported self-assessments

This is an assessment carried out jointly by the adult with care and support needs and the Council. The adult's wish to have a supported self-assessment and whether

he or she has the capacity⁸ to do so will be ascertained at the outset by the Council. If the adult does wish to have a supported self-assessment and does have capacity the Council will carry out a supported self-assessment, provide relevant information and an independent advocate or specialist (for example, for someone who is deafblind) as appropriate.

4.10. Refusal of assessment

Where an adult refuses an assessment the Council will not carry out an assessment unless the following circumstances apply:

- The adult lacks capacity to refuse the assessment and carrying out the assessment would be in their best interest;
- The adult is experiencing, or is at risk of, abuse or neglect;

Where an adult refuses an assessment but subsequently requests one, the Council will carry out an assessment.

Where an assessment has been refused by the adult and the Council establishes that the adult's needs or circumstances have changed, a further offer to carry out an assessment will be made. If the adult continues to refuse, the Council will not carry out an assessment unless the adult concerned lacks capacity to refuse the assessment and carrying out the assessment would be in their best interest or the adult is experiencing, or is at risk of, abuse or neglect.

4.11. Safeguarding concerns

When carrying out an assessment and considering the impact of the adult's needs on their wellbeing, if it appears that the adult is experiencing or is at risk of, abuse or neglect, the Council will carry out a safeguarding enquiry. The Council will decide with the adult in question what action, if any, is necessary and by whom. Barnet Council follows the London-wide multi-agency safeguarding adult procedures (reference) and will continue to follow these in their revised form following April 2015.

4.12. Record of assessment

Following an assessment, the adult to whom the assessment relates, will be given a record of their needs assessment. A copy will also be shared with a carer or anyone else with whom the adult requests the Council share a copy with. Where an independent advocate, Independent Mental Capacity Advocate or independent Mental Health Advocate is involved in supporting the individual, the Council *will* keep them informed to enable them to support the individual in understanding the outcome of the assessment and the implications.

⁸ A reference to having or lacking capacity is to be interpreted in accordance with the Mental Capacity Act 2005:Section 80(2) Care Act 2014

4.13. NHS continuing healthcare

Where it appears to the Council whilst carrying out a needs assessment that the adult being assessed may be eligible for NHS continuing healthcare, the Council will make a referral to the relevant NHS Commissioner (such as NHS England or NHS clinical commissioning group) that has responsibility for that person⁹.

5. Eligibility

5.1. The national eligibility criteria

On the basis of the assessment, Barnet Council will determine whether the identified care and support needs for adults meet the eligibility criteria. The Council will apply the **national eligibility criteria** to determine this. The national eligibility criteria in the Care and Support (Eligibility Criteria) Regulations 2014 are set out in paragraph 5.2 below. Eligibility will not be determined until an assessment has been completed, unless the adult or carer has urgent needs.

5.2. The 3 conditions of the national eligibility criteria:

An adult's needs will meet the eligibility criteria if the 3 conditions below are met:

- (a) The adult's needs arise from or are related to a physical or mental impairment or illness;
- (b) As a result of the adult's needs the adult is unable to achieve two or more of the specified outcomes in paragraph 5.5 below; and
- (c) As a consequence there is, or is likely to be a significant impact on the adult's wellbeing.

5.3. Physical or mental impairment or illness

The first condition is that an adult's needs arise from a physical or mental impairment or illness. The Council will therefore consider at this stage whether the adult has a condition as a result of physical, mental, sensory, learning or cognitive disabilities or illnesses, substance misuses or brain injury.

5.4. Unable to achieve

The second condition is that the Council must consider whether the adult is 'unable to achieve' two or more of the outcomes defined in Regulation 2 of the Care and Support (Eligibility Criteria) Regulations 2014. An adult will be deemed unable to achieve an outcome where he or she:

⁹ NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012

- (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*
- (d) Is able to achieve it without assistance but takes significantly longer than would normally be expected.

5.5. Specified outcomes

The range of outcomes are set out in Regulation 2 of the Care and Support (Eligibility Criteria) Regulations 2014. To be eligible, an assessor would need to determine that the adult was unable to achieve two or more of these outcomes:

- (a) Managing and maintaining nutrition;
- (b) Maintaining personal hygiene;
- (c) Managing toilet needs;
- (d) Being appropriately clothed;
- (e) Being able to make use of the adult's home safely
- (f) Maintaining a habitable home environment;
- (g) Developing and maintaining family or other personal relationships;
- (h) Accessing and engaging in work, training, education or volunteering;
- (i) Making use of necessary facilities or services in the local community including public transport, and recreational facilities or services; and
- (j) Carrying out any caring responsibilities the adult has for a child.

5.6. Significant impact on wellbeing

The third condition that must be satisfied is that as a result of the adult's needs and being unable to achieve two or more of the outcomes in paragraph 5.5 above, there is, or is likely to be a significant impact on the adult's wellbeing. The meaning of wellbeing is set out in paragraph 2.5 above. The Council will consider whether the effect of being unable to achieve two or more of the above outcomes significantly impacts the adult's wellbeing.

'Significant' is not defined in the Care Act and will, therefore, be understood to have its ordinary meaning. The Council will consider whether the adult's needs and their

consequent inability to achieve two or more outcomes will have an important, consequential effect on their daily lives, their independence and wellbeing.

The Council recognises that needs may affect people differently because what may be important to one person's wellbeing may not be the same for another. It follows that circumstances which create a significant impact on the wellbeing of one person may not have the same impact on another. Every case will be considered individually.

5.7. Fluctuating needs

Where an adult has fluctuating needs, the Council will take into account the adult's circumstances over the relevant period in order to accurately establish the adult's level of need, taking into account any fluctuation, when determining whether the eligibility criteria are met.

5.8. Needs met by carers

The eligibility determination will be based solely on an adult's needs and how these impact on their wellbeing. Where an adult has a carer, the care they are providing will be recorded in the assessment and taken into account when considering whether the needs must be met. Following the eligibility determination the Council will consider what needs may be met by the carer in developing the care and support plan. Where needs met by carers are identified as eligible needs and the caring relationship subsequently breaks down, the Council will meet eligible needs without further assessment unless those needs have changed.

5.9. Record of eligibility determination

The Council will give the adult concerned a written record of the eligibility determination and the reasons for it.

5.10. Next steps following eligibility determination

Where any needs for care and support meet the eligibility criteria the Council will then take the following 3 steps:

- (a) *consider what could be done to meet those eligible needs*: this means the Council will consider potential support options and whether they may fall within the Council's contributions policy. How needs should be met will be determined by the care and support planning process.
- (b) *ascertain whether the adult wants Barnet Council to meet those needs or whether they wish to arrange alternative services to meet some or all of those needs*, and

- (c) *establish where the adult is ordinarily resident*: Barnet Council will be responsible for meeting eligible needs for care and support of adults who are ordinarily resident in Barnet (see paragraph 5.11 below).

5.11. How to determine an adult's ordinary residence

Ordinary residence is a concept used to determine which local authority is responsible for meeting eligible needs. It is not defined in the Care Act and is to be given its ordinary and natural meaning. 'Ordinarily resident' as defined in a leading case¹⁰ is still applicable and refers to a person's abode in a particular place or country adopted voluntarily and for settled purposes, whether for a short or long duration. Ordinary residence can be acquired as soon as a person moves to an area, if their move is voluntary and for settled purpose, irrespective of whether they own, or have an interest in a property in another local authority area.

In broad terms, where an adult is living in Barnet voluntarily and for settled purposes, whether for short or long duration, he or she will be ordinarily resident in Barnet. There are detailed provisions in the Care Act 2014 and the relevant Regulations (see Appendix 1 below) including when the deeming provisions apply, however, these are outside the scope of this policy.

Where a person lacks capacity to decide where to live, a best interest decision about their accommodation will be made under the Mental Capacity Act 2005.

5.12. Information, advice and preventative services for non-eligible needs

Where an individual does not have eligible needs the Council will provide written advice and information about what can be done to meet or reduce the existing needs or, what can be done to prevent or delay the development of needs for care and support for adults in the future. For further information see the Council's policies on Prevention and Information, Advice and Advocacy.

6. Equality Impact Assessment

This Assessment and Eligibility (Adults in Need) Policy is one of a number of policies flowing from the Care Act 2014. The Equalities Impact Assessment in respect of these policies can be found here: [EqA on Local Care Act policies](#).

¹⁰ Shah v London Borough of Barnet (1983)

7. Related Policies and Strategies

- Information, Advice and Advocacy Policy and Strategy
- Prevention Policy and Strategy
- Assessment and Eligibility (Carers) Policy
- Fairer Contributions Policy

8. Policy Status and Transition arrangements

This Assessment and Eligibility (Adults in Need) Policy will apply when the relevant commencement order brings into force relevant statutory provisions. It is intended that this commencement order will be made in April 2015.

A person assessed under the previous legislation will not necessarily be required to be re-assessed when the new duties come into force in April 2015 unless it is identified (through a review or otherwise) that a person's needs or circumstances have changed, in which case an assessment in line with the Care Act 2014 will be undertaken.

9. Review

This Assessment and Eligibility (Adults in Need) Policy will be reviewed annually or earlier as required by policy or legislation changes. Any major changes to this policy will be subject to consultation.

10. Contact Information / Further Guidance

Further advice and guidance is available from the Prevention and Wellbeing Team via email on preventionandwellbeing@barnet.gov.uk

Barnet Social Care Connect: <https://www.barnet.gov.uk/citizen-home/adult-social-care/social-care-connect>

Barnet Social Care Direct can be contacted via telephone on 0208 359 5000.

Appendix 1

Subject Area	Statutory framework	Regulations	Guidance
Wellbeing	Care Act 2014 Section 1		Care and Support Statutory Guidance issued under the Care Act 2014: Chapter 1: Promoting wellbeing
Assessment	Care Act 2014 Sections: 9-12	The Care and Support (Assessment) Regulations 2014	Care and Support Statutory Guidance issued under the Care Act 2014: Chapter 6: Assessment and eligibility
Eligibility	Care Act 2014 Section 13	The Care and Support (Eligibility Criteria) Regulations 2014	Care and Support Statutory Guidance issued under the Care Act 2014: Chapter 6: Assessment and eligibility
Ordinary Residence	Care Act 2014 Section 39-41	The Care and Support (Ordinary Residence) (Specified Accommodation) Regulations 2014 The Care and Support (Disputes Between Local Authorities) Regulations 2014	Care and Support Statutory Guidance issued under the Care Act 2014: Chapter 19: Ordinary residence Annex H (Ordinary residence)
Independent Advocacy	Care Act 2014 Section 67-68	The Care and Support (Independent Advocacy) Regulations 2014	Care and Support Statutory Guidance issued under the Care Act 2014: Chapter 7: Independent Advocacy