



# **North Tyneside Council**

## **Eligibility Criteria for Adult Social Care Services**

### **Policy**

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Contact Details	Haley Hudson <a href="mailto:haley.hudson@northtyneside.gov.uk">haley.hudson@northtyneside.gov.uk</a>
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## 1. Introduction

- 1.1. This policy is designed to demonstrate how North Tyneside Council operates its eligibility framework for access to Adult Social Care Services. This framework is operated under Fair Access to Care Services (FACS). In its delivery of this eligibility framework the Council will operate within the decision making arrangements of the Mental Capacity Act 2005.
- 1.2. The policy has been updated following the North Tyneside FACS publication in 2004 and its update in 2008 and the Department of Health's new guidance on eligibility for adult social care, published in 2010.
- 1.3. The policy applies to any person aged over 18 years who lives in North Tyneside or is eligible for a tenancy from the Council.

## 2. Background and Context

- 2.1. The Department of Health issued FACS guidance in a circular to Local Authorities with Social Service's Responsibilities (CSSR's) in May 2002, for implementation by April 2003. The guidance was issued by the Secretary of State under Section 7 (1) of the Local Authority Social Services Act 1970 and, as such, is mandatory.
- 2.2. The Department of Health issued new guidance in 2010 **Prioritising need in the context of *Putting People First: A whole system approach to eligibility for social care*** *Guidance on Eligibility Criteria for Adult Social Care, England 2010*'.
- 2.3. The Fair Access to Care Services (FACS) guidance was introduced to address inconsistencies across the country about who gets support, in order to provide a fairer and more transparent system for the allocation of social care services. The principle behind FACS is that there should be one single process to determine eligibility for social care support, based on risks to independence over time. Its aim was to provide a framework to enable Local Authorities to stratify residents' need for social care support in a way that is fair and proportionate to the impact it will have on individuals and the wider community, taking into account local budgetary considerations. Despite significant

developments in social care policy since 2003, the original principles guiding the FACS framework still hold firm.

- 2.4. There is parallel guidance for Local Authorities on the application of eligibility criteria for carers. This is contained in the Practice Guidance to the Carers and Disabled Children Act 2000. This closely models the criteria for individuals in need of social care services and Local Authorities should consider how to ensure the effective interaction between both sets of guidance.
- 2.5. ***Putting People First: a shared vision and commitment to the transformation of Adult Social Care*** sets out a vision for the radical reform of public services, promoting personalised support through the ability to exercise choice and control against a backdrop of strong and supportive local communities. Local Authorities need to ensure that the application of eligibility criteria is firmly situated within this wider context of Personalisation, including a strong emphasis on prevention, early intervention and support for carers.
- 2.6. To deliver the transformation envisaged in *Putting People First*, Local Authorities should have a strong focus on the overall well-being of their communities and ensure individuals are helped in a way that may prevent, reduce or delay their need for social care support. This shift in focus to community well-being and preventative approaches is also fundamental to the effective application of eligibility criteria. There is a growing evidence base that interventions can prevent or delay individuals entering the social care system and therefore produce better outcomes for individuals at a lower overall cost.

## **Links to other legislation and guidance**

### **2.7. The Mental Capacity Act**

The Mental Capacity Act 2005 provides a statutory framework for acting and making decisions on behalf of individuals who lack capacity to make particular decisions for themselves or who have capacity and want to make preparations for a time when they may lack capacity in the future. The Act establishes who has legal authority make decisions for a person lacking capacity, in what context those decisions can be made and the principles and procedures to be followed.

The Act sets out five statutory principles which must be adhered to when working with individuals who lack capacity to make certain decisions. Local Authorities must follow these principles carefully during assessment and supporting planning.

Local Authorities must also consider where the use of Independent Mental Capacity Advocates (IMCAs) and other advocates – such as dementia advocates or learning disability advocates – might be appropriate to ensure that as far as possible individuals are supported to be involved in the decision-making process. In some circumstances specified by the Act the Council is under a duty to instruct an IMCA.

## 2.8. Health

An individual aged over 18 years who requires care to be provided over an extended period of time to meet physical or mental health needs which have arisen as a result of disability, accident or illness (“continuing care”) may require services from NHS bodies and/or Local Authorities. Both NHS bodies and Local Authorities therefore have a responsibility to ensure that the assessment of eligibility for, and provision of, continuing care, takes place in a timely and consistent fashion. Where an individual is eligible for NHS Continuing Health Care (CHC), it is the responsibility of the ‘The Clinical Commissioning Group (CCG) of which the person’s GP is a member’ to provide appropriate services to meet those needs. However, this does not prevent a local authority from providing further services, as it sees fit. Reference should be made to the revised National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (July 2009) for more detail.

## 2.9. Children and Families

*Putting People First* (2007) highlights a need for a personalised Adult Social Care System, which will have: “Agreed and shared outcomes which should ensure people, irrespective of illness or disability, are supported to....sustain a family unit which avoids children being required to take on inappropriate caring roles.”

Local Authorities should identify any children or young people acting in a caring role and consider the impact on them. Community care packages should not rely on the input of an

inappropriate level of care from a child or young person. In this respect, in addition to the provision of adult care assessment and support, Local Authorities should be prepared to address their duty under the Children Act 1989 to safeguard and promote the welfare of children in their area. The Children Act 1989 also specifies the need to take the views and interests of children into account. In discharging these duties, it is essential that Local Authorities take account of the cumulative effects of responsibilities of family members within the household and where necessary, adult and children's services should work together to protect children from having to undertake unreasonable levels of care.

In the course of assessing an individual's needs, Local Authorities should recognise that adults who have parenting responsibilities for a child under 18 years may require help with these responsibilities.

## **2.10. Discrimination**

When drawing up eligibility criteria for social care, Local Authorities should have due regard to their race, gender and disability duties, which are broadly:

- a duty, when exercising their functions, to eliminate unlawful discrimination and to promote equality of opportunity, and good relations, between persons of different racial groups (section 71 of the Race Relations Act 1976);
- a general duty (section 49A of the Disability Discrimination Act 1995) to have due regard to:
  - the need to eliminate discrimination that is unlawful under the Disability Discrimination Act 1995;
  - the need to eliminate harassment of disabled persons that is related to their disabilities;
  - the need to promote equality of opportunity between disabled persons and other persons;

- the need to take account of disabled persons' disabilities even where that involves treating disabled people more favourably than other persons;
- the need to promote positive attitudes towards disabled persons; and
- the need to encourage participation by disabled persons in public life; and
- a general duty to have due regard to the need to eliminate unlawful discrimination and harassment and the need to promote equality of opportunity between men and women (section 76A of the Sex Discrimination Act 1975).

### **3. FACS Directives – Issued by Department of Health**

3.1. The policy guidance defines four levels of risk:

- **Critical**
- **Substantial**
- **Moderate**
- **Low**

3.2. Each Local Authority has to define a threshold within the eligibility framework to indicate for which levels of risk they will provide services. The community care needs of a person that produce risks above the threshold are identified as 'eligible needs' which must be met. Those needs that produce risks below the threshold will not usually be met.

3.3. In setting their eligibility criteria, Local Authorities should take account of their own resources, local expectations, and local costs. Local Authorities should take account of agreements with the NHS, including those covering transfers of care and hospital discharge. They should also take account of other agreements with other agencies, as well as other local and national factors.



- 3.4. Local Authorities should review their eligibility criteria in line with their usual budget cycles. Such reviews may be brought forward if there are major or unexpected changes, including those with significant resource consequences.
- 3.5. In North Tyneside, the threshold has been set so that only needs resulting in **substantial** or **critical** risk will be met.
- 3.6. The threshold will be applied to all assessments and reassessments for all adult client groups.
- 3.7. The policy guidance specifies 4 key factors of independence, which assessments should cover:
- Autonomy and freedom to make choices.
  - Health and safety including freedom from harm, abuse and neglect, and taking wider issues of housing and community safety into account.
  - The ability to manage personal and other daily routines.
  - Involvement in family and wider community life, including leisure, hobbies, unpaid and paid work, learning, and volunteering.
- 3.8. FACS policy guidance dictates that no factor is more important than any other. A risk to an individual's health does not take precedence over a risk to an individual's autonomy if the risk level is the same (ie critical or substantial), (although common sense dictates that a risk to life must be addressed under any circumstances).
- 3.9. Risk to independence should be considered in the longer term, not just the immediate term. This does not mean that because there is a fair chance a person's condition might be expected to deteriorate with time, they are eligible for services now. However, if there is clear evidence that without services, the person would be likely to move to a higher, qualifying risk level within the next three months, such a person could be assessed as having have eligible needs.

## 4. Carers

### Taking support from carers into account when determining eligibility

- 4.1. Determination of an individual's need for assistance should take account of the support which carers, family members, friends and neighbours are willing and able to offer. The determination of presenting needs should identify all community care needs, regardless of whether and how they are being met. If, for example, an individual cannot perform several personal care tasks, but can do so without difficulty with the help of a carer, and the carer is happy to maintain their caring role in this way, both currently and in the longer-term, then it is reasonable to record these as needs on the support plan, but that they are being fully met by the carer. Where an individual has needs and a carer is willing to meet some but not all of these, then the Council should provide a response to address those eligible needs, which are those needs not being met by the carer.
- 4.2. However, during assessment, no assumptions should be made about the level or quality of support available from carers because assumptions about how much support carers are willing or able to provide can lead to an underestimation of potentially eligible needs. An individual might be supported by a carer but still be eligible for community care services because of the nature of their needs and the level of support that both the individual and the carer require to maintain their independence and well-being.
- 4.3. Under the Community Care Directions 2004, carers are entitled to be consulted during an individual's assessment, if Local Authorities think this appropriate. Local Authorities should involve and seek the agreement of carers throughout the process to ensure a realistic evaluation of the support they are able to provide and that the caring relationship is sustainable. These Directions also require that, where appropriate, carers are given information about the likely cost of services. Both of these requirements apply whether or not the carer wishes to have a separate carer's assessment.

## Assessing carers' needs

- 4.3 Certain carers have a right, under the Carers (Recognition and Services) Act 1995 and the Carers and Disabled Children Act 2000, to request an assessment of their needs *as carers*, independent of the needs of the person to whom they provide care. These are carers who provide, or intend to provide, a substantial amount of care on a regular basis. Carers' assessments have two main purposes. The first is to consider the sustainability of the caring role. The second is to consider whether or not the carer works or wishes to work and whether or not the carer is undertaking or wishes to undertake education, training or leisure activities, and the impact that their caring role might have on these commitments or aspirations. Following an assessment, Local Authorities have a duty to consider whether or not to provide services to the carer.
- 4.4. Therefore, where it is identified that the well-being of a carer is at risk, that person should be offered an assessment. The Carers (Equal Opportunities) Act 2004 amended the existing carers' legislation to place a duty on Local Authorities to inform carers of their right to this assessment.
- 4.5. The Practice Guidance to the Carers and Disabled Children 2000 Act (paragraph 70) advises adult social care departments to grade the 'extent of risk to the sustainability of the caring role' into one of four categories – namely 'critical, substantial, moderate and low'. The grading system is a formal determination of the degree to which a carer's ability to sustain that role is compromised or threatened either in the present or in the foreseeable future by the absence of appropriate support. If the results of a carer's assessment indicate that the carer has needs which pose a risk to the sustainability of their caring role, the local authority has a duty to consider whether or not to provide services to the carer, but, subject to what is said below, discretion as to whether or not to provide them.

## 5. North Tyneside Eligibility Threshold

5.1. North Tyneside Council has set the threshold for Community Care Services to be provided to meet needs which are assessed as **substantial** or **critical**. This means that:

- Needs that arise from substantial or critical risks to independence will be eligible for funding.
- Needs that arise from low or moderate risks to independence will not be eligible for funding.

5.2. The threshold will be applied to all assessments and reassessments for all adult client groups. Previous assessments and eligibility decisions will be reviewed in line with this policy and guidance.

### 5.3. The eligibility framework is graded into four bands

#### Critical – when

- life is, or will be, threatened; and/or
- significant health problems have developed or will develop; and/or
- there is, or will be, little or no choice and control over vital aspects of the immediate environment; and/or
- serious abuse or neglect has occurred or will occur; and/or
- there is, or will be, an inability to carry out vital personal care or domestic routines; and/or
- vital involvement in work, education or learning cannot or will not be sustained; and/or
- vital social support systems and relationships cannot or will not be sustained; and/or
- vital family and other social roles and responsibilities cannot or will not be undertaken.

#### Substantial – when

- there is, or will be, only partial choice and control over the immediate environment; and/or
- abuse or neglect has occurred or will occur; and/or
- there is, or will be, an inability to carry out the majority of personal care or domestic routines; and/or
- involvement in many aspects of work, education or learning cannot or will not be sustained; and/or
- the majority of social support systems and relationships cannot or will not be sustained; and/or
- the majority of family and other social roles and responsibilities cannot or will not be undertaken.

#### Moderate – when

- there is, or will be, an inability to carry out several personal care or domestic routines; and/or
- involvement in several aspects of work, education or learning cannot or will not be sustained; and/or
- several social support systems and relationships cannot or will not be sustained; and/or
- several family and other social roles and responsibilities cannot or will not be undertaken.

#### Low – when

- there is, or will be, an inability to carry out one or two personal care or domestic routines; and/or
- involvement in one or two aspects of work, education or learning cannot or will not be sustained; and/or
- one or two social support systems and relationships cannot or will not be sustained; and/or
- one or two family and other social roles and responsibilities cannot or will not be undertaken.

## 6. Applying Eligibility Criteria Fairly and Consistently

6.1. This section of the policy details how the assessment process is applied in North Tyneside to ensure fair and transparent determination of FACS eligibility.

### First Contact

6.2. With reference to section 47(1) of the NHS and Community Care Act 1990, before starting a community care assessment the Council should first ascertain whether a person appears to be in need of community care services regardless of whether and how these needs are currently being met.

6.3. The Council should avoid screening individuals out of the assessment process before sufficient information is known about them. Removing individuals from the process too early could have a significant impact upon their well-being as well as potential economic costs, as it may lead to them re-entering the system at a later date with a higher level of need. To avoid such situations, the initial response to individuals seeking help should be effective. The Council should ensure that their practitioners make the appropriate judgements needed to steer individuals seeking support towards either a more formal community care assessment, a period of reablement or universal services, as appropriate to their particular needs and circumstances.

6.4. Any assessment of a person's financial situation must not be made until after there has been an assessment of needs, however at the beginning of the process the Council can make individuals aware that their individual financial circumstances will determine whether or not they have to pay a contribution towards the cost of the support provided to them. An individual's financial circumstances, however should have no bearing on the decision to carry out a community care assessment providing the qualifying requirements of section 47(1) of the NHS and Community Care Act 1990 are met. Neither should the individual's finances affect the level or detail of the assessment process.

6.5. The Council may provide an immediate response to individuals who seek social care support in emergencies and crisis situations. After this initial response, the individual should be informed that a

more detailed assessment will follow, and that support may be withdrawn or changed as a result of that assessment.

## **Assessment**

- 6.6. The assessment process involves collecting information about a person's needs and circumstances, and making sense of that information in order to identify eligible needs and decide what support is required to meet assessed eligible needs.
- 6.7. Before embarking on a community care assessment, practitioners should first ascertain the mental capacity of the person to make decisions relevant to the assessment and support planning process. If any other formal arrangements regarding care and welfare exist those should be taken into account during the assessment.
- 6.8. The Council should ascertain whether a person appears to be in need of community care services (as defined by National Health Service and Community Care Act 1990 Section 47(1) (a)). In exercising this judgment, Department of Health guidance states Local Authorities should set a low threshold, and avoids screening individuals out of the assessment process before sufficient information is known about them. Care should be taken that if screening out occurs at any point, or if, following assessment, the person is found not to be eligible, they are informed why they are not eligible and given any advice needed, including contact details for other agencies that may be able to assist.
- 6.9. To be eligible for assessment, a person must have needs arising from:
  - Frailty due to age
  - Physical disability or impairment or life-limiting illness
  - Sensory disability or impairment
  - Learning disability or impairment
  - Cognitive disability or impairment
  - Substance misuse

- Mental health difficulties
  - Caring roles in providing substantial and regular care to somebody with one or more of the above difficulties.
- 6.10. Practitioners should work with individuals to explore their presenting needs and identify what outcomes they would like to be able to achieve. In this way they can evaluate how the individual's presenting needs might pose risks to their independence and/or well-being, both in the immediate and longer-term.
- 6.11. In particular practitioners should consider whether the individual's needs prevent the following outcomes from being achieved:
- Exercising choice and control;
  - Health and well-being, including mental and emotional as well as physical health and well-being;
  - Personal dignity and respect;
  - Quality of life;
  - Freedom from discrimination;
  - Making a positive contribution;
  - Economic well-being;
  - Freedom from harm, abuse and neglect, taking wider issues of housing and community safety into account.
- 6.12. Risks to independence and well-being relate to all areas of life, and with the exception of life-threatening circumstances or where there are serious safeguarding concerns, there is no hierarchy of needs. For example, the potential needs of a disabled person who is facing significant obstacles in taking up education and training to support their independence and well-being should be given equal weight to an older person who is unable to perform vital personal care tasks – and vice versa. Decisions should be made within the context of a human rights approach, considering individual's needs not just in terms of physical functionality but in terms of a universal right to dignity and respect.
- 6.13. Needs should be considered over a period of time, rather than at a single point, so that the needs of individuals who have fluctuating and/or long-term conditions are properly taken into account. Before final decisions are taken about longer-term needs for support, and whether those needs are eligible for support from the



Council, practitioners should always consider whether a period of reablement should be made available, in order to maximise independence before further assessment of needs is undertaken. This should also minimise the risk of premature decisions being taken about individual's long-term needs.

- 6.14. In addition to individuals with long-term or fluctuating conditions, the Council should be aware that there are other groups whose disabilities are such that they are at risk of being overlooked in the assessment of eligible need. Such groups might include individuals who have very specific communication needs, or blind and partially sighted people who may be disadvantaged by assessors who are unaware of the impact of loss of vision. To maximise what individuals are able to do for themselves the Council should consider the benefits of making available rehabilitation services to those who have newly acquired disabilities before undertaking an assessment of longer-term need. Others with "hidden" needs might include individuals with autism, whose support needs may not be as immediately apparent or easily understood as those of other client groups.
- 6.15. The Council may encourage those who can, and wish to do so to undertake an assessment of their own needs prior to the Council doing so. Although self-assessment does not negate the Council's duty to carry out its own assessment, which may differ from the person's own views of their needs, it can serve as a useful tool for putting the person seeking support at the heart of the process.
- 6.16. When an individual permanently moves from another Local Authority area to this Local Authority (or has a clear intention to move to this Local Authority), the Council should take account of the support that was previously received and the effect of any substantial changes on the individuals when carrying out the assessment and making decisions about what level of support will be provided. If the Council decides to provide a significantly different support package, clear and written explanations should be provided to the individual.
- 6.17. The Council should make sure that it is able to draw on sufficient expertise to understand and support individuals with a range of needs so that specific groups of individuals are not marginalised by the assessment process. Interpreters, translators,

advocates or supporters should be made available when necessary.

## 7. Personalisation and Support Planning

- 7.1. If an individual is eligible for help then the Council should work with that individual to develop a plan for their care and support. *Putting People First* sets out a vision where all individuals in receipt of social care support and their carers should be in control of their own lives, using personal budgets to direct the funding available to them to meet their needs in the way that suits them best.
- 7.2. Support plans should be person-centred, exploring what is important to the individual concerned and how they can spend their personal budget to organise and create support in order to achieve their aims. Choice and control should also be available to individuals receiving directly managed services to help identify personalised solutions to meet their outcomes. In this way, a support plan will reflect the decisions made by the individual, supported by anyone they have chosen to assist them in this planning.
- 7.3. The Council should agree a written record of the support plan with the individual which should include the following:
  - A note of the eligible needs identified during assessment;
  - Agreed outcomes and how support will be organised to meet those outcomes;
  - A risk assessment including any actions to be taken to manage identified risks;
  - Contingency plans to manage emergency changes;
  - Any financial contributions the individual is assessed to pay;
  - Support which carers and others are willing and able to provide;
  - Support to be provided to address needs identified through the carers assessment, where appropriate; and
  - A review date
- 7.4. Support planning involves allowing individuals to make their own informed decisions - including decisions about risk. The Council has a responsibility to ensure that, wherever possible, the choices made by individuals who use services and their carers are respected and supported. The benefits of increased autonomy and social inclusion may have to be weighed against

risks associated with particular choices. It is very important that discussions around such choices are accurately recorded in writing, to ensure that the Council, the individual and any carer(s) are clear about any potential consequences and how the risk can be managed.

- 7.5. Practitioners should plan with regards to outcomes, rather than specific services. The cost-effectiveness of support options should be considered by the Council and resources may be taken into account when deciding how best to achieve someone's agreed outcomes. However, decisions cannot be taken on the basis of resources alone. Once the Council has decided it is necessary to meet the eligible needs of an individual, it is under a duty to provide sufficient support to meet those needs. The Council should provide support promptly once it has agreed to do so, but where waiting is unavoidable, alternative support should be in place to meet eligible needs.
- 7.6. The Council should ensure that all individuals in its area with similar eligible needs receive support packages that are capable of achieving a broadly similar quality of outcome, even though the particular forms of help offered may differ and be tailored to individuals concerned.
- 7.7. The Council should also offer person-centred support planning for those individuals who privately pay for their care or who are seeking informal support to assist with leading their lives in the way they want. This involves discussing available options for support using information and advice services and encouraging and enabling individuals to make the best use of their own strengths, capabilities and resources to live as independently as possible. This will help to strengthen the social networks available in the community, help to maintain the independence of individuals who use services and their carers and may reduce their need for social care in the future.

## **8. Personal Budgets and Resource Allocation**

- 8.1. *Putting People First* envisages the availability of personal budgets for everyone eligible for publicly funded social care support. Councils should therefore support all individuals with eligible needs to draw on the benefits of self-directed support. This includes making sure individuals who use services and their carers

understand the options available for using personal budgets, either as a direct payment or as a 'notional budget' to be held on their behalf by the Council.

- 8.2. The Local Authority Circular 'Transforming Social Care,' describes as an essential component of transformation the "clear, upfront allocation of funding to enable (individuals) to make informed choices about how best to meet their needs, including their broader health and well-being" To support the delivery of personal budgets, the Council uses a resource allocation system (RAS) as a way of estimating how much money is required in a person's personal budget to meet their assessed eligible needs.
- 8.3. The aim of the RAS is to provide a transparent system for the allocation of resources, linking money to outcomes while taking account of the different levels of support individuals need to achieve their goals. It allows individuals to know how much money they have available to spend in their personal budget so that they can make choices and direct the way their support is provided.
- 8.4. Calculating what resources should be made available to individuals should not detract from a Council's duty to determine eligibility following assessment and to meet eligible needs. Rather the RAS is applied as a means of giving an approximate indication of what it may reasonably cost to meet a person's particular needs according to their individual circumstances. The resource allocation process is sufficiently flexible to allow for someone's individual circumstances to be taken into account when determining the amount of resources he or she is allocated in a personal budget.
- 8.5. The greater transparency of resource allocation supports the delivery of a more equitable system for all groups of service users based on assessed eligible need.
- 8.6. The Council should be able to evidence a reasoned decision as to why the final allocation is thought to be adequate to meet the assessed needs in the manner agreed in the support plan. The decision should show the Council's reasons for deciding that the allocated amount would suffice, despite not fully enabling the individual's preferred outcomes in meeting the need.

## 9. Meeting Eligible Needs

- 9.1. In assessing needs and arranging services, the Council will seek to assist individuals to maintain a dignified standard of living and independence.
- 9.2. Local Authorities are under a specific Best Value duty under the Local Government Act 1999 to use resources effectively. The Department of Health's Practice Guidance on Fair Access to Care Services (2004) also states 'If an individual is eligible for support, the Council should provide services that are cost effective and appropriate'.
- 9.3. In undertaking assessment of need and providing services, the North Tyneside FACS eligibility criteria must be strictly observed. Services will only be provided to individuals who have risks to their independence, which are eligible under the criteria and who do not have access to an informal alternative source of support from family/carers etc. As the individual's circumstances, including the help already available to her/him, would be taken into account in assessing the level of risk to independence, a person's needs would not normally be judged to be eligible for support if adequate alternative support is available. The exception is where the relationship with the carer is itself at risk.
- 9.4. In meeting needs, North Tyneside Council will provide services to reduce the level of risk to independence to below the threshold; it will not be standard practice to reduce the risk to zero. For example, once a risk to independence is reduced to a 'moderate' or 'low' level, the remaining risk and the resulting need is no longer eligible under the criteria.
- 9.5. North Tyneside Council expects to meet needs that fall into the critical and substantial risk bands of both the FACS eligibility criteria for individuals and the carers' eligibility criteria in the most cost effective manner possible.
- 9.6. The provision of adaptations and equipment should always be considered where this might be more economical than the provision of paid support, and where this would be more consistent with promoting independence.

- 9.7. In every case where support is to be provided, the potential for reablement should be fully assessed, and reviews scheduled to monitor improvement in the individual's ability to manage without the support or with a reduced level of service. In situations where the individual is expected to recuperate rapidly, (e.g. following hospital admission) an early review/reassessment should be scheduled with a view to reducing or withdrawing any services as they become unnecessary.
- 9.8. To ensure that services are provided to meet eligible needs in the most cost effective way, it is important that rigorous tests are applied to high cost support packages to ensure that they are justified in terms of the benefits they deliver for the individual, and in terms of cost effectiveness and best use of public money.
- 9.9. The Council is strongly committed to the promotion of independence. Article 8 of the European Convention on Human Rights requires respect for home, private and family life. As far as limited resources allow, care at home, if it can meet the individual's needs, is to be preferred to residential or nursing care.
- 9.10. However, to ensure that needs are met in the most cost effective way, the maximum amount the Council will pay for packages at home will not generally exceed the cost of purchasing a residential or nursing care placement for meeting that individual's assessed eligible needs if the person's needs can be met in a residential or nursing care placement appropriately.
- 9.11. The Council's resources are not relevant to whether an individual is eligible for funding. This means that a lack of resources is legally irrelevant to the duty to meet need appropriately and therefore cannot be an excuse for not meeting need. If the Council agrees that the need can only be met in one way, appropriately, then the cost of any other inappropriate way is irrelevant because this would not meet eligible need.
- 9.12. However, if there is considered to be more than one way, appropriately to meet the eligible need, the Council has the discretion to offer the cheaper of two **appropriate** alternative means to meet that need. As long as the support arrangements are appropriate or not in-appropriate, the Council can take cost into account in deciding whether to agree a person's support plan. The Council is under a Best Value duty to meet all eligible needs in the most cost effective way as it spends public money.

- 9.13. The Council should be cautious when offering a final resource allocation of the cost of a residential placement for someone who does not want to go into residential care because a 'cost-ceiling' could amount to the Council knowingly offering a package that would be insufficient to meet assessed eligible needs, which is unlawful.
- 9.14. The Council may suggest to an individual that if they can, they could meet part of their needs themselves for example, through support from willing and able external sources of help, or by accessing universal services or through spending their own money, voluntarily, on privately provided services. For example, support from a family member could enable a person to reduce their amount of unmet need to something more affordable for the Council. The individual is agreeing that the amount of their unmet need, as first assessed, will be reduced to a smaller amount by their own efforts at seeking their own support to lower the cost of helping the individual to stay at home. In this instance, the change in need should be recorded in the support plan and a reassessment is not needed.
- 9.15. When a capacitated person refuses services or support from the Council, it has satisfied its duty and need take no further steps.

## **10. Review and Reassessment**

- 10.1. As individual needs are likely to change over time, Councils should ensure that arrangements are put in place for regular reviews/reassessments of support plans. The timing of a review should be established with the individual and their carer where appropriate, at the outset.
- 10.2. Like initial assessments, reviews should be focused on outcomes rather than services. In particular, reviews should:
- Establish whether the outcomes identified in the support plan are being met through current arrangements;
  - Consider whether the needs and circumstances of the individual and/or their carer(s) have changed;

- Support individuals to review their personal goals and consider what changes if any should be made to the support plan to better facilitate the achievement of agreed outcomes;
- Ensure that the risk assessment recorded in the care plan is up to date and identify any further action that needs to be taken to address issues relating to risk;
- Demonstrate a partnership approach across agencies and with the individual as well as their family and friends if they choose;
- Support individuals to strengthen their informal support networks;
- Support individuals to increase their productive role in their community; and
- Help determine the individual's continued eligibility for support.

10.3 The Council cannot reduce an individual's services without a review/reassessment. Reassessment should examine the individual's current needs and take into account other relevant factors including the resources now available and the competing needs of other individuals. However, the availability of resources must not be the sole factor for reducing services.

10.4. During a review/reassessment, the Council can review how it has previously defined individual needs. By defining needs in a broader sense, the Council can decide that it can meet needs in a different and more cost effective way. As long as this new way meets the need and it is not inappropriate.

10.5. Practitioners should record the results of reviews/reassessments. For those individuals who retain eligible needs practitioners should update the support plan. For those individuals who no longer have eligible needs, the practitioner should record the reasons for ceasing to provide support and share these with the individual both verbally and in writing. The Council should offer information about alternative means of support and universal services available in the community.

10.6. The frequency of reviews should be proportionate to the circumstances of the individual but there should be an initial



review within three months of support first being provided or major changes made to current support plans. Thereafter, reviews should be scheduled at least annually or more often as is necessary. The Councils should also consider conducting reviews when requested to do so by the individual, their carer or service provider.

- 10.7. Practitioners should be prepared to be flexible about the way in which reviews are carried out. Individuals should be consulted about which way works best for them. Practitioners should ask the individual where they would like to have the review and who else they might want to be involved. Depending on the individual circumstances, it may be appropriate to involve carers and representatives of the individual, support services, advocates and providers of services.
- 10.8. Adults lacking mental capacity to make decisions about their needs are likely to require more frequent monitoring and review arrangements than other individuals. If the person lacking capacity has a Direct Payment or Individual Service Fund, the Council must be satisfied that arrangements for the management of the personal budget on that person's behalf meets that person's needs and supports their best interests.
- 10.9. The process for review should be simple and avoid duplication or unnecessary amounts of paperwork or visits. Some individuals may benefit from completing a review template before meeting with the professional who conducts the review, so that they have an opportunity to consider how well arrangements are working for them before discussion takes place. Self-assessment of this kind in preparation for the review can help individuals to assume more control over how they want their support to be provided.