

Does the application of the Care Act (2014) need review?

With everything that has been happening in the first month of 2021, you may be forgiven for missing several key publications relating to the Care Act which the BASW England Adult Group are keen to draw your attention to.

December 2020 saw the publication of what can be described as the first piece of valuable research for social work practitioners and leaders into the application and use of the Care Act. The research completed in 2018, and published December 2020, was carried out by the National Institute for Health Research's School for Social Care Research¹

Optimising the Quality of Social Work decisions in Supervision

The research which was reported in Community Care² tested 169 social workers in the field of adult social work in relation to four case vignettes, asking them to identify problems and decisions they would take, and select which of a number of decision-making rules were relevant to the case. Half had been given simulated supervision in relation to the vignettes they were given, though supervisors were prevented from identifying the correct problems and most appropriate decisions for each case, and instead provided active listening and asked probing questions.

Key findings from the research include:

- Development needs in decision making in relation to knowledge of the Care Act.
- Social Workers misunderstood key rules.
- Social work not recognised as a distinct service under Care Act.
- Over-emphasised the need to follow people's judgment of their own wellbeing.

¹<https://www.sscr.nihr.ac.uk/social-worker-supervision/>

² https://www.communitycare.co.uk/2021/01/06/study-finds-care-act-knowledge-gaps-among-social-workers-lack-impact-supervision/?utm_content=Study%20finds%20Care%20Act%20knowledge%20gaps%20among%20social%20workers%20and%20lack%20of%20impact%20of%20supervision&utm_campaign=CC%20daily%2007%2F01%2F2021&utm_source=Community%20Care&utm_medium=adestra_email&utm_term=https%3A%2F%2Fwww.communitycare.co.uk%2F2021%2F01%2F06%2Fstudy-finds-care-act-knowledge-gaps-among-social-workers-lack-impact-supervision%2F

- The benefit of supervision for adults' social workers depends on the knowledge and judgement their supervisor

The findings led to the development of a helpful Practice Guidance Advice note produced in partnership with the National Principal Social Worker Network in consultation with social workers entitled Social workers' knowledge and skills and the Care Act: Practice Advice Note".³

Social workers' knowledge and skills and the Care Act: Practice Advice Note

This written guidance sets out when the Care Act duties of a local authority should be carried out by social workers. Building on learning from the research, highlighting common misconceptions in relation to Care Act judgements on well-being. The provision of social work itself as a way of meeting needs is set out alongside involvement of social workers in assessment and planning, the role of social work in relation to protection from abuse and neglect and finally the interface with other key relevant pieces of legislation.

BASW England welcomes the research and the development of the Practice Guidance, essential reading for anyone in the field of adult social work and working within the Care Act. Both provide valuable insights into the issues and challenges faced by social workers when trying to interpret and apply the statutory guidance.

Ombudsman Finding: London Borough of Bromley (19 007 855) Breach of Care Act guidance

Shortly after the research and Practice Guidance were published, on 13.1.21 an important ruling by the Ombudsman against Bromley Council⁴ highlighting a breach in the application of the Care Act statutory guidance was made public. Bromley were found to have set an arbitrary upper limit on the cost of care at home using the benchmark of the equivalent cost of residential care. The Ombudsman also found that there was a failure to place equal importance on all eligible needs, instead a system of hierarchy was used and there was a failure to produce a care and support plan that met statutory requirements.⁵

Implementing the Care Act 2014 – a synthesis of project reports on the Care Act

Implementing the Care Act 2014 – a synthesis of project reports on the Care Act commissioned by the NIHR Policy Research Programme reported on the implementation of the Care Act 2014.⁶ They synthesised findings from four NIHR Care Act studies and considered the key question: Did the Care Act 2014 achieve its aims?

Findings include:

- Implementation hampered by lack of clarity in legislation
- Complexity of local care systems

³https://kclpure.kcl.ac.uk/portal/files/119661836/Social_workers_and_the_Care_Act_Practice_Advice_Note_2019.pdf

⁴ <https://www.lgo.org.uk/decisions/adult-care-services/assessment-and-care-plan/19-007-855>

⁵ <https://www.communitycare.co.uk/2020/10/08/council-failed-meet-womans-eligible-need-maintain-home/>>

⁶ <https://www.birmingham.ac.uk/documents/college-social-sciences/social-policy/publications/implementing-the-care-act-2014.pdf>

- Weak collaboration
- Insufficient capacity/funding

Supporting carers following the implementation of the Care Act 2014: Eligibility, support and prevention (2020)

This is an impressive piece of research⁷, and the key findings are well worth reading. The researchers conclude:

"The Care Act seems to have made considerable progress in legitimising carers as co-clients and thus the care system and social care practitioners are increasingly emphasising meeting carers' needs and wellbeing as valued and desirable outcomes; however, in practice, resources render this more an aspiration than achievement."

It also eloquently highlights the tension between supporting carers in their own right and treating them as a resource for meeting adults needs.

BASW England Adult Group response

The Care and Support Statutory Guidance helpfully states: "Local authorities must ensure that assessors are appropriately trained and competent whenever they carry out an assessment. This means ensuring that assessors undergo regular, up-to-date training on an ongoing basis. ...This training must be maintained throughout their career. As part of maintaining their registration, social workers and occupational therapists are required to evidence their Continuing Professional Development." (Para 6.86).

BASW is seeking information about Local Authorities awareness of this Practice Advice Note and its implementation. We will seek feedback from members in due course to find out how far the Practice Advice Note has been acted on.

The research, synthesised study, Practice Guidance and the Ombudsman's findings all illustrate the lack of clarity and confusion in the application of the Care Act statutory guidance, issues which the adult group feel are worthy of further debate, adding weight to the need for revision of the statutory guidance which has now been in place for nearly 6 years.

In late 2020, the adult group set out proposals about how social care should be reformed in the 'ten reforms we would like to see in social care'. Full details were published in the December 2020 edition of Professional Social Work magazine, Reform 3 which calls for greater transparency, advocates that the framework provided by the Care and Support Statutory Guidance be revised to achieve greater transparency in assessment of need and financial decision making.

The adult group will be looking to take forward proposals for a review of the Care Act statutory guidance in the coming months and will be seeking members views on this.

⁷ <https://www.lse.ac.uk/cpec/assets/documents/cascfinalreport.pdf>