

LOCAL AUTHORITY CIRCULAR

LAC(2004)24

To: The Chief Executive
County Councils)
Metropolitan District Councils) England
Shire Unitary Councils)
London Borough Councils
Common Council of the City of London
Council of the Isles of Scilly

Chief Executive - Care Trusts
Chief Executive - Strategic Health Authorities

The Director of Social Services

26 August 2004

THE COMMUNITY CARE ASSESSMENT DIRECTIONS 2004

1. SUMMARY

1.1 Full involvement of individuals and their carers in both assessment and care planning has long been recognised as good practice and the importance of doing so has been highlighted in previous guidance. The Community Care Assessment Directions place existing good practice and guidance on conducting care assessments and care planning into a legal framework.

2. ACTION

2.1 The Community Care Assessment Directions do not change the requirements of best practice or the guidance available at <http://www.carers.gov.uk/carersdisabledchildact2000.htm> or <http://www.dh.gov.uk/PolicyAndGuidance/HealthAndSocialCareTopics/SocialCare/SingleAssessmentProcess/fs/en>. The Directions, however, ensure that this existing practice and guidance on conducting care assessments and care planning is placed within a legal framework. For example when assessing older people the requirements of the Single Assessment Process and the National Service Framework should be observed and where necessary joint assessments involving health partners should be completed. Assessments for all adults with complex needs should take account of physical, cognitive, behavioural and social participation needs.

2.2 Full involvement of individuals and their carers in both assessment and care planning has long been recognised as good practice and the importance of doing so has been highlighted in previous guidance. Carers are entitled, under the Carers and Disabled Children Act 2000, to request an assessment of their needs in supporting the person they care for. It is, in any case, good practice that an assessment is offered to a carer who is going to be involved in providing part of the care package. The involvement of the carer

in the assessment and care planning process ensures there is a realistic account taken of the care a carer is able to provide and that the caring relationship is sustainable. A carer's refusal of the offer of an assessment should not be used as a reason to exclude the carer from assisting with care planning.

- 2.3 There will be cases where the person whose care is being planned lacks the capacity to consent to the involvement of carers, or to the care plan itself. In these situations best practice suggests that the carers should be involved as much as possible, currently local authorities have a responsibility to make decisions in the best interests of the person being cared for.
- 2.4 If disagreements occur between the person and their carer these should be handled sensitively, safeguarding the best interests of the individual and the carer. In many cases it may be appropriate for a resolution to be sought through independent or statutory advocacy.
- 2.5 If it is felt to be inappropriate to involve the carer local authorities should retain a written account of why it was felt inappropriate. This should show that the carer's involvement has been actively considered and, if excluded from care planning, the reasons why. It is not enough to state that the reasons were considered, without recording those reasons.
- 2.6 Local authorities should continue to ensure that up to date and appropriate information on the range of support, entitlements and assistance available for carers is accessible in a variety of formats. This information should be offered to all carers, irrespective of whether the carer receives an assessment.

2. ENQUIRIES

Enquiries about this Circular [and its enclosures] should be made to:

Policy Management Unit
Area 233 -237
Wellington House
133 – 155 Waterloo Road
London
SE1 8UG

OPDenquiries@doh.gsi.gov.uk

From: Care Services Directorate - Older People and Disability

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NATIONAL HEALTH SERVICE AND COMMUNITY CARE ACT 1990

The Community Care Assessment Directions 2004

The Secretary of State for Health, in exercise of the powers conferred on him by section 47(4) of the National Health Service and Community Care Act 1990⁽¹⁾ hereby makes the following Directions:

Commencement, application and interpretation

1.—(1) These Directions come into force on 1 September 2004 and apply to every local authority in England.

(2) In these Directions—

“the Act” means the National Health Service and Community Care Act 1990;

“community care services” has the same meaning as in section 46(3) of the Act;

“local authority” has the same meaning as in section 46(3) of the Act.

Manner and form of assessment of needs for community care services

2.—(1) In assessing the needs of a person under section 47(1) of the Act a local authority must comply with paragraphs (2) to (4).

(2) The local authority must consult the person, consider whether the person has any carers and, where they think it appropriate, consult those carers.

(3) The local authority must take all reasonable steps to reach agreement with the person and, where they think it appropriate, any carers of that person, on the community care services which they are considering providing to him to meet his needs.

(4) The local authority must provide information to the person and, where they think it appropriate, any carers of that person, about the amount of the payment (if any) which the person will be liable to make in respect of the community care services which they are considering providing to him⁽²⁾.

Signed by authority of the Secretary of State



26 August 2004

Craig Muir, Member of the Senior Civil Service
Department of Health

⁽¹⁾ 1990 c.19.

⁽²⁾ See sections 22 and 26 of the National Assistance Act 1948 (c.29) and section 17 of the Health and Social Services and Social Security Adjudications Act 1983 (c.41).