National Eligibility Criteria for social care
Age UK’s guide to the draft regulations

Following the Care Act 2014 the Government has issued draft regulations (i.e. ‘rules’) for the new national eligibility criteria – the conditions you will have to meet to qualify for care and support after April 2015.

Please note, the following is Age UK’s guide to the draft regulations. You can see more detail and the full regulations here: http://careandsupportregs.dh.gov.uk/

Who will be eligible for care and support?

The regulations set out new national minimum criteria (or ‘conditions’) that all local authorities must comply with. They can set more generous conditions if they want to but in practice we think it is unlikely that many – or even any - will.

To qualify for care and support a person will have to meet the conditions explained below:

1. First, the person must have needs as a result of a physical or mental disability or illness

2. Second, their disability or illness must result in them being unable to achieve one or more of the following ‘outcomes’:
   a) being able to carry out ‘some or all’ basic activities (explanation below)
   b) maintaining family or personal relationships
   c) working, volunteering, or taking part in training or education
   d) accessing community services or facilities (including for leisure and having fun)
   e) caring for a child

The basic activities mentioned above under (2)a include:
- eating and drinking, and preparing meals
- personal hygiene – i.e. washing
- going to the toilet
- getting up and dressed
- getting around the home
- cleaning and maintaining the home

Please note that to qualify for help a person must be unable to carry out ‘some or all’ of these tasks, so inability to carry out just one of them – e.g. if you just have problems with eating, drinking and preparing meals, but you can get to the toilet and get washed and dressed – that will not be enough.

3. ‘Being unable to achieve’ one of the outcomes above means being unable to do it without assistance or taking an unnecessarily long time to do it, or where doing so may cause pain or distress or adversely affect the person’s health.

4. Finally, to qualify for care and support as a result of (1), (2) and (3) there has also to be a resulting ‘significant impact’ on your ‘wellbeing’.
‘Wellbeing’ includes physical and mental health but it is broader than this and includes emotional wellbeing, personal dignity, being safe from abuse, and having control over day to day life, including over care services. It also includes being able to be part of society, including maintaining personal relationships, access to recreational and other local facilities, and being able to make a contribution to society.

Will carers be eligible for support?

Under the regulations, carers will qualify for care and support if they have a need that arises from caring for someone else and they, as carers, meet conditions similar to (2) and (3) above. However the list of outcomes for carers is longer and includes being unable to continue providing care, engaging in recreational activities and, unlike people who need care, if their mental or physical health is, or is at risk of, deteriorating.

How is this different from the current system?

Under the current eligibility criteria people’s needs are assessed under one of four categories. ‘Critical’, ‘Substantial’, ‘Moderate’, and ‘Low’, linked to how severe someone’s needs are.

Councils are able to decide for themselves which category triggers eligibility for support. Currently, 87% of councils set their level for support at ‘substantial’ or above, meaning that anyone assessed as ‘moderate’ or ‘low’ receive no support. Under the new system, there will be no categories – people will either meet the eligibility criteria or they will not.

Experts say that the new conditions are as tough or tougher than the ones in place now, but it is hard to make an exact comparison because the way they are set out is different. However, it is worth noting that no one is suggesting that the new conditions are any easier for a person to meet. Age UK thinks these conditions are tougher than before and set the bar too high.

The new eligibility criteria will also be important for people who pay for their own care. In future, how much an individual spends on their care will be ‘capped’ at £72,000. However, this will only cover the cost of the care for needs which meet the eligibility criteria. If a local authority assesses someone as ineligible because they only have one need, for example needing help to get washed, the cost of paying a carer privately to help with washing will not count towards the cap.

What would this mean for older people?

*Jan* is 78 and lives with her husband in a terraced house. Following two falls on the street she has trouble walking and no longer has the confidence to leave the house.

Jan needs support to get to the toilet, get in the shower, and prepare meals. Her husband, Terry is independent and does not need care but he has difficulty assisting with personal care and most of the housework. He is able to do light shopping and can help Jan get to the toilet.

As Jan can’t get into the shower, and her husband can’t lift her, she normally relies on a quick wash using warm water from the bathroom washbasin. Jan often sleeps on a sofa bed downstairs as she finds it difficult to get up the stairs.

Under the proposed criteria Jan would probably not receive any support. She cannot carry out all of the ‘basic activities’ listed in the criteria on her own. However, with the help of her husband, Jan is able to do the majority of them, even though Terry may find caring for Jan difficult. She would not therefore qualify on the basis of being unable to carry out ‘some or all’ basic activities.
There is a question as to whether Jan being unable to get out and about without being worried about falling has a ‘significant impact’ on her wellbeing. But whether Jan receives any support will depend on how her council chooses to interpret ‘significant impact’ (which has to be considered in relation to outcomes, such as maintaining family or personal relationships or being able to access ‘community services or facilities’) when assessing her.

Peter lives in London. He is diabetic and is in remission after cancer. He has difficulty walking – he can walk for 10 minutes up the road with a stick but is exhausted and off-balance afterward. As a result, Peter rarely goes out any more. He has trouble getting dressed and cannot get into his bath, so in unable to wash himself. He also finds it too difficult to clean the house.

Peter lives with his partner, who also has health problems, but all his other friends and relatives have either moved away or died.

His local authority assessed Peter as having ‘moderate’ needs. Because he lives in one of the remaining areas that will support ‘moderate’ needs, Peter receives care services via his local council in the form of carers coming into his house every morning to help him with getting dressed and preparing breakfast.

Under the new regulations, it is unclear exactly how Peter might be affected. It is likely that he would lose some, if not all, of the care he currently receives. The lack of clarity about how the criteria will be interpreted by councils – including what counts as a ‘significant impact to wellbeing’ – will leave people like Peter with a lot of uncertainty about how they will manage in the future.

The draft regulations are open to consultation until 15th August. If you have any comments on the regulations, send your response to the regulations at http://careandsupportregs.dh.gov.uk/.