

Coronavirus (COVID 19) Care Act Easements

The [Coronavirus Act 2020](#) allows authorities to suspend many of their Care Act duties – including those to assess and to meet unmet eligible needs. The temporary provisions came into force on 31st March 2020. [Government guidance on the so-called ‘Care Act easements’](#) states the provisions are designed to enable authorities to “prioritise the most pressing needs” among those they would normally be under a legal duty should Covid-19 bring about a full-blown resource crisis:

“A local authority should only take a decision to begin exercising the Care Act easements when the workforce is significantly depleted, or demand on social care increased, to an extent that it is no longer reasonably practicable for it to comply with its Care Act duties (as they stand prior to amendment by the Coronavirus Act) and where to continue to try to do so is likely to result in urgent or acute needs not being met, potentially risking life,” said the guidance, which councils must have regard to in their decision making”.

The guidance emphasises the importance of “professional oversight” in decisions to suspend Care Act duties and the Principal Social Worker must be consulted and part of the decision-making process to enact the easement. Social care varies greatly across local authorities and the decision to operate the easements will be taken locally and only when agreed by the director of adult social services in conjunction with or on the recommendation of the principal social worker.

Four-stage decision-making process for councils in using the easements

The following four-stage decision-making process for councils in using the easements may not follow sequentially, with some of the stages being operated in tandem:

1. **Operating the Care Act in full for as long as possible.**
2. **Using flexibilities under the Care Act to prioritise care and support.** The guidance cites a case where certain types of service need to be changed, delayed or cancelled because of staff absence. The relevant senior manager would then need to consult the PSW setting out the reasoning and impact of the decision and how alternative sources of care and support can be sourced for the affected people. If the PSW agrees, the decision should then be referred to the director of adult social services (DASS) for a final decision.
3. **Streamlining services using the Care Act easements.** The guidance says that when pressures mount to the point that it is no longer possible to meet Care Act duties in full, then councils should consider taking advantage of the Coronavirus Act’s provisions to suspend assessments, care planning, eligibility and reviews. In deciding to take this step, senior managers should consult the PSW, making clear the reasons for doing so and the impact this would have on people who need support and carers.

If the PSW is satisfied that the Care Act easements need to be adopted, then a meeting of senior management should be called to make a final decision. The council should also notify the Department of Health and Social Care (DHSC).

4. **Whole-system prioritisation of care and support.** The final step would involve reallocating resources between people and different service types to ensure the most urgent needs would be met. This is likely to involve use of the provision in the Coronavirus Act that suspends councils' duty to meet unmet eligible needs under section 18 of the act, other than when this would involve a human rights breach. The decision should be referred to the PSW, who should call an emergency meeting, involving the director of adult social services, to make a final decision. If it takes this step, the council should review it every two weeks with the PSW and return to the provision of a full service as soon as reasonably possible. The DHSC should also be notified.

Safeguarding Adults

Changes to the Care Act 2014 – Annex D: Safeguarding Guidance clarifies that adult safeguarding remains a statutory duty of Local Authorities to keep the most vulnerable safe from abuse or neglect. The Coronavirus Act 2020 does not affect the safeguarding protections in the Care Act, particularly at Section 42 of the Care Act. It is vital that Local Authorities continue to offer the same level of safeguarding oversight and application of Section 42. However, it is also important that safeguarding teams are proportionate in their responses and mindful of the pressure social care providers are likely to be under.

The Government recognises that safeguarding concerns and referrals may increase during the COVID-19 outbreak, with more people receiving support and support needs changing, which may prompt concerns. Safeguarding is everyone's business, so it is important that we remain alert to possible abuse or neglect concerns. Local Authorities, social care providers, the health voluntary sector and our communities must continue work to prevent and reduce the risk of harm to people with care and support needs, including those affected by COVID-19. For more information about the government's guidance for assessment and safeguarding duties under Care Act impacted by Coronavirus Act 2020, please use the link below:

 <https://www.gov.uk/government/publications/coronavirus-covid-19-changes-to-the-care-act-2014/care-act-easements-guidance-for-local-authorities>