

Talking Point chat room 19th November
Q&A on demystifying the Care Act, with Tina our Knowledge Officer

Mark_W	Hi in about 5 minutes we're going to start our chat room Q&A, which today is on Demystifying the Care Act
Mark_W	Tina can you tell us a bit about what your role involves?
Mark_W	Welcome to our Q&A session on Demystifying the Care Act 2014. I'm very pleased to welcome Tina from our Knowledge Team who's here to answer your questions.
TinaN	Thank you Mark. It's great to be here! I am Alzheimer's Society's Knowledge Officer for Welfare and Social Care. I cover a number of information areas including paying for care (as well as other aspects covered in the Care Act) and NHS continuing healthcare and some benefits
TinaN	As part of my role I help to write the Alzheimer Society factsheets that are in my subject areas. I also support our staff, including dementia support workers and dementia advisers, with more detailed information through training and ongoing support.
Mark_W	Thanks Tina :)
Mark_W	Ok let's start with a question from Judith that we've had via email
TinaN	The aim is to enable them to have access to reliable accurate information so that they can fully support people living with dementia.
Mark_W	Hello I care for both parents who have dementia. I've given up my job and my house to move in and care for them. I'm concerned about what will happen to the house if both of my parents have to move into residential care because it is my only home now. The house is in my parents name but I'm named in their Will to receive it when they die.
TinaN	Hello Judith - This is an area that is covered in the new Care Act but actually the rules haven't changed at all. Generally speaking if both parents go into residential or nursing care the house could be sold to pay for their care unless the local authority (LA)
TinaN	accepts that you gave up your own home with the sole intention of caring for your parents and that their house is now your only home
TinaN	If that happens you can continue to live there and it will not be taken into account in the financial assessment.
TinaN	Alternatively, because you are a family member, if you are over 60 or "incapacitated" ie claiming a disability benefit like DLA or PIP, the house will be disregarded anyway However, if you are not over 60 or 'incapacitated' and if you gave up your own home to care for your parents before they went into care the LA might still use their discretionary and offer to disregard the property
TinaN	The issue really is whether the local authority thinks you moved into the house to intentionally avoid it being used to pay for care
TinaN	It isn't always so difficult though
TinaN	If that is the case then they would. consider it to be a deliberate deprivation of assets and then they would take the house into account in the financial assessment and you would need to find alternative accommodation or ask the local authority if they can arrange a 'deferred

	payment agreement' so that the care bill is settled later
TinaN	You can ask the local authority for a copy of their complaints process if you disagree with their decision when the time comes
TinaN	The local authority does have the discretion to disregard the property if they accept that you moved there to care for your parents before they went into the care home
Mark_W	To anyone who's just joined us, welcome! Today's Q&A is on the new Care Act 2014, and Tina from our Knowledge Team is here until 4. Please feel free to ask any questions to Tina and we'll answer them in the order we get them.
TinaN	Our factsheet 532 Paying for Care and Support in England covers a number of these issues https://www.alzheimers.org.uk/factsheet/532
Mark_W	The new Care Act 2014 is the biggest change to the care system in the last sixty years, replacing or updating around thirty pieces of existing legislation. It touches everything from how you pay for care at home and in residential care to carers rights, financial assessments, deferred payment schemes and more.
TinaN	yes certainly and that is a good question.
Mark_W	Thanks nitram
TinaN	Yes it is a big change in many areas for example paying for care and the rules around how property can be used to pay. This is proving to be a complicated area that many people are unaware of until they need residential or nursing care
nitram	For anybody who may be confused could you please define which parts of the Act have been delayed until 2020
TinaN	However, the Government decided to delay some aspects of it until 2020
TinaN	Originally the Care Act was to be introduced in two parts. Part 1 was introduced in April 2015 and we expected Part 2 in April 2016
TinaN	This means that the proposed cap on care costs will not now be introduced until then and we don't know what the detail will look like
TinaN	sorry my typing could be better!
TinaN	The intention was to cap costs lifetime costs (starting with care in the person's own home) at £72,000 but this wasn't the full picture
TinaN	the intention to cap care costs for the person's lifetime at £72k did not include £230 per week that everyone would be paying and not counting towards the cap for their 'hotel costs'
TinaN	Thresholds will remain the same as they are now
TinaN	This means that the change to the upper threshold which was to be increased to £118,000 is also delayed
TinaN	The system was proving so complex that it was delayed.
TinaN	Something else that has been delayed until 2020 is the opportunity for people to pay their own top ups in care. The new system proposed to extend this opportunity but these 'first party top ups' will not now happen in the near future except for a relatively small group of people. Third party top ups remain the same as under the old system
TinaN	Does that answer the question Nitram?
TinaN	A big change with the Care Act was the change to the eligibility criteria for people at their needs assessment

TinaN	We are interested in how people are being assessed and whether they feel their needs are met under this new system
TinaN	There have also been really significant changes around deferred payment agreements and I am happy to offer more information on that if anyone needs it?
nitram	Yes, I was asking on behalf of others.
Mark_W	To anyone who's just joined us, welcome! Today's Q&A is on the new Care Act 2014, and Tina from our Knowledge Team is here until 4. Please feel free to ask any her any questions you've got.
Mark_W	Thanks for the question nitram :)
Mark_W	I'd like to know whether we can claim the money back that we have already paid for her care? Social Services have not indicated that I will get any back-pay at all. My mother's account is down by four thousand pounds and I feel I should write to the Ombudsman.
Mark_W	My mother's ninety three years old and lives alone and because I didn't know how the system worked and so we have been funding her care package using her account as well as my own money. I've been trying to sort this out with social services and now they are paying for her extensive care package.
Mark_W	I've got another question here from david on email
TinaN	I should say that you cannot go directly to the Local Government Ombudsman unless you have tried to reach some resolution with the local authority first
TinaN	Hi David - This is not a great situation for you and your Mum
TinaN	You can ask the local authority (social services) in writing for reimbursement of the money paid for your Mum's care and the reasons why you feel this is appropriate
TinaN	However, you will undoubtedly have to provide evidence of the payments made and of your Mum's financial circumstances at the time
TinaN	eg did she have an amount of money at the start of the process that would mean she would have been self funding at some point before her assets reduced?
TinaN	An important consideration is that if you didn't know how the 'system' works then does that mean that your Mum didn't have a needs assessment carried out by social services in the first place?
Mark_W	Thanks nitram we'll pick that up a few moments
Pete R	Hi, Have you any experience of any LA's not being able to provide at least one CH that they will fund. My Mom's LA could only provide one within budget that was a shared room.
TinaN	If that is the case then it is hard for you to prove that she had 'eligible needs' and the local authority will only meet needs that meet their eligibility threshold
nitram	Is it generally worth asking for 'befrienders' to sit with the PWD to be classed as support for the carer and therefore potentially free? This can give the carer some 'me time'
TinaN	However, the first step should be to ask for a response from the authority and if you are unhappy with their decision ask for a copy of their complaints policy which you can follow. If there is still no resolution locally with the council, you can then take the issue to the Ombudsman.

TinaN	Hi nitram. The Care Act statutory guidance (section 8) is clear about what it calls replacement care (we used to call it respite).
Mark_W	Also Pete R we'll try and fit that in before the end as well
TinaN	It says where a local authority is meeting the needs of a carer by providing a service directly to a carer, for example a relaxation class or driving lessons, it has the power to charge the carer'
TinaN	A 'sitting service' would fall into the second category I feel and if the local authority disagrees then they would need to explain why!
TinaN	Sorry one of my posts has disappeared so that might not make sense I will explain again
TinaN	So a sitting service is a service that would be seen as being provided to the person with dementia not their carer
Pete R	TinaN, just read the previous comments regarding a discretionary disregard. The New Care Act has changed in one way as the example given in the Act involves a person giving up their home just to provide companionship. This example is less "stringent" as before but just as difficult to get an LA to agree to it. My battle has been going on over a year now.
TinaN	Although the LA can meet the needs of carers via something like a relaxation class, a local authority must not charge a carer for care and support provided directly to the person they care for under any circumstances'
TinaN	To answer your first question Pete R the Care Act is clear that there should be a 'choice of accommodation' and yet the reality, as you know is that there is often not, at this stage, sufficient care provision in some areas
TinaN	Their duty is to meet the needs of the person and they are at liberty to do that at a low cost if they can. However, if the person's care plan suggests that the low cost care does not meet their needs then the local authority is failing in its duty. The focus is on meeting need and the focus very much in the Care Act includes an overarching duty by the authority to promote wellbeing
TinaN	Sadly we are still learning that what is written in the legislation is being interpreted and implemented very differently in different areas
TinaN	Re your 2nd question - yes again there is different interpretation and the more local authority purse strings are tightened the more difficult it becomes. However there is a complaints process which we would encourage people to use in a measured way. Explaining why you disagree with the decision. The Care Act actually offers more examples of how discretionary disregards might work than the old guidance but still they are discretionary and can be questioned.
Pete R	Thanks for the reply sorry to make you over run.
Mark_W	Not a problem Pete R
Pete R	I have only seen the one example in the guidance if you have more can you tell me where to look?
Mark_W	:)
Mark_W	TinaN's just looking now and I think that's the last question we have time for.
TinaN	They are in Annex B Treatment of Capital at the back of the guidance.

	Property disregards start on page 413 and although they cover very specific situations they indicate the view that LAs are expected to take in various circumstances.
TinaN	http://www.lgo.org.uk/
TinaN	Don't forget that after you have exhausted the local authority complaints process you can go to the Local Government Ombudsman if it's still not resolved Here is the link
Mark_W	Ok we need to bring this Q&A to a close now, thank you to everyone who asked questions and thank you to Tina for answering them today
Mark_W	http://forum.alzheimers.org.uk/showthread.php?67116-Chat-room-session-transcripts
Mark_W	We'll post a transcript of the chat here in the next few days
Pete R	Thanks TinaN There is only one that covers discretionary disregards. I have used the LGO before and they would not investigate my complaint as it was solely based to a decision my LA had made. They would only investigate if it was on a point of law.
TinaN	Thank you very much. Bye for now