



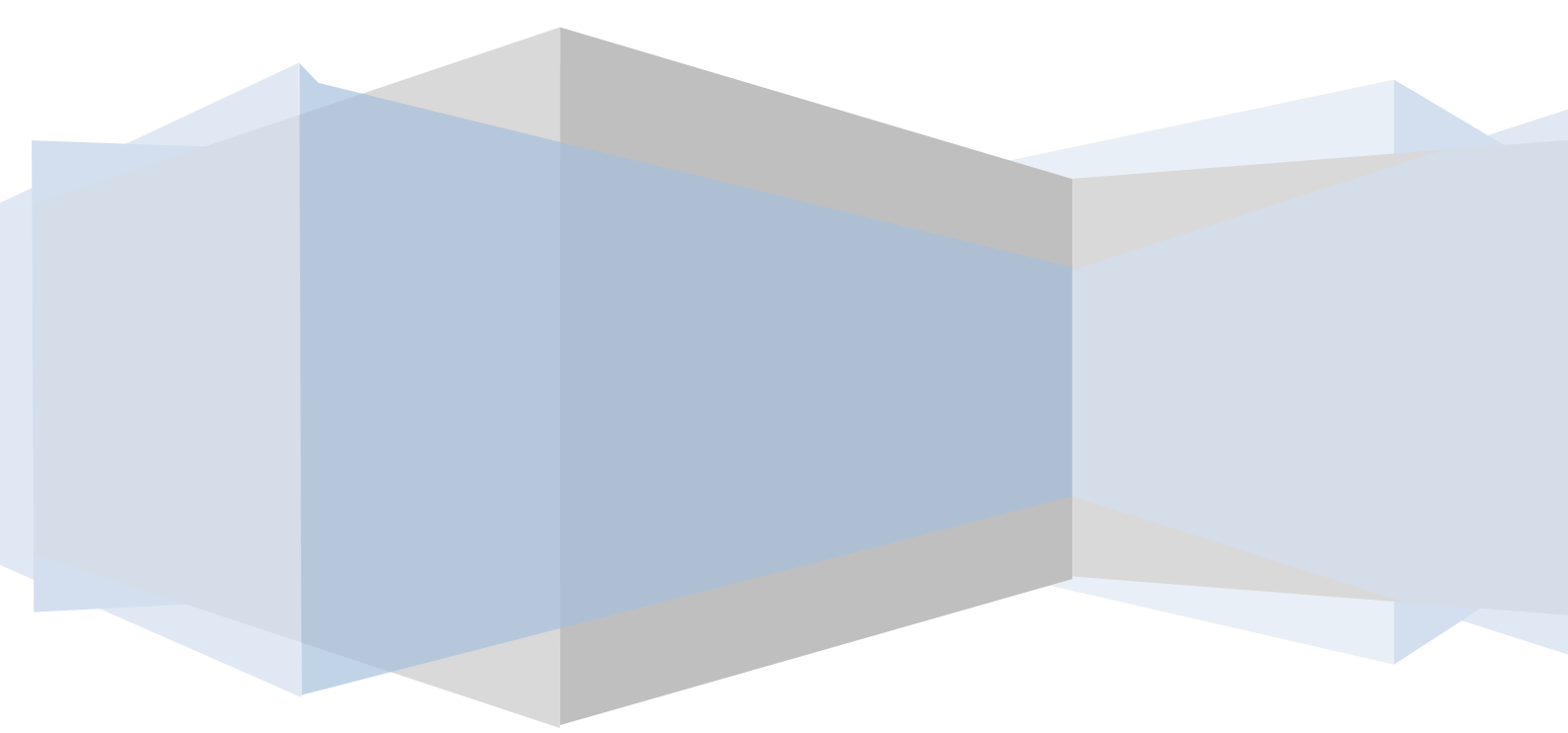
Local Eligibility Criteria

For adult carers

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Carers (Scotland) Act 2016 - Local eligibility criteria

Section 21 sets out the duty on each local authority (in Highland this should read NHS Highland for adult social care) to set local eligibility criteria which are to apply in its area and defines local eligibility criteria as follows:

“Local eligibility criteria are the criteria by which the local authority must determine whether it is required to provide support to carers to meet carers’ identified needs.”

Background

The Scottish Government produced guidance to support local authorities in setting local eligibility criteria. The guidance proposed that all local authorities use the same suite of indicators but use local discretion in establishing the threshold for support.

The Act places a duty on NHS Highland to enable adult carers to identify their needs and outcomes through the completion of adult carer support plans (ACSPs). In addition there is a duty to develop “local eligibility criteria for carers”. Where on completion of the ACSP (with a designated worker) the needs of the carer have been identified as meeting the eligibility criteria then there is a duty to provide support. This document outlines the criteria where there will be a duty to provide support to carers and also proposals around where carers who don’t meet the eligibility criteria can still be supported. Use of the National Framework as Eligibility for Carers in Highland was ratified by Health and Social Care Committee in 2017. To support changes to current practice, clarity around Waiving of Charges for Carers and the development of a project explore creative use of SDS to meet the identified needs of carers a local eligibility criteria has developed. Adopting a more localised approach will ensure there is a consistent and transparent approach to providing support to carers across Highland.

Principles

NHS Highland supports the following principles when working with carers

- It will never be assumed that carers want to continue in their caring role
- The focus of support for the carer will always take into consideration the impact on them of their caring role
- Staff in acute and primary healthcare settings will routinely identify carers, work with them in partnership around discharge planning and signpost them appropriately
- A preventative approach will be adopted to support carers
- Adult carers in Highland are able to access support, with information and advice as the very minimum
- Adult carers in Highland are treated as equal partners in care
- The eligibility criteria developed in this document is just a framework set against current legislation and policy to ensure fairness and transparency. It will be supported via clear, completion on an adult carers support plan that promotes and maximises independence whilst identifying and responding to issues of risk, protection and safety.

The Assessment Process

The framework of the 2016 Act, of which eligibility criteria are part, encompasses a rights-based approach - the right of every carer to have an adult carer support plan which aims to support their health and well-being by identifying their needs for support and personal outcomes; and the right to access an appropriate balance of information, advice and support to meet these needs and to achieve their personal outcomes.

1. Where a carer wishes to access support they can request support to complete an Adult Carer Support Plan. Currently in Highland this would be via support from a Carer Link Worker but could also be supported by a suitably experienced adult social care practitioner or children services practitioner within Highland Council.
2. The assessment process will include a conversation around the support the carer requires to continue in their caring role. This will include discussions about personal outcomes and drawing up an action plan to identify how such outcomes can be met. The document will be signed by both the carer and practitioner with the carer receiving a copy for their own records
3. The result of this conversation will be the completion of a clear and concise adult carer support plan. The carer and practitioner will identify how the needs can be met; initially this will be via informal support, universal services that are generally available and any assistance that has been identified for the cared-for person. If the remaining needs identified meet the threshold of the eligibility criteria then a request for funding will be made through the appropriate channel
4. Once funding has been agreed the practitioner will support the carer to meet the identified needs in as flexible a way as possible via the four options of self-directed support.

Considering Eligibility

When considering eligibility criteria the impact of caring on the health and wellbeing and the risks to the carer if they are not supported is fundamental. Therefore the following needs to be considered:

1. Is the caring role sustainable?
2. How high is the risk that the caring role will break down?

Section 24 of the Act **requires** NHS Highland as the responsible authority to provide support to a carer to meet their “eligible needs”. A carer’s “eligible needs” are those identified needs for support that cannot be met through support to the cared for person or through accessing services that are available generally, **and** which meet the threshold for support set by the local eligibility criteria. The local authority also has a **power** to provide support to meet other identified needs which cannot be met through support to the cared-for person, or services available generally, but which do not meet the threshold for support set by the eligibility criteria (i.e. non “eligible needs”).

Local eligibility criteria

This Eligibility criteria set locally by NHS Highland -using the principles of the Eligibility Criteria Guidance written to support The Act will allow provision of support to carers in different caring situations across a whole range of life circumstances. The criteria will prioritise support and target resources as effectively and efficiently as possible. It recognises that demand for support is increasing due to demographic changes, more complex needs and a greater intensity of caring particularly in line with changes to universal services during the Covid pandemic.

Priority of Risk

Critical Risk	There are severe risks to carer's ability to continue in their caring role This means there is likely need for immediate or imminent intervention and/or provision of social care support.	This could be because of hospital admission for the carer or health and safety issues relating to the carer or cared-for person
Substantial Risk	There is substantial risk of the carer continuing in their caring role.	There is a serious risk of the relationship between the carer and cared-for person breaking down
Moderate Risk	The carer is struggling to continue in their caring role.	The provision of some social care support and/or signpost to other services would support the carer to continue in their caring role.
Low Risk	There are some quality of life risks around the carers ability to continue in their caring role but they are prepared and can continue in their caring role.	Their ability to cope would be improved with some informal support being put in place
No Risk-	The carers needs are met and having o impact on their life	The carer is confident and able to continue in their caring role.

Meeting carer's needs- examples of types of support that can meet carers identified needs

Type of support	Illustrative Examples
Services or assistance to the cared-for person (except 'replacement care').	<ul style="list-style-type: none"> • care at home • technology enabled care • equipment and adaptations • mental health services • medicine management • support to access activities for disabled children
General services – information and advice.	Information and/or advice on: <ul style="list-style-type: none"> • carers' rights • education and training (e.g. on support at school, advice on Further and Higher Education) • income maximisation • carer advocacy • health and wellbeing • bereavement support • emergency care planning and future care planning

Type of support	Illustrative Examples
Other general services – available universally in the community or in particular neighbourhoods.	<ul style="list-style-type: none"> • leisure centres • libraries • art galleries • community transport • lunch clubs • youth clubs • education services • gardening clubs • walking clubs • local support groups
A carer's identified needs - both eligible or non-eligible needs - might be met in whole or in part by any combination of services or assistance for the cared for person or general services above. Where they are not, the following applies.	
Section 24(4)(a) to provide support to meet a carer's eligible needs . This can be any type of carer support that is not, or cannot be, provided through services for the cared for person or services that are available generally.	<ul style="list-style-type: none"> • course on emotional wellbeing • counselling • training on moving and handling • short break (noting LA duty at section 25 to consider whether support to a carer should include a break from caring) • replacement care (care for a cared-for person to allow their carer to take a break) • support to access leisure pursuits
Section 24(4)(b) to provide support to meet a carer's non-eligible needs . Again, this can be any type of carer support not covered by services for the cared for person or general services above.	

Strengths, capabilities and assets

The general principles set out in sections 1 and 2 of the Social Care (Self-directed Support) (Scotland) Act 2013 are relevant in the context of supporting carers and deciding whether their needs are eligible needs. Key principles for the purposes of this guidance are:

- a carer must have as much involvement as the carer wishes in relation to the provision of support or services;
- NHS Highland must collaborate with a carer in relation to the provision of support or services for the carer; and
- NHS Highland must take reasonable steps to facilitate that the right to dignity of the carer is to be respected.

At the same time as preparing the adult carer support plan, NHS Highland (or their representatives) will wish to consider what else other than the provision of support might assist the carer in meeting the personal outcomes they want to achieve. In considering what else might help, NHS Highland should consider the carer's own strengths and capabilities, and what support might be available from their wider support network, from local public services, or within their local community to help. Strengths-based approaches might include the fostering of mutual support networks, capable of supporting carers.

NHS Highland should also consider the ways a person's cultural and spiritual networks can support them in meeting needs and building strengths, and explore this with the carer. Any suggestion that support could be available from the carer's family and friends should be considered in light of the appropriateness of this approach and willingness and ability to provide any additional support and the impact on them of

doing so. It should also be based on the agreement of the carer in question, and if appropriate, the cared-for person too.

Relationship to adult social care eligibility criteria

In 2009, the Scottish Government and COSLA published a national eligibility criteria framework¹ for adult social care, which is still widely in use. On the basis of this, some local authorities developed eligibility criteria for support to carers using definitions appropriate to carers. The 2017 guidance to support the Act proposed use of a more appropriate set of indicators specific to carers and this guidance outlines these principles.

Outlining the framework

This consists of **a model of eligibility thresholds - where eligibility sits in relation to carer support as a whole**. The diagram below provides an illustrative example of where NHS Highland may decide to place the eligibility threshold in relation to the levels of impact or need. It also illustrates the role of preventative and universal services in supporting carers who do not meet the eligibility threshold. This includes examples of services to support carers which are not intended to be exhaustive or prescriptive (local circumstances will determine services).



Specific service types have not been categorised as ‘eligible’ or ‘non-eligible’ services, with ‘eligible’ services only being available for those who meet the threshold. For example, different forms of breaks from caring may be provided either side of the eligibility threshold. People whose caring role has a critical impact on one or more areas of their life are likely to require breaks from caring as part of a substantial package of services, and the person they care for is also likely to require

¹ www.gov.scot/Resource/Doc/924/0088325.doc and <http://www.gov.scot/Resource/0046/00469221.pdf>. See also: <http://www.gov.scot/Publications/2014/08/5212/6>.

replacement care to enable the carer to have a break from caring. People whose caring role has more moderate impacts may well still require a break.

National and local schemes funded from a variety of sources (e.g. micro grants, partnering with local hospitality businesses and respite vouchers) can provide relatively low-cost meaningful breaks for carers by utilizing wider community resources. Where services like this are provided 'below' the threshold line they can often prevent or delay the need for more substantial support and therefore carers subsequently requiring more expensive support 'above' the line.

In circumstances where a carer cares for more than one person, it is necessary to consider the impact of all of the caring situations together as individually they may not meet the local eligibility threshold but the cumulative impact of caring might result in eligible needs.

Indicators – impact and risk

The eligibility framework is based on the concepts of impact and risk. This builds on the focus on carers' needs and outcomes in the 2016 Act and is consistent with previous guidance on support to carers² which stated that:

*“local authorities should focus on the **impact** of the caring role on the individual carer and their family, and should address the following questions:*

- *is the caring role sustainable?*
- *how great is the **risk** of the caring role becoming unsustainable?”*

The concept of “identified needs” in the 2016 Act (section 5) is also important here, defined as “needs for support (if any) which are identified in order to meet the carer's identified personal outcomes”³.

The recommended eligibility framework for support to carers has five categories for impact/risk:

- caring has no impact – no risk
- caring has low impact – low risk
- caring has moderate impact – moderate risk
- caring has substantial impact – substantial risk
- caring has critical impact – critical risk

In the framework these categories are used to measure the impact of caring on seven key aspects of a carer's life:

- health and wellbeing
- relationships
- living environment
- employment and training
- finance
- life balance
- future planning

It would be appropriate for the indicator of “future planning” to be considered alongside other indicators rather than on its own. This is because future planning is almost always an aspect of a carer’s life which interacts with the other indicators.

Support to the carer to help tackle future planning could take the form of self-directed support - option 1 – direct payment, option 2 – choosing own support or option 3 – an arranged service.

Another example would be where a carer is anxious about the future because they are getting older, frailer and sicker, and they worry about who will care for their adult child with learning disabilities when the carer dies. In this case, the support provided - if not a place in supported accommodation for example - might be enabling the wider family and carer to come together to discuss and agree future care arrangements. This type of support, if provided in the form of carer advocacy or family mediation, is again either self-directed support option 2 or option 3.

Eligibility threshold

The indicators in the table recognise carers as providers of services to the person or people they care for. They take a broad approach when looking at the different areas of a carer’s life where their caring role can have an impact.

With the exception of “future planning”, eligibility should be applied to each of the areas individually and independently of each other so that if a carer has identified needs in one domain (e.g. health and wellbeing) above the threshold, this would mean that those needs meet the local eligibility criteria and the carer would be eligible for support to meet their needs pertaining to that domain and to help achieve their personal outcomes. Inevitably, there is also a degree of overlap between the indicators as, for example, concerns about financial issues may impact on a carer’s health and wellbeing.

Whilst eligibility criteria enable decision-making regarding support, use of eligibility criteria in themselves are not an exact science. Gradations of impact and risk along a five-point scale from ‘no impact/no risk’ to ‘critical impact/critical risk’ are not straightforward to describe. It is therefore important that practitioners use their professional judgement in the use of the indicators to ensure carers receive the right level of support at the right time. In applying professional judgement, the views of the carer should, of course, be taken into account.

Prevention

- The indicators encompass a preventative approach with universal, preventative support being the foundation for helping carers to manage their caring responsibilities.
- Maintaining and improving support to carers is a key priority for NHS Highland. The eligibility criteria allow thresholds to be set for different levels of impact, but they also aim to ensure that preventative support is embraced and embedded in policy and practice.
- This means that NHS Highland need to consider how carers access and benefit from universal services such as education, leisure and transport and the provision of carers’ information and advice services, including welfare rights and financial advice. NHS Highland also need to consider how

community-based support can be further developed to support carers. This includes services provided by carer centres and the wider third sector.

- It also means that adult carer support plans and young carer statements need to consider support needs in the round, and not only focus on the more intensive services that may be required by carers where the impact of their caring role and their support needs meet eligibility thresholds.

The preventative approach is reinforced in the 2016 Act itself. **Section 31(2)(g)** states that each local carer strategy must set out an assessment of the extent to which plans for supporting relevant carers may reduce any impact of caring on relevant carers' health and wellbeing. This requires NHS Highland to consider and set out plans for supporting carers on a preventative basis and to demonstrate how these plans can prevent or delay or reduce carers' needs, or potential needs, for support.

Impact of caring

The table below, shows the different areas of a person's life where their caring role may have an impact. This includes their health and wellbeing, finances, life balance, relationships, living environment, employment/training and future planning. It sets out the different categories of impact/risk.

Caring has no impact	Caring has low impact	Caring has moderate impact	Caring has substantial impact	Caring has critical impact
Health and Wellbeing				
Carer in good health & emotional wellbeing is good	Carers health and/or emotional wellbeing beginning to be affected	Carers health at risk without intervention and some impact on carers wellbeing	Carer has health need that requires attention and there is significant impact on wellbeing	Carers health and/or emotional wellbeing is breaking/has broken down
Relationships- importance of relationship with cared-for person & other key people				
Good relationship with person they care for & able to maintain relationships with other people in their life	Carer has some concerns about relationship with person they care for and ability to maintain relationships with other people	Carer has identified issues with their relationship with person they care for. Finding it difficult to maintain relationships with others	Relationship between carers and person they carer for in danger of breaking down. No longer able to maintain relationships with other people in their life	Carer relationship has broken down and caring role no longer sustainable. Lost touch with other people in their life
Living Environment – suitability for the carer and cared-for person				
Carers living environment is suitable posing no risk	Living environment is mostly suitable but could pose problems in the long terms	Carers living environment is unsuitable but poses no immediate risk	Living environment unsuitable & posing immediate risk	Living environment is unsuitable and posing critical and immediate risks

Caring has no impact	Caring has low impact	Caring has moderate impact	Caring has substantial impact	Caring has critical impact
Employment and Training- carers ability to remain in employment or undertake training				
No issues managing caring and employment and/or education. Carer does not wish to be in paid work or education	Some difficulty managing caring and employment and/or education. Although not currently in work or education in long term would like to be	Difficulty managing caring and employment and/or education. Not in paid work or education but would like to be in the medium term	Significant difficulty managing caring and employment and/or education and risk to continuing in the short term Not in paid work or education but would like to be soon	Significant difficulty managing caring and employment and/or education, imminent risk of giving up. Not in paid work or education but would like to be in the medium term
Finance – carer experiences financial hardship because of caring responsibilities				
No obvious financial hardship linked to caring	Experiencing some difficulties meeting household and utility costs	Some detrimental impact on finances	Significant impact on finances	Severe financial hardship- cannot afford household costs or afford essentials
Life Balance- carer has opportunities to balance caring with what they want from life				
Regular opportunities to balance caring with other aspects of life	Some opportunities to balance caring with other aspects of life	Limited opportunities to balance caring with other aspects of life	Irregular opportunities to balance caring with other aspects of life	No opportunities to balance caring with other aspects of life
Future Planning – carer has opportunities to make and see through future plans				
Carer is confident about planning for the future and has no concerns about managing caring	Carer is largely confident about planning for the future and has no concerns about managing caring	Carer is not confident about planning for the future and has no concerns about managing caring	Carer is anxious about planning for the future and has no concerns about managing caring	Carer is very anxious about planning for the future and has no concerns about managing caring

Replacement care

A carer might have needs meeting the local eligibility criteria and the carer may be assessed as requiring a break from caring. If the carer cannot take that break without replacement care being provided by the statutory or voluntary sectors rather than by friends, family or neighbours, then NHS Highland has a duty under section 24(4)(a) of the Act to provide or arrange the replacement care, whether or not the cared-for person has eligible social care needs in their own right. In other words, replacement care is not restricted to cared-for people who meet local social care eligibility. The duties and powers under section 24(4)(a) and (b) in respect of breaks from caring may as a consequence require replacement care to be provided or arranged for the cared-for person.

Fluctuating needs

Carers with fluctuating needs may have needs which are not apparent at the time of preparing the adult carer support plan. The needs may have arisen in the past and be likely to arise again in the future. In these cases, NHS Highland will consider the carer's needs over an appropriate period of time to ensure that all their needs have been accounted for when eligibility is being determined. A carer's needs can fluctuate for many different reasons including the availability on-and-off of wider family support to the carer and the fluctuating needs of the cared-for person themselves having an impact on the needs of the carer. This is especially the case with people experiencing mental ill health but is not restricted to those conditions.

Options for Self-directed support

NHS Highland either through its duty to provide support to the carer to meet the carer's eligible needs or its power to meet the carer's other identified needs, will give the carer the opportunity to choose one of the options for self-directed support (unless NHS Highland considers that the carer is ineligible to receive direct payments).⁴

Examples of how carers might address their identified needs under options 1-3 of Self-directed support are provided in the statutory guidance which accompanies the Social Care (Self-directed Support) (Scotland) Act 2013.⁵ These examples are reproduced (with slight adjustment) in the table below. They show that support to carers can take many forms.

² The four options for self-directed support are: **Option 1** – the making of a direct payment by the local authority for the provision of support; **Option 2** - the selection of support by the carer, the making of arrangements for the provision of it by the local authority on behalf of the carer and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of that provision (directing the available support); **Option 3** - the selection of support for the carer by the local authority, the making of arrangements for the provision of it by the authority and, where it is provided by someone other than the authority, the payment by the authority of the relevant amount in respect of the cost of that provision (the local authority arranges support); and **Option 4** - the selection by the carer of Option 1, 2 or 3 for each type of support and, where it is provided by someone other than the authority, the payment by the local authority of the relevant amount in respect of the cost of the support.

³ <http://www.gov.scot/Publications/2014/04/5438/8#table9>

Examples of support to carers

2013 Act option	Example
Option 1 Direct payment	<p><u>Example 1</u></p> <p>An adult carer who lives in a remote rural area is feeling increasingly isolated and depressed. She has no friends or family living nearby and her nearest carers' centre is miles away. The carer uses a direct payment to pay for the installation of broadband and for a tablet computer. This means she can keep in touch with her family and friends through video-calls and email, particularly her grandchildren who live overseas. She has also made friends with other carers on an online forum and now feels more connected and supported.</p> <p><u>Example 2</u></p> <p>A young carer who cares for his mother expresses that he has not been able to have the same opportunities as his peers. Whilst all his friends are learning to drive, he cannot because his mother cannot afford the cost and because of his caring role he cannot take on a part-time job in order to earn extra money. He thinks that having a driving licence would be useful as the family could get a Motability car, which would help with a lot of the tasks around his caring role such as shopping and taking his mum to places. He also thinks that being able to drive would open up more job opportunities. The young carer uses his direct payment to pay for several driving lessons and the cost of the driving tests.</p>
Option 2 Directing the available support	<p><u>Example 1</u></p> <p>A carer has never had a break from caring. He would like to have a break of an afternoon each week to have a rest where he doesn't have to worry about the safety of the person he cares for. The carer receives a carer's short break voucher and he uses this to purchase a short break.</p> <p><u>Example 2</u></p> <p>The authority arranges for an individual service fund to be set up to support the carer. This carer has always been very house-proud, but her husband has had a stroke and the level of care that she has to provide means that she is falling behind with housework and laundry, which is making her feel increasingly tired and depressed. The carer uses the individual service fund to purchase domestic help from an agency so that someone can come in and help with cleaning, ironing and other domestic tasks. The carer also uses the ISF to pay for a fortnightly visit from a care worker so that she can meet her daughter for lunch and have a break from caring.</p>
Option 3 Arranged services	<p><u>Example 1</u></p> <p>After the death of his father, a carer is finding caring for his mother, who has dementia, emotionally draining and he is becoming very depressed. He is on a waiting list for NHS counselling services but</p>

2013 Act option	Example
	<p>has been told it may take a long time and his local carers centre does not offer this service. The authority arranges for the carer to attend a private counsellor to help him manage issues of bereavement and caring.</p> <p><u>Example 2</u></p> <p>A carer talks about missing out on making new friends as she never has time because of her caring role. She expresses an interest in attending an art class in a local authority community centre. The authority arranges for the carer to attend the class and arranges replacement care for the person she cares for once a week.</p> <p>NB: The art class would be categorised under the Carers Act as general services and enabling the carer to attend this class would be providing general services, i.e. meeting non-eligible needs. The provision of replacement care would be either under the power or duty to support the carer (depending on whether her needs met the local eligibility criteria) and would be non-chargeable.</p>

Complaints

If a carer disagrees with the determination made about whether any of their needs are eligible needs, and wants to make a complaint, Then NHS Highlands Complaints procedure should be activated.. The carer can also make a complaint to the Scottish Public Services Ombudsman (SPSO) who is able to consider social work professional judgment as part of an independent review of complaints. Any complaint to the SPSO must take place after a complaint to the local authority.

Consultation on local eligibility criteria

Section 21(3) sets out the consultation requirements before setting local eligibility criteria. NHS Highland will consult with persons and bodies representative of carers and take steps to involve carers.

With regard to consultation arrangements, consultation with carers on draft eligibility criteria will take time and will require explanation. It is good practice for local authorities to work together with local carer organisations to develop the consultation approach in an open and transparent manner. It is also necessary to reach out to those such as carers with protected characteristics under equalities legislation who may be more marginalised and not always included in consultation exercises.

For example, in relation to BME carers, evidence suggests that consultation with BME carers should be an integral part of service development.³

The same applies with regard to those carers who live in remote and rural areas, including on the islands. A Scottish Community Development Centre advice note⁴ is specifically aimed at addressing challenges in applying the National Standards for Community Engagement in remote and rural areas.

It covers, amongst other things:

- anonymity, confidentiality and stigma
- parochialism

- recognising and responding to very local experience
- hidden populations and dominant cultures
- communities in transition and conflict
- physical access and accessibility of community engagement
- recognition of local cultures and traditions
- need for creative and inclusive methods of engagement

There are various policies, procedures and guidance documents setting out good practice in consulting with both adult and young carers as carers and as citizens. These are:

- *Equal and Expert: Three Best Practice Standards for Carer Engagement (Coalition of Carers in Scotland)*⁵
- *The Easy Consultation Toolkit (Shared Care Scotland)*⁶
- *So You Want To Consult With Children? A Toolkit of Good Practice (Save The Children)*⁷
- *The National Standards for Community Engagement (Scottish Community Development Centre)*⁸
- *Co-Production - How we Make a Difference Together (Mark McGeachie and Gerry Power)*⁹

Publication and Review of Criteria

Under **Section 22(1)** NHS Highland is required to publish its local eligibility criteria. The Act does not specify the method of publication but it is recommended that the local eligibility criteria (indicators and threshold) are published at least on-line and be readily available and easily accessible to managers and practitioners in the statutory and third sectors and to carers.

Section 22(2) of the 2016 Act, read together with regulation 2 of the Carers (Scotland) Act 2016 (Prescribed Days) Regulations 2017¹⁰, which came into force on 1 October 2017, provide that the first local eligibility criteria must be published by 31 March 2018. A local agreement ratified by Health and Social Care Committee permitted NHS Highland to use the national guidance to date.

Under **section 22(3)**, NHS Highland must carry out a first review of its local eligibility criteria before the end of the period, prescribed by the Scottish Ministers by regulations, beginning with the day on which the criteria are published. Regulation 3 of the Carers (Scotland) Act 2016 (Prescribed Days) Regulations 2017 prescribes a period of three years within which a first review of local eligibility criteria is to take place. The intention of the timescale for this first review is to ensure that local eligibility criteria are reviewed within a reasonable timeframe. This will enable NHS Highland to take into account any changes it wants to make to the local eligibility criteria in light of operational practice and the success of the criteria in meeting the needs of carers. The review timescales also allow sufficient time to give NHS Highland flexibility to align the review with other local service planning.

⁴ <http://www.sharedcarescotland.org.uk/resources/tools/consultation-toolkit/>

⁵ <http://www.savethechildren.org.uk/resources>

⁶ <http://www.scdc.org.uk/what/national-standards/>

⁷ <http://www.coproductionscotland.org.uk/resources/co-production-in-scotland-a-policy-overview/>

⁸ SSI 2017 No. 207 Social Care - The Carers (Scotland Act 2016 (Prescribed Days) Regulations 2017
<http://www.legislation.gov.uk/ssi/2017/207/contents/made>

Under **section 22(4)**, NHS Highland must thereafter review its local eligibility criteria before the expiry of 3 years but can carry out an earlier review.

Section 22(5) defines the 'relevant period' which is the period of 3 years beginning with whichever is the later of the day on which NHS Highland published (a) its local eligibility criteria or (b) a statement under subsection (6)(b).

Under **section 22(6)**, NHS Highland has set revised local eligibility criteria following a review and this will come into force from 2018.

Under **section 22(7)**, any revised local eligibility criteria must be published.

Since it is recommended in this guidance that the first local eligibility criteria encompass the indicators in **Annex A of national guidance**, NHS Highland will share details of the local criteria with the Scottish Government and COSLA so they know about any proposed changes to the criteria, especially the indicators at the first and subsequent review stages. This will enable the Scottish Government and COSLA to consider the way forward in light of the intention to have Scotland-wide use of the same indicators. NHS Highland will share learning and good practice on use of the local eligibility criteria.

Annex 1 Support to carer or cared-for person

There are various reasons why it is important to be clear about whether a decision to provide a particular service is being taken in relation to the cared-for person or the carer:

- if support is provided as a result of a section 12A community care assessment¹¹ to the cared-for person, then it is clear from sections 5, 6 and 11(2) of the SDS Act that it is for that person to decide whether the support should be provided and how it should be delivered;
- the cared-for person might not wish to receive particular services and so they may not be delivered in practice even though the local authority has decided they have an eligible need through the community care assessment;
- as set out above, different eligibility criteria might apply in assessing whether the needs of the cared-for person call for the provision of community care services or the carer for support;
- the rules in relation to whether a charge can be made in respect of the support or services will be different if it is provided for the carer or the cared-for person.

Section 12A of the 1968 Act and section 8 of the Disabled Persons (Services, Consultation and Representation) Act 1986 make provision for community care assessments to take into account the care provided by a carer and the carer's ability to continue to provide that care. These provisions are intended to ensure that the local authority is fully informed about the level of care that a carer is willing and able to provide.

Section 12A(1)(b)(ii) also expressly requires NHS Highland to take into account any views which the carer wishes and is able to express, so far as it is reasonable and practicable to do so.

As such, the two assessments should dovetail. For example, if a cared-for person requires 24/7 care and the carer is willing and able to provide that care for 8 hours a day, the community care assessment should cover the cared-for person's needs for the remaining 16 hours a day.

If there is already a community care assessment in place at the point where an ACSP is being prepared, and if services are being delivered in accordance with that assessment, then the services provided by NHS Highland to the cared-for person should be reflected in the part of the ACSP which sets out the nature and extent of the caring role.

NHS Highland will be required to consider the extent to which the carer's needs are not already being met by the provision of services to the cared-for person, and apply its eligibility criteria to those remaining needs.

⁹Whilst the term "community care assessment" still has currency, "social care assessment" is the term that is increasingly being used in practice.

Additional services that might be suitable or needed for the cared-for person could be identified in the context of the ACSP/YCS and not the community care assessment. This might happen where the carer does not agree with the services provided to the cared-for person, either because the situation has changed since the last community care assessment; because the cared-for person wants more support from the carer than the carer wishes; or because the carer feels that the decisions already made are not good decisions and make too many assumptions about the carer's willingness to care. This sort of concern may well be raised during the ACSP process and the Scottish Government would expect them to be taken seriously. If it was agreed that the concerns were valid, there might be agreement to revisit the community care assessment to see what could be done to resolve matters.

Guidance on the Community Care and Health (Scotland) Act 2002¹² makes clear that carers and cared-for persons should have the opportunity to discuss their needs individually without the other person being present.

As and when the community care assessment is reviewed, that might result in additional services being put in place for the cared-for person which would in turn change the needs which are identified under the ACSP. However, until any change to the community care assessment had been made, NHS Highland will still be under a duty to meet those needs identified in the ACSP/YCS which meet the eligibility criteria. This could not be through a change in services to the cared-for person without their community care assessment having been reviewed and so the local authority would have to consider other options available which would provide support to the carer.

As a matter of good practice, a revision to the community care assessment done quickly would enable a final decision on how to meet the carer's needs could be met once changes to the cared-for person's support had taken effect. However, there may well be cases where it takes time for any new services to be available and put in place, so completion of the ACSP or YCS should not be conditional on the community care assessment having been reviewed.

Therefore, each of the community care assessment and ACSP/YCS processes include a requirement on the person conducting the process to have regard to what is decided from time to time under the other process. If the duty to provide tailored support to the carer then operates by reference to the needs which are still existing when both general services and indirect services provided to the cared-for person are taken into account, this will give the correct result.

A similar analysis applies in relation to the interaction between ACSP/YCS and an assessment under section 23(3) of the Children (Scotland) Act 1995 where the carer cares for a disabled child. The assessments may be easier to bring together in practice where the carer is a parent of a disabled child, since the carer will often be responsible for agreeing to the services to be provided to the child in their capacity as parent. This means that there is a smaller risk of conflict about what is required to be provided to the child than in the case of a cared-for adult. However, the general principles about the interaction between the two processes should apply equally to considering how far support provided to a disabled child in accordance with a section 23(3) assessment impacts on the needs of their carer.

¹⁰Scottish Executive Circular CCD 2/2003 - http://www.sehd.scot.nhs.uk/publications/cc2003_02full.pdf

In situations where the cared-for person does not have a community care assessment, the carer may still have identified needs which meet the local eligibility criteria. In such circumstances, the carer may have identified needs which might be met by services or assistance provided to the cared-for person but which are not provided via a community care assessment, for example, the provision of additional health services to the cared-for person. This should be recorded in the ACSP/YC.

Annex 2 Carers who are also service users (adults or children with support needs)

Carers might also have support needs themselves due to their own illness or disability. Section 24(5)(a) and (b) of the Carers Act (application of duty to support carer to meet the carer's eligible needs) applies where a carer's eligible needs might also be met through community care services *provided to the carer* and assessed under section 12A of the Social Work (Scotland) Act 1968 or services for children and their families provided to the carer under section 22 of the Children (Scotland) Act 1995. If the carer's needs meet the eligibility criteria for carer support, then the duty to provide support to the carer in subsection (4)(a) applies even if those eligible needs for support also in themselves call for the provision of community care services under the 1968 or 1995 Acts.

This means a carer can have needs themselves as a disabled or ill person and have those needs met by community care services delivered to them. If they have eligible needs as a carer in their caring role, then the duty to provide support applies.

Where carers have support needs themselves, for example, each member of an elderly couple in a mutually dependent relationship, the responsible local authority will have to make decisions about whether the need arises because of the caring (e.g. depression due to challenges of caring) or because of other factors (e.g. depression due to isolation or which pre-existed the beginning of caring). This may result in artificial distinctions having to be drawn but the responsible local authority will need to exercise their judgment in determining whether the needs relate to the person's caring role. The distinction should however be clear enough.

If it is impossible for NHS Highland to isolate a person's needs as a carer from that same person's needs as a user of services, the local authority may be in a position where there are potentially two sets of eligibility criteria which are relevant. (There is no statutory obligation to have eligibility criteria in respect of the decision about whether needs identified in community care assessments 'call for' the provision of services in terms of section 12A of the Social Work (Scotland) Act 1968, but the Scottish Ministers issued guidance in 2009 suggesting that local authorities should do so for older people (with relevance to adults with support needs too). In such a case, the duty to provide the support to the person as a carer takes precedence when the local eligibility criteria are met, regardless of whether the local authority also decides (or would have decided) that the needs call for the provision of services under section 12A of the 1968 Act.

In summary, and to offer pragmatic examples, a carer could have:

- support needs as a carer, some or all of which might be eligible needs - *and could receive, for example, emotional support at the carers' centre (because the caring situation is causing the carer stress and anxiety) and a short break;*
- and also concurrently, support needs with regard to their own social care needs, some or all of which might be eligible needs - *and could receive, for example, telehealth, (a health monitoring kit) because they*

have diabetes and this kit helps them to monitor and self-manage their condition at home.

In other instances, as noted above, the distinction between a carer having eligible needs as a carer and as an adult with needs for community care services could be less clear. For example, it may be difficult to distinguish if the mental ill health of the carer is due to their caring role or not, but it is apparent that a certain type of support will help the carer's mental health. In this circumstance, the local authority must decide for itself which eligibility criteria framework to use and do so quickly so that timely support is provided.