

# Care Act Statutory Guidance

## Response from ADASS in relation to information and advice

### 1. Overall comments

This response is from ADASS in relation to the information and advice dimensions of statutory guidance and regulations accompanying the Care Act.

We welcome the fact the information and advice includes both its own section and is peppered through the statutory guidance. We also welcome overall the guidance in relation to information and advice, albeit with a caveat in terms of financial advice which we detail below. This response specifically looks at the Information and Advice section.

It would be helpful to review throughout what the local authority 'must' do, and what it 'should' do. For instance, it is clear why 'Local authorities **must** "establish and maintain a service for providing people in its area with information and advice relating to care and support for adults and support for carers" but not why, or indeed how they would be expected to evidence that, they **must** take an active role.'

We would welcome, and are happy to contribute to a review of what should be in statutory guidance and what should be in practice guidance. We appreciate that getting the balance right is not easy, but we feel that there are some areas where the guidance reads as an 'A-Z how to do it list' and without much actual guidance.

We say more about this in the section that follows.

### 2. The information and advice sections of the guidance:

#### Definitions

Whilst this section does define information and advice, it could do more, more consistently, throughout the section to differentiate the two, perhaps along the lines of being more explicit that advice is the personalised, more interactive, provision of information.

The co-ordination and targeting of information and advice to those most in need of support should be a fundamental role of an effective information, advice and guidance provider.

It would be helpful to expand some of the sections to incorporate the following:

Assuming that most councils will either directly provide, or commission, a universal information and advice service, it should be part of the function of this service to target appropriate information to people who are more vulnerable due to specific health and care needs, and in doing so, address unmet or hidden need. This could be by targeting

population or groups of potential service users e.g. those aged 75+, carers; or by targeting settings e.g. GP surgeries, ED Departments; or key transitions e.g. point of hospital discharge, step down from intermediate care returning to the community, on discharge from re-ablement, on discharge from selected outpatient clinics.

### **Carers**

We recognise that information and advice is essential for all of us, whether we currently need care and support, or will do in the future, and whether we currently care for someone or will do in the future. It would be helpful to spell this out. The mainstreaming of carers issues within this part of the guidance generally reflects this and is welcomed.

Having made this point it should be noted that 3.4, 3.11, 3.20, 3.24, 3.35 and 3.6 the reference is only to care and support. This may be intended but needs to be clarified as at the moment carers with support needs may be missed. This would be inconsistent with S.4 [1].

At 3.14 we would suggest adding carers' organisations to the list so their involvement is explicit rather than implicit.

Many people, including carers, see effective local information and advice as a priority. More might also be said at 3.50 about co-production of local information and the contribution carers and people with care and support needs can inform and shape the local information and advice provisions under the Act. At the moment this has a top down feel; although 3.55 does pick up the point and is welcomed. This may be an issue of ordering of material.

At 3.23 there is a strong case, given the provisions of the legislation, to add "availability of information and advice on their rights as carers in commencing, continuing or ceasing to provide care or support and in relation to other areas such as employment, education and recreation."

At 3.24 we would suggest adding hospital admission and discharge as a critical contact point for both carers and supported people. This would be consistent with para 3.25.

### **Understanding needs**

Para 3.56 is welcomed. It is however one of the very few occasions when equality and diversity issues are considered within the statutory guidance. We see this as an area for practice guidance.

Whilst picking up on accessibility issues, the guidance might emphasise more how information and advice can help overcome the barriers to recognition, identification of carers and people with care and support needs.

## **Timely Information**

At 2.28 we would recommend that “timely” is added as well as “appropriate and proportional”. This also applies to 3.50 where timeliness has a wider pull than “right time”. This would be consistent with other provisions within the statutory guidance. The latter points are then developed at 3.31

## **Information Sharing & Confidentiality**

The section on Safeguarding [p.218 – 220] gives specific consideration to these issues. There is existing non-statutory guidance on information sharing and confidentiality in relation to carers in the area of mental health. It is not clear what will happen about this and other guidance in terms of review or continued applicability. This practice guidance is helpful and should not be lost. See: notes regulations. Consent for the transfer of information should be expected [See also: Question 80]

## **Freedom of Information Act, 2000**

There is nothing about the interface with, and possible need for compliance with, the FOIA regime – will apply to information and advice and provision of assistance. For completeness, DH may wish to consider further the provision of links.

## **Financial advice**

Facilitation of access to independent financial advice is potentially the most problematic aspect of the guidance on information and advice and the one where ADASS has the most concerns about how it should work in principle and in practice.

We strongly believe that there is a function for national government to publicise much more widely the detail in relation to advance planning and to detail the Lasting Powers of Attorney covering both the financial and welfare dimensions. We also believe that national guidance should be issued (which councils and others can draw down) in relation to financial information and advice.

The draft guidance states that this advice should be independent of the local authority. We believe that it is critically important that this advice is also independent of any provider of financial products – or their subsidiary or linked organisations. It is not easy for non- financial services industry personnel to spot these and even more difficult for the public. The mention of the Money Advice Service is therefore helpful.

## **Safeguarding**

This section is welcome. It would be helpful if it started with information and advice for all, and in targeted forms, about how to keep yourself safe. There are many good local versions of this (for instance, Barnet’s ‘Say No to Abuse’ information in a range of forms.

Information and advice should be available not only to enable people to make good care and financial choices, but also to support them to safeguarding their finances.

