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Care Act 2014 – key sections for autistics involved in social care assessments/reassessments

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Being refused an assessment because undiagnosed

- “The authority should base their judgment on the assessment of the adult and a formal diagnosis of the condition should not be required.”

Care Act statutory guidance 6.105

Getting the questions in advance of the assessment

- “To help the adult with needs for care and support, or the carer, prepare for the assessment the local authority should provide in advance, and in an accessible format, the list of questions to be covered in the assessment. This will help the individual or carer prepare for their assessment and think through what their needs are and the outcomes they want to achieve.”

Care Act statutory guidance 6.38 and Equality Act 2010 “reasonable adjustment”

Supported self-assessment

- “A supported self-assessment **must** be carried out if the individual concerned is an adult and—
 - (a) wishes the assessment to be a supported self-assessment; and
 - (b) has the capacity to take part in a supported self-assessment”

Care Act 2014 Assessment Regulation 2(3)

- “To facilitate the carrying out of the assessment a local authority must provide an individual taking part in a supported self-assessment with any relevant information it may have—
 - (a) about that individual”

Care Act 2014 Assessment Regulation 2(5)

n.b. If you qualify for an advocate, the advocate can support you to do your supported self-assessment.

Advocacy

- Statutory duty to provide an independent advocate if individual would experience substantial difficulty:
 - understanding relevant information;
 - retaining that information;
 - using or weighing that information;
 - communicating their views, wishes and feelings.
- UNLESS there is an appropriate informal person AND both they and individual consent
- Duty applies to social care assessments, care planning, reviews and safeguarding enquiries

s.67 & 68 Care Act

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- “In deciding whether an individual would experience substantial difficulty ... a local authority must have regard to—
(c) any disability the individual has”

Care Act Advocacy regulation 3.

- “a person with Asperger’s may be considered [to be experiencing substantial difficulty communicating]... it is the person’s ability to communicate their views, wishes and feelings which is fundamental to their involvement rather than the diagnosis or specific condition.”

Care Act statutory guidance 7.15

- “all independent advocates should be expected to work towards the National Qualification in Independent Advocacy (level 3) within a year of being appointed, and to achieve it in a reasonable amount of time;”

Care Act statutory guidance 7.43

Autism expertise

- “The Care Act strengthens this guidance in relation to assessors having specialised training to assess an adult with autism. The Act places a legal requirement on local authorities that all assessors must have the skills, knowledge and competence to carry out the assessment in question. Where an assessor does not have experience in a particular condition (such as autism, learning disabilities, mental health needs or other conditions), they must consult someone with relevant experience. This is so that the person being assessed is involved throughout the process and their needs, outcomes and the impact of needs on their wellbeing are all accurately identified.”

Care Act statutory guidance 6.90

- “(1) A local authority must ensure that any person (other than in the case of a supported self- assessment, the individual to whom it relates) carrying out an assessment—
 - has the skills, knowledge and competence to carry out the assessment in question; and
 - is appropriately trained.
- (2) A local authority carrying out an assessment must consult a person who has expertise in relation to the condition or other circumstances of the individual whose needs are being assessed in any case where it considers that the needs of the individual concerned require it to do so.
- (3) Such consultation may take place before, or during, the carrying out of the assessment.”

Care Act Assessment regulation 5

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