



A Unique Approach to Training, Consultancy and Research
www.consultyo.com

Care Planning - Time limits and delays

- The local authority has a statutory duty under s.24 Care Act 2014 to prepare a care and support plan
- The local authority should properly consider whether it should meet urgent needs under s.19(3) in the interim whilst carrying out this function
- s.25 Care Act 2014 specifies that "A care and support plan ... is a document prepared by a local authority which-
 - (a) specifies the needs identified by the needs assessment or carer's assessment,
 - (b) specifies whether, and if so to what extent, the needs meet the eligibility criteria,
 - (c) specifies the needs that the local authority is going to meet and how it is going to meet them,
 - (d) specifies [which of the eligibility outcomes the care and support is intended to meet]
 - (e) includes the personal budget for the adult concerned (see section 26), and
 - (f) includes advice and information about—(i) what can be done to meet or reduce the needs in question; (ii) what can be done to prevent or delay the development of needs for care and support or of needs for support in the future."
- In performing this duty the local authority must take all reasonable steps to reach agreement with the adult or carer for whom the plan is being prepared about how the authority should meet the needs in question. (s25(5))
- The local authority must give a copy of a care and support plan to the adult for whom it has been prepared (s25(9))
- Public law principles say that needs must be met appropriately, suitably and reasonably. These are professional social work judgements which social workers need to be able to explain and justify on the basis of evidence
- "In the event that the plan cannot be agreed with the person, or any other person involved, the local authority should state the reasons for this and the steps which must be taken to ensure that the plan is signed-off. This may require going back to earlier elements of the planning process. **People must not be left without support while a dispute is resolved.**" (Care Act Statutory Guidance 10.86)
- "While there is no defined timescale for the completion of the care and support planning process, **the plan should be completed in a timely fashion, proportionate to the needs to be met.**" (Care Act Statutory Guidance 10.84)

Yo Dunn PhD

Trainer and consultant in education, social care and health with a specialism in autism
Consult Yo Ltd. is a company registered in England and Wales. Company number: 9233343



A Unique Approach to Training, Consultancy and Research

www.consultyo.com

- If "panels" are mentioned as a reason for delay, "Due regard should be taken to the use of approval panels in both the timeliness and bureaucracy of the planning and sign-off process. In some cases, panels may be an appropriate governance mechanism to sign-off large or unique personal budget allocations and/or plans. Where used, panels should be appropriately skilled and trained, and local authorities should refrain from creating or using panels that seek to amend planning decisions, micro-manage the planning process or are in place purely for financial reasons. Local authorities should consider how to delegate responsibility to their staff to ensure sign-off takes place at the most appropriate level. " (Care Act Statutory Guidance 10.85)
- In a recent Judicial Review, it was held that even where there is no statutory time limit there is a public law duty to carry out a statutory decision making function "within a reasonable period." and in that case delays of 10 months and 13 months were found to be unlawful (R (on the application of (1) C (2) W) (Claimants) v SECRETARY OF STATE FOR WORK & PENSIONS (Defendant) & ZACCHAEUS 2000 TRUST (Intervener) (2015))
- The local government ombudsman may well consider a really protracted delay maladministration. For example, a wait of more than 6 months was found to be maladministration in *West Lancashire DC 2005*.

Yo Dunn PhD

Trainer and consultant in education, social care and health with a specialism in autism
Consult Yo Ltd. is a company registered in England and Wales. Company number: 9233343