DEPARTMENT OF HEALTH

CARERS (RECOGNITION AND SERVICES) ACT 1995

POLICY GUIDANCE
Purpose

1. The aim of this policy guidance (which is issued under Section 7(1) of the Local Authority Social Services Act 1970) is to set out the Government’s view of what local authorities should be doing to implement the Carers (Recognition and Services) Act 1995. The Act is concerned with carers’ assessment. Detailed policy and practice guidance already exists on assessment and care management. This guidance is intended to supplement that, insofar as is relevant to the implementation of the Act.

2. The accompanying practice guide gives advice on how the Act might be implemented. Rather than repeat information which is contained in other reports, the practice guide, where relevant, cross-references readers to existing material.

Context - Policy Aims and Objectives

3. The Carers (Recognition and Services) Act 1995 is consistent with the Government’s policy aims for both community care and disabled children. The White Paper, ‘Caring for People’ has as its second key objective, "to ensure that service providers make practical support for carers a high priority" and that "assessment of care needs should always take account of the needs of caring family, friends and neighbours". The Children Act 1989 Guidance (Volume 6) emphasises that Social Services Departments should carry out assessments of children in a manner which takes account of the child’s and parent’s circumstances and preferences.

4. The Act is concerned with carers who are either providing or intending to provide a substantial amount of care on a regular basis. Under the Act, a carer is entitled, on request, to an assessment when a local authority carries out an assessment of the person cared for in respect of community care services (under Section 47(1)(a) of NHSCCA 1990) or services for children (for the purposes of the Children Act 1989 or Section 2 of the CSDPA 1970.) The results of the carer’s assessment should be taken into account when the local authority is making decisions about services to be provided to the user.
5. However, the Act is only one, albeit very important, aspect of a range of ways in which local authorities can assist carers:

(a) by continuing to use their powers in paragraph 2(1) of Schedule 8 of the NHS Act 1977 supplemented by Section 111 of the Local Government Act 1972 to provide or support services such as carer support groups and information. Such services should be available to all carers without requiring an assessment.

(b) by acting on their continuing responsibility to involve carers who are not covered by the scope of the Act in a user’s assessment. Section 8 of the Disabled Persons (Services, Consultation and Representation) Act 1986 requires the local authority to have regard to the ability of a carer to provide or continue to provide care when deciding what services to provide to the disabled person.

(c) Where a carer is requesting help, but the user refuses an assessment local authorities are reminded of their responsibilities arising from Section 47 of the NHS and Community Care Act 1990, Schedule 8 of the NHS Act 1977 and Section 17 of the Children Act 1989. (See paragraph 11.2 of the Practice Guidance.)

Scope of the Act

6. The provisions of the Act cover

(a) Adults (people aged 18 and over) who provide or intend to provide a substantial amount of care on a regular basis

(b) Children and young people (under 18) who provide or intend to provide a substantial amount of care on a regular basis
(c) Parents’ who provide or intend to provide a substantial amount of care on a regular basis for disabled children. (For a definition of disability refer to Section 17(11) of Children Act 1989)

7. For the purposes of the Act the term carer includes people who may or may not be a relative and who may or may not be living with the person for whom they are caring.

The Act excludes from the definition of carer volunteers who provide care as part of their work for a voluntary organisation and anyone who is providing care by virtue of a contract of employment or any other contract. This would exclude anyone who is providing personal assistance for payment, either in cash or kind.

8. It is important to recognise that the effects of the Act will be gradual. As many authorities already offer carers an assessment, the legislation in effect enshrines good practice into statute. The Act provides that those carers who are providing a substantial amount of care on a regular basis have a right to request an assessment at the time of the user’s assessment. The provisions of the Act will affect carers where the person for whom they care is in the process of being assessed. Or, where a re-assessment of the user is taking place, either as part of a review or because of a change in circumstances of either the user or the carer arising for example, from a deterioration in the health of the user or a change in the carer’s ability to continue to provide care.

9. The Act links the results of a carer’s assessment to the local authority’s decision about services for the user. The aim is to encourage an approach which considers support already available from family, friends or neighbours, the type of assistance needed by the person being assessed and how and whether the current arrangements for care can sustain the user in the community. Many of the services which assist carers are provided to the user. Views and circumstances of users

The word carer is used in the Carers Act to include parents and others with parental responsibility who care for disabled children. Parents of disabled children generally do not see themselves as carers (see for example, B Reesford: Positively Parents: Caring for a Severely Disabled Child, SPRU 1984). Therefore the guidance generally uses the term parents to describe those carers defined by Section 1(2)(b) of the Carers Act 1989.

Assessment and support for foster carers is dealt with in The Children Act 1989, Guidance and Regulations Volume 3.
and carers may be distinct but the nature of caring requires that they are considered together and reflected in the services to be provided to the user.

10. The Department considers that the terms ‘regular’ and ‘substantial’ in the expression, ‘a substantial amount of care on a regular basis’, should be interpreted in their everyday sense since Parliament has not provided otherwise in the Act.

11. The reference to a "substantial amount of care on a regular basis" means that not all carers will be eligible for an assessment under the Act. It will be for local authorities to form their own judgement about what amounts to "regular" and "substantial" and to make their views known. In so doing, they may need to make decisions about the relative needs of carers in their area to ensure that those with regular and substantial caring responsibilities can receive, where requested, an assessment under this Act. The Act reinforces existing good practice; over-bureaucratic responses or procedures should be avoided.

12. Local authorities should ensure any eligibility criteria (or other statements) which describe levels of need which they will meet under current community care legislation also reflect their responsibilities under this Act and allow the consideration of a carer’s ability to provide and continue to provide care.

Young carers and parents of disabled children

13. Where the carer is either under 18 or the parent of a disabled child, local authorities should consider whether the Children Act 1989 applies. It provides a framework for all services for children in need, including disabled children, and those young carers, who because of the extent and effect of their caring responsibilities, are children in need. It emphasises certain principles, such as the need to ascertain and give due weight to the wishes and feelings of children and to promote the upbringing of children by their families. These principles should inform a local authority’s assessment of either a parent of a disabled child or of a young carer.

14. It is important to provide integrated services through clearly identified links between community care and children’s legislation so that adequate support is available for the family
via community care services for the adult and children’s services for the child. It will be up to local authorities to make the relevant management arrangements according to local structure and organisation.

They should ensure that staff have sufficient knowledge of the range of the social services department’s responsibilities and provision so that they can make appropriate arrangements to support families where children have assumed a caring role. The authority should be aware of its responsibilities under Section 17 (1) of the Children Act 1989 for ‘children in need’ particularly where a child may be either considerably affected by a parent’s illness or disability, or caring for a parent but not on a regular or substantial basis.

**When to do a Carer’s Assessment under the Carers (Recognition and Services) Act**

15. (a) Local authorities should carry out a carer’s assessment when requested by a carer at the time of a user’s assessment and the carer is:

- a carer as defined in paragraph 6 and 7
- and either providing a substantial amount of care on a regular basis
- or intending to provide a substantial amount of care on a regular basis.

(b) When requested by a carer either as part of a review of the circumstances of the user or when because of change in circumstances of either the user or carer, a user is being re-assessed and the carer is otherwise eligible.

16. By including carers both providing or intending to provide care, the Act covers those carers who are about to take on substantial and regular caring tasks for someone who has just become, or is becoming, disabled through accident or physical or mental ill health. Local and health authorities will need to ensure that hospital discharge procedures take account of the provisions of the Act and that carers are involved once planning for discharge starts.
Carers with community care needs

17. Carers may have community care needs in their own right by reason of their old age, physical or mental ill health, physical or learning disability. Where it appears to the local authority that a carer who is over the age of 18 may have a need for community care services, then the local authority should carry out an assessment under Section 47(1)(a) of the NHS and Community Care Act.

Carers who either do not want or do not qualify for a carer’s assessment

18. It should not be assumed that all qualifying carers will want their own assessment. Local authorities should continue to follow current policy and practice guidance on involving carers when either a regular and substantial carer does not want their own assessment or when a carer is providing care on less than a substantial and regular basis.

Information

19. Local authorities should ensure that their published information about community care tells carers about their right under this Act: describes which carers will be eligible for an assessment and how the authority’s assessment procedures work.

20. Many carers with substantial caring responsibilities may not know about their right under the Act. Local authorities should ensure that it becomes part of routine assessment practice to inform any carer who appears to be eligible under this Act of their right to request an assessment.

The Assessment

21. The focus of the carer’s assessment for the purposes of this Act should be on the carer’s ability to care and to continue caring. The assessment should take account of the carer’s circumstances, their age, views and preferences, the amount of support available to them. It should not automatically assume a willingness by the carer to continue caring, or to continue providing the same level of support.
22. Where the carer is a child the impact of caring may be different as it may affect the child's health and development by the restrictions that providing regular and substantial care might place on the child's educational and leisure opportunities. This should be carefully considered as part of the assessment. It is equally important that the assessment focuses on how best to enable an ill or disabled parent (or other family member) to live independently so that the parent's ability to parent is supported rather than undermined. Consideration should be given as to whether the child is a "child in need" under the Children Act 1989.

23. When doing an assessment of a parent of a disabled child the considerations in paragraph 17 above apply. The assessment should take account of the extent to which parents of disabled children provide a substantial level of care on a regular basis beyond that which parents would provide for a non-disabled child of a similar age.

24. Many local authorities already offer carers an assessment. Recent studies have shown that carers are not always aware either that they have been offered or that they have had an assessment. Authorities should ensure that good practice and adequate recording are developed so that both carers and professional staff share the same understanding of the process which has taken place. It should not be necessary to create elaborate systems and procedures to achieve this.

25. It should not be assumed that any request by a qualifying carer for an assessment under this Act can only be met by a separate assessment. In some cases it may be appropriate to carry out the carer's assessment at the same time as the user's assessment, whereas in others carers and/or users may want the opportunity for private discussion with the care manager. Authorities should discuss with the carer how the assessment is to be done and ascertain whether a separate assessment or assessment with the user is appropriate.

* The use of this term is not uniform. Here it refers to the practitioner who is carrying out the assessment.
Equal Opportunities

26. Existing guidance emphasises the importance of ensuring that assessment is equally available to all members of the community and that

(a) assessment procedures should be readily accessible to all potential users and carers

(b) where individuals have communication difficulties arising from disability and/or sensory impairment, authorities should take active steps to make suitable arrangements to ensure that, in this case, the carer, can fully participate in the assessment

(c) authorities should also ensure that carers from black and ethnic minority backgrounds, whose first language is not English, can participate fully in any assessment.

Authorities will need to respond sensitively to the particular circumstances of carers from all backgrounds, ethnic origins and different lifestyles.

Inter-Agency Working

27. Section 47(3) of the NHS and Community Care Act 1990 requires Social Services Departments to bring apparent housing and health care needs to the attention of the appropriate authority and invite them to assist in an assessment of a person's need for community care services. The Children Act 1989 Section 27 places a qualified duty on local education, health and housing authorities to co-operate with local authorities in relation to functions under Part III of the Children Act. Authorities should, therefore, already have collaborative arrangements in place for obtaining the input of health, education or housing, when appropriate. A carer's assessment may alert the SSD to either health or housing needs. Social services authorities and all other agencies will need to ensure that existing inter-agency arrangements are appropriate for referrals resulting from a carer's assessment.
NHS Involvement

28. Increased patient involvement in purchasing is a specific objective in the 1996/97 NHS Priorities and Planning Guidance which states:

"Give greater voice and influence to users of NHS services and their carers in their own care, the development and definition of standards set for NHS services locally and the development of NHS policy both locally and nationally" (p.9)

Collaboration with local authorities in the implementation of the Carers (Recognition and Services) Act is, therefore, part of the achievement of existing NHS priorities.

29. The Continuing Care guidance, "NHS Responsibilities for Meeting Continuing Health Needs" HSG(95)8, LAC(95)5 and the more recently published arrangements for monitoring implementation, (EL/95/88, CI/95/37) provide a good opportunity for local authorities to review with NHS commissioning agencies and NHS providers how they might best be involved in carers’ assessments.

30. Primary care staff, including GPs and community nurses through their contact with users and carers, are in a good position to notice signs of stress, difficulty or rapidly deteriorating health particularly in carers. The provisions of the Act will help primary care staff to meet the medical and nursing needs of their patients who are carers. When making a referral for a user’s assessment they should be able to inform the carer that they may also have a right to request an assessment and will be well-placed to encourage patients whom they consider will benefit most to take up the opportunity. Social services departments should make sure that primary care staff have relevant information about social services criteria and know who to contact to make a referral. GPs, nurses and other members of multi-disciplinary teams, may be able to assist in an assessment of a carer’s ability to provide and to continue to provide care.
Education Departments

31. Social services departments should work closely with local education authorities when carrying out assessments of young carers and parents of disabled children. Section 166 of the Education Act 1993 places a qualified duty on social services departments to assist local education authorities in their work with children with special educational needs. Detailed guidance is contained in the Code of Practice on the Identification and Assessment of Special Educational Needs and in the Pupils with Problems Guidance (Circulars 8/94 and 13/94).

The Decision

32. The Act requires the local authority to take the results of the carer's assessment into account when making decisions about services to be provided to the user.

33. The decision about services to be provided should be informed by the assessment of carer and user taken together. Both the carer and the user should be fully involved in any discussion about the results of the assessment and the proposed care plan. This should describe needs to be met by the local authority, services to be provided to the user, how they will assist the user and what other relevant, how services provided to the user will assist the carer. Where the user is a disabled child, the relevant services will be those which may be provided under Part I of the Children Act 1989 and/or Section 2 of the Chronically Sick and Disabled Persons Act 1970. Where the user is an adult, the relevant services will be those referred to in Section 46(3) of the NHS and Community Care Act 1990. Young carers may be entitled to receive services described in Part I of the Children Act 1989.

34. The care plan and results of assessment should be confirmed in writing or in a format which is accessible to both user and carer. It is important that local authorities record the result of the assessments and that users and carers are informed of complaints procedures.
REFERENCES

1. Community Care in the Next Decade and Beyond - Department of Health 1990

2. Care Management and Assessment Managers' Guide - SSI/SWSG, HMSO 1991

3. Care Management and Assessment Practitioners' Guide - SSI/SWSG, HMSO 1991


3. See Chief Inspector letter - CI(95)12 on Young Carers