

LOCAL AUTHORITY OBLIGATIONS

(Taken Directly from Statutory Guidance)

Local authorities must ensure that any person carrying out a needs assessment under the Care Act 2014 has the skills, knowledge and competence to carry out the assessment in question and is appropriately trained. Where the assessor does not have experience in the condition, the local authority must ensure that a person with that expertise is consulted.

Local authorities' duties under the Care Act 2014, as from April 2015

As from April 2015, local authorities are also subject to the following duties and must carry them out in relation to adults with autism as with all other adults:

- ⊕ Section 1 of the Care Act – duty, in exercising its care and support functions under Part 1 of the Care Act in the case of an individual, to promote that individual's well-being;
- ⊕ Section 3 of the Care Act – duty to exercise its functions with a view to ensuring the integration of care and support provision with health and health related provision where this would, in its area, promote well-being, help prevent or delay the development of care and support, or support, needs and improve the quality of such care and support;
- ⊕ Section 4 of the Care Act – duty on local authorities to 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 and in particular on how to access the care and support that is available; 12 Part 1 of the Care Act 2014 – Sections 1, 3, 4, 6 and 7 <http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>
- ⊕ Section 6 of the Care Act – duty of co-operation in general, in exercising functions relating to adults with care and support needs and carers with support needs, between local authorities and other relevant bodies, such as NHS bodies in its area, other local authorities, and specified persons responsible for exercising functions in relation to social security, employment and training, probation services, prisons and the police;
- ⊕ Section 7 of the Care Act – duty to cooperate with the same relevant bodies in specific cases relating to individuals with needs for care and support;
- ⊕ The Care and Support (Assessment) Regulations 2014 – duty to give information about the assessment process to the individual being assessed;
- ⊕ Regulation 5 of the Care and Support (Assessment) Regulations 2014 which requires a local authority to ensure that a person carrying out an assessment has the skills, knowledge and competence to carry out the assessment in question and is appropriately trained. Local Authorities must therefore ensure that assessors carrying out assessments of people with autism have the skills, knowledge, competence and training to carry out such assessments.

Under Section 47(1) of the National Health Service and Community Care Act 1990,¹⁴ local authorities have a duty to assess a person who may be in need of community care services. Section 9 of the Care Act 2014¹⁵ replaces the duty in Section 47(1) as from April 2015 (see below). This assessment may be triggered either by the individual requesting it or if the local authority believes community care services may be necessary. This duty applies to people with autism and is not dependent on them having been formally diagnosed as having autism. Such an assessment should be carried out by trained practitioners, and where there are potential signs of autism, the assessment should take account of the communication needs of adults with autism. Assessment of eligibility for care services cannot be denied on the grounds of the person's IQ.

This is particularly important for some people with autism, including those with Asperger's syndrome, who may face very significant challenges in their everyday lives, despite having average or above average IQ.

The Care Act requires local authorities to conduct a needs assessment where it appears to the authority that the adult may have needs for care and support. It is vital that local authorities fulfil their duties under statute by ensuring that adults diagnosed with autism who may have care and support needs are offered an assessment.

Under the Care Act (as from April 2015), local authorities must:

- ⊕ Carry out a supported self-assessment of the care and support needs of an adult with autism if that is what the adult wishes (providing they have capacity to consent);
- ⊕ Involve individuals (including those with autism and their carers) when carrying out certain care and support functions in respect of them, such as when conducting needs or carers assessments, preparing care and support, or support, plans (and when revising such plans);
- ⊕ Where required, provide access to an independent advocate to enable the individual's engagement in determining their support;
- ⊕ Arrange access to an independent advocate for individuals with autism for the purpose of facilitating their involvement in the above-mentioned matters. In particular, where a person with autism would have difficulty in understanding the process of assessment, including retaining that information and/or would not be able to meaningfully contribute their views, wishes or feelings and there is no appropriate person who knows them to support them in fully engaging in the process;
- ⊕ Identify the outcomes individuals (including those with autism) wish to achieve for their day-to-day lives in their needs assessments and carer's assessment.
- ⊕ Establish a Safeguarding Adults Board for its area (under Section 43 of the Care Act);
- ⊕ Make enquiries (or arrange for most appropriate person to carry out enquiries), where they have reasonable cause to suspect an adult in their area who has needs for care and support is experiencing or at risk of abuse or neglect and, as a result of their needs, is unable to protect themselves against the risk of abuse or neglect. This must consider what, if any, action should be taken in the adult's case, and who should take such action (under Section 42 of the Care Act);
- ⊕ Ensure that, where actions required to protect an adult with autism are identified through a safeguarding enquiry, they or the appropriate person takes the appropriate action to do so.

Local authority, NHS bodies and NHS foundation trusts must comply with all the duties which apply to them under the Equality Act 2010, including:

- ⊕ the duty to make reasonable adjustments to their services (whether they provide these services directly or outsource them) for disabled persons (such as those with autism); and;

- + the Public Sector Equality Duty³⁸ (the Equality Duty) created by the Equality Act 2010. This requires public authorities to have due regard to the need to, in exercising their functions, eliminate discrimination, harassment, victimisation and any other unlawful conduct under the Equality Act, advance equality of opportunity between persons e.g. who are disabled and those who are not, and foster good relations between e.g. persons who are disabled and those who are not.

Local authorities, NHS bodies and NHS foundation trusts must:

- + Consider how to promote the Article 8 right to family life for people with autism, including opportunities for friendships and family contact, to a life in the community where possible, and the opportunity to develop and maintain relationships;
- + Under Section 67 of the Care Act, local authorities must arrange for an independent advocate to be available to represent and support a person with autism for the purpose of facilitating their involvement in their needs assessment and the preparation and review of their care and support plan where they would otherwise experience a substantial difficulty in understanding relevant information, retaining that information, using or weighing that information or communicating their views, wishes or feelings (and there is nobody appropriate to support them for this purpose). This will require knowing in advance where such services can be commissioned.
- + Ensure individuals are deprived of their liberty only with appropriate legal safeguards, e.g. under the Mental Health Act 1983 or MCA.

Local authorities must:

- + Ensure that the assessment and care planning process for adult needs for care and support considers participation in employment as a key outcome, if appropriate, and looks at the ways that any such needs may be met in a way which could support adults with autism to become 'work ready';
- + When carrying out a needs assessment, consider whether matters other than the provision of care and support could contribute to the achievement of the outcomes an adult with autism wishes to achieve in day-to-day life, and whether the adult would benefit from the provision of anything under Sections 2 or 4 of the Care Act (preventative services or information and advice services) ,or anything that may be available in the community, including signposting, as appropriate, to Access to Work for interview support, and to other appropriate benefits and agencies that can help people with autism to find and keep a job.
- + Ensure that employment is promoted as a positive outcome for the majority of children and young people with autism who have EHC plans and that routes to employment are fully explored during the reviews of those plans from Year 9 (age 13-14) onwards and included in plans where appropriate. Information on preparing for and finding employment must be included in the local authority's local offer under the Children and Families Act 2014.

Local authorities, NHS bodies and NHS foundation trusts should:

- + Ensure autism awareness training is included within general equality and diversity training programmes for all staff working in health and care;
- + Ensure that all autism awareness training enables staff to identify potential signs of autism and understand how to make reasonable adjustments in their behaviour, communication and services for people who have a diagnosis of autism or who display these characteristics;
- + Ensure that there is a comprehensive range of local autism training that meets National Institute for Health and Care Excellence (NICE) guidelines for those staff who are likely to have contact with adults with autism;

- ⊕ Ensure those in posts whose career pathways are highly likely to include working with adults with autism (for example, personal assistants, occupational therapists, residential care workers, frontline health staff including all GPs and psychiatrists) have demonstrable knowledge and skills to:

 - use appropriate communication skills when supporting a person with autism;
 - support families and friends and make best use of their expert knowledge of the person;
 - recognise when a person with autism is experiencing stress and anxiety and support them with this;
 - recognise sensory needs and differences of a person with autism and support them with this;
 - support the development of social interaction skills;
 - provide support with transitions and significant life events;
 - understand the issues which arise from co-occurrence of mental ill health and autism;
 - support people with autism to gain and maintain employment (where appropriate);
- ⊕ Ensure those in posts who have a direct impact on and make decisions about the lives of adults with autism (including, for example, psychiatrists, those conducting needs assessments) also have a demonstrable knowledge and skills in the areas listed above as well as a good understanding of:

 - how autism may present across lifespan and levels of ability, and are defined and diagnosed, and the relevant pathways and screening tools;
 - the common difficulties faced by individuals on the spectrum and their families/ carers, including social and economic hardship;
 - developmental trajectory of autism;
 - the impact of autism on personal, social, educational and occupational functioning, and interaction with the social and physical environment;
 - current good practice guidelines (e.g. NICE Quality Standard)¹¹ and local diagnostic and care pathways;
 - current good practice guidance with respect to an individual with autism’s capacity to assess risk;
 - available guidance for good practice in post-diagnostic support and intervention.
- ⊕ Ensure that both general awareness and specialist autism training is provided on an ongoing basis and that new staff or staff whose roles change are given the opportunity to update their autism training and knowledge;
- ⊕ Recognise that women with autism may be missed and misdiagnosed as they may be better able to mask their social difficulties. There can also be a perception that autism is something that men have and this can impact on women being referred for diagnosis. Improved awareness and training should help overcome this;
- ⊕ Involve adults with autism, their families and carers and autism representative groups when commissioning or planning training. This may be in terms of inviting them to comment on or contribute to training materials, or asking them to talk to staff about autism and how it affects them, or to provide or deliver the training, for example they could help put together a multi-agency plan with regard to autism training for staff.

Good practice for local authorities, NHS bodies and NHS foundation trusts would be to maintain adequate staffing levels and build on the skill set of staff who are suitably trained, to ensure continuity of service.