# Swindon Borough Council Assessment and Eligibility Policy April 2015



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#### 1. Introduction

The Care Act 2014 sets out the legal framework for the assessment of an adult's needs for care and support and how decisions about eligibility must be made. This policy sets out Swindon Borough Council's intentions. It is a combination of statutory requirements of the Care Act and local choices based around the needs of the service and responses to national consultation. The policy has been updated to reflect changing circumstances and business needs, and in particular the requirements of the Care Act 2014. Throughout the policy, the word assessment should, unless otherwise indicated, be taken to refer to assessment of an adult's needs for care and support.

This updated policy comes into effect from 1<sup>st</sup> April 2015 and replaces all previous policies.

Recognising that inequality, disadvantage and discrimination exist in society, in redrafting this policy Swindon Borough Council accepts their responsibility to ensure that all vulnerable adults regardless of their ethnic origin, religion, language, age, sexuality, gender or disability have equal opportunity to access services and information and that the assessment and eligibility policy will be applied equitably.

This policy should be used in conjunction with <u>www.mycaremysupport.co.uk</u> that provides a wide range of information in relation to care and sources of support and advice.

#### 2. Swindon's Key Principles for Assessment and Eligibility

- 2.1. Promoting wellbeing is fundamental to Swindon's approach and is of paramount importance at every stage of the assessment and eligibility process.
- 2.2. The individual is best placed to judge their own wellbeing and know their own outcomes and goals
- 2.3. The individual's wishes, feelings and beliefs are central to Swindon's system of assessment
- 2.4. Preventing or delaying the development of needs for care and support and reducing needs that already exist is at the heart of our approach
- 2.5. All decisions are based on the individual's circumstances and every effort will be made to understand each individual's needs and goals
- 2.6. The individual will be given every opportunity to participate as fully as possible
- 2.7. Individuals' needs will be considered in the context of their family and support network.
- 2.8. People will be protected from abuse and neglect

#### 3. Implications of the Care Act for Assessment

The Care Act 2014 requires Local Authorities to ensure that any adult with the appearance of care and support needs and any carer with the appearance of support needs receive an appropriate and proportionate assessment to identify the extent of their need and to explore the range of responses to meet those needs. For needs that are not eligible advice and information will be provided. Where needs are eligible they must be met, though not necessarily through a funded service. Other solutions would include meeting the needs through the provision of information and advice or through a universal service, a direct payment, a personal budget or an individual service fund.

Wellbeing is at the heart of the assessment process. The aim of the assessment is not solely to identify need, but to focus on the outcomes the adult wants to achieve and the impact not being able to achieve them has on their wellbeing.

Assessment must consider the outcomes an adult wishes to achieve in their day-to-day life and how best they can be supported to achieve them. A key part of the assessment will focus on identifying to what extent preventative services and support available in the community, alongside the provision of information and advice could contribute to the achievement of these outcomes and reduce need, delay escalation and help people improve their wellbeing. There is also a strong focus on using the assessment process to support people to understand their own strengths and capabilities and the support available to them through their own support networks.

The assessment must involve the adult and support them to have choice and control. It is a collaborative process, which must be transparent, understandable and proportionate to the needs and circumstances of the adult to whom it relates. Local Authorities must take reasonable steps to facilitate the adult's active involvement including supporting them to carry out a self-assessment if they wish and have capacity. This includes provision of specialist assessors and support such as an independent advocate as needed.

The assessment must have regard to the needs of the family and the impact of the individual's needs on any relative or other person who is caring for the individual and any other relative or person that the Local Authority considers to be relevant. If it appears that information and advice relating to care and support or support for carers would be beneficial to relatives or others the Local Authority must advise those people how to obtain such information or advice

Assessment is only complete when the Council is satisfied that the assessment is an accurate and complete reflection of the person's needs, outcomes and the impact of needs on their wellbeing. Following assessment, the Local Authority must make a determination of eligibility. The judgement and why it has been reached must be notified in writing. The adult must be informed which needs are eligible. Where needs are not eligible the Local Authority must provide advice and information on what services are available in the community to support the person in meeting those needs.

If during an assessment it appears that the person is experiencing or is at risk of abuse or neglect the Local Authority must carry out a safeguarding enquiry and decide with the adult in question what if any action is necessary. The decision to carry out a safeguarding enquiry does not depend on whether or not the needs are eligible.

#### 4. Assessment of Care and Support Needs

#### 4.1 The Purpose of Assessment

The Care Act 2014 requires that the local authority must offer an assessment to anyone who appears to have needs for care and support regardless of their financial situation.

The purpose of an assessment is to identify the person's needs and how these impact on their wellbeing and the outcomes that the person wises to achieve in their day-to-day life. Section One of the Care Act defines the areas of wellbeing, which need to be taken account of as part of the assessment. These are:

- Personal dignity (including treatment of the individual with respect);
- Physical and mental health and emotional well-being;
- Protection from abuse and neglect;
- Control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);
- Participation in work, education, training or recreation;
- Social and economic well-being;
- Domestic, family and personal relationships;
- Suitability of living accommodation;
- The individual's contribution to society.

The aspects of wellbeing, which are most important to the person being assessed, will be a particular focus of the assessment. The assessment starts from the assumption that the individual is best placed to judge their own wellbeing

#### 4.2 Meeting Needs

Assessment is a critical intervention in its own right and we will ensure that we use this opportunity to support people to understand their own strengths and capabilities and how they can use them to meet their needs. As part of the assessment, we will help people to understand how they can improve their wellbeing by using preventative services. We will provide information and advice on universal services, which are available locally. In parallel, we will consider as part of the assessment, approaches which delay or prevent the development of needs. This will include people who currently do not have needs but may need care and support in the future. We will maximise the use of all resources through directing people to community groups, preventative services and other types of support such as their own support networks or employment advice.

The assessment will recognise that not all needs are social care needs. Other needs will be met by other agencies e.g. housing or the NHS.

The outcome of the assessment will be to provide a full picture of both the person's needs and the range of responses, which can meet those needs. This does not mean that the needs will necessarily be met through a funded service. Other solutions would include meeting the needs through the provision of information and advice or through a universal service, a direct payment, a personal budget or an individual service fund.

#### 4.3 The Swindon Approach to Assessment

The assessment will be undertaken in such a way that it supports someone to understand their needs and how they can reduce or delay the onset of greater need and how they can access support when they require it.

All forms of assessment will use the same on-line strengths based tool, which has been developed to be user friendly and help the individual to identify the outcomes, which matter to them and how this affects their wellbeing. The entry point to the tool will be through the mycaremysupport website <u>www.mycaremysupport.co.uk</u> which means that individuals, their families and carers will have access to a comprehensive source of information and advice to help them to identify sources of support to meet their care needs alongside or as part of the assessment process.

Swindon Borough Council is committed to a person-centred approach. We are committed to offering the opportunity for adults to lead and own their own assessment, whilst recognising that assessment is a collaborative process and that some people will need support to be as involved as they wish to be.

For this reason, where the adult has capacity, we are offering a range of options focussing on supported self-assessment.

- 1. The adult completes the self-assessment online either themselves or supported by a relative, carer, friend or professional. When they have completed the self-assessment, the system will show whether or not the needs are eligible and will also explain why. Where needs are not eligible the adult will be directed by the system to further sources of support. Where the needs are eligible, the system will submit the self-assessment to Swindon Borough Council's representative for review by a social worker. Either by a telephone conversation or visit they will make sure that it is an accurate reflection of the person's overall needs. This may also necessitate gathering input from a range of relevant professionals. It may also include pausing the assessment process. This will allow the benefits of universal support to be realised so that the final assessment takes place once the impact of these services is clear. This could for example apply to a short-term reablement service. As a result of this discussion, the adult will update their self-assessment and resubmit.
- 2. Where the adult does not have access to the online option or does not feel confident in using it, they will be offered the option to come into the Swindon Advice and Support

Centre to be supported by centre staff to complete the online self-assessment. The selfassessment will then be submitted to Swindon Borough Council's representative as above. If the adult is not able to access either of these options the assessment will be carried out by Swindon Borough Council's representative's staff either by phone or face to face

If the person does not appear to have capacity to consent to assessments and or to identify the support plan to meet their needs, a Mental Capacity Assessment will be carried out. As a result of this assessment:

- If the person does not have capacity, they will be supported to identify and communicate their needs and make decisions. Where there are no appropriate family or friends to consult with, an advocate, or where required by legislation, an Independent Mental Capacity Advocate will be appointed to support them. The assessment process will be face to face using the online tool as in option three above .The assessor will be able to call on suitably qualified and experienced staff to advise and support them about how best to carry out the assessment.
- If the person has capacity, they will be offered the option to complete a supported selfassessment as in options one or two above. If the adult has substantial difficulty in being involved or expressing themselves clearly in their assessment, the Council will find an appropriate adult to support their involvement. This will be a family member or friend where possible but if this is not the case an independent advocate will be provided. (See section 4. 4)

#### **4.4 Supporting Involvement in Assessment**

Swindon Borough Council recognises that putting the person at the heart of the assessment process is crucial to understanding the person's needs, outcomes and wellbeing and therefore delivering better and more appropriate care and support.

We will therefore ensure that the person being assessed can be fully involved in their assessment and we will take steps to facilitate that involvement. This will include

- Making sure that the assessment process and its implications for individuals is clearly explained through a variety of media. This will be primarily through the <u>www.mycaremysupport.co.uk</u> website which can be accessed directly in a variety of accessible formats, or be used by a range of organisations to produce hard copy which they can use to support discussion.
- Making sure that interactions with staff, processes and systems make people feel comfortable and involved in the assessment
- Making sure that our online tool and dialogue with staff helps people to understand their needs, the outcomes they want to achieve and the impact on their own wellbeing

- Providing the online assessment tool in accessible formats and in other languages
- Making sure that our assessment is appropriate and proportionate to the needs and circumstances of the individual to whom it relates. The online tool is designed to take account of the wishes, preferences, desired outcomes that the individual seeks from the assessment. Our range of options identified in 4.3 ensures that the assessment approach is tailored to the severity and overall extent of the needs.
- Making sure that the mycaremysupport website, our online tool, and dialogue with staff supports people to start to identify the options that are available to support their independence and wellbeing and helps them to meet their desired outcomes
- Making sure that our decision making processes are transparent and that people understand the basis on which decisions have been made
- Providing the individual any information the Council holds about the individual in an accessible format
- Considering reasonable adjustments under the Equality Act 2010
- Involving any carer or any other person that the adult requests in assessment process, ensuring that they are identified within the client data base as an "involvement"
- Where the adult lacks capacity to ask, involving any person who appears to the Council to have an interest in the adult's welfare as part of a Best Interest process under the Mental Capacity Act.
- Ensuring that assessors are suitably trained to facilitate involvement. Thus enabling a better understanding of the adult's needs, outcomes, wellbeing and identifying where they may have substantial difficulty. This requires understanding, retaining and applying knowledge as well as communicating the adult's views, wishes or feelings.

If an adult does have significant difficulty in being involved, the Council will find someone appropriate and independent of the Council to support the adult. This support will include helping to understand the information and express their needs and wishes, securing their rights, representing their interests and ensuring that they obtain the care and support they need. This person could be a family member or friend who is willing and able to provide such advocacy and is acceptable to the adult who is being assessed. Where there is no one who is appropriate, the Council will appoint an independent advocate.

#### 4.5 Whole Family Approach

Swindon Borough Council recognises that caring for a family member has an impact on the whole family. Our assessment will consider how the adult's needs for care and support affect family members or others in their support network. If it appears that information and advice relating to

care and support or support for carers would be beneficial to relatives or others we will advise them how to obtain such information or advice, including directing to the mycaremysupport website and sources of community support. (See the Information and Advice Policy for more details)

#### 4.6 Fluctuating Needs

Swindon Borough Council recognises that some people will have fluctuating needs that may not be captured at the time the assessment is completed, but have arisen in the past and are likely to arise again in the future. We will address this through

- Providing guidance as part of the on-line tool, reminding people to think about their overall level of need
- As part of the moderation process, using experience of what has happened for others with similar conditions and taking account both of an individual's wider wellbeing and their history.

#### 4.7 Combined/Joint Assessments/NHS Continuing Healthcare

Swindon Borough Council may combine a needs assessment with an assessment it is carrying out in relation to another person. We will only do so if the adult to whom the assessment relates agrees and where the other person agrees. In the case of a young carer, consent may be given by the child if they have capacity .It will be given by the Council if the child lacks capacity or is not competent to give informed consent but we are satisfied that combining the assessments would be in the child's best interests.

Where it appears to the Council that the individual may be eligible for NHS continuing health care as their health needs predominate, the individual may be referred for a continuing healthcare assessment. This referral will not delay the assessment of care and support needs.

#### 4.8 Training for Assessors

Swindon Borough Council will ensure that assessment is carried out to the highest quality. We will ensure that the staff who are involved in assessments have the skills, knowledge and competence to carry out the assessment and have received appropriate training relating to assessment. The employer and each registered professional has responsibility for ensuring they are trained to an appropriate level and that training is kept up to date and carried out at regular intervals.

We will ensure that assessors are appropriately trained, skilled and experienced to ensure that the needs of people with specific conditions requiring expert insight e.g. autism, learning disabilities, mental health needs or dementia are articulated and recognised.

Where there are multiple or particularly complex needs, an assessor may call on additional expertise to support them to carry out the assessment. The requirement for expert input will be considered on a case-by-case basis.

Where the assessor does not have the necessary knowledge of a specific condition or circumstance, they will consult someone who has that expertise within their employing organisation, the Council, or elsewhere.

#### 4.9 Assessment for People who are Deafblind

An assessment for someone who is deafblind will **always** be carried out by someone who has specific training and expertise relating to individuals who are deafblind.

Someone is regarded as deafblind if their combined sight and hearing impairment causes difficulties with communication, access to information and mobility. This includes people with a progressive sight and hearing loss. (Think Dual Sensory, Department of Health, 1995).

If during assessment, there is the appearance of both sensory impairments, the assessor will consider whether the person is deaf or blind and trigger a specialist assessment. This specialist assessment will be carried out by an assessor who is qualified to at least QCF or OCN level 3. Support in the form of an interpreter will also be made available if this is necessary to facilitate the assessment discussion.

# 4.10 Refusal of Assessment

Where an adult refuses an assessment, in accordance with the requirements of the Care Act the Council will not carry one out unless the adult lacks capacity or is experiencing, or is at risk of, abuse or neglect.

A previous refusal to have an assessment will not mean that we will not meet a future request if the adult still appears to have needs for care and support.

In the case where someone has refused an assessment and their needs change, the Council will offer an assessment to consider the changed needs.

#### 4.11 Safeguarding

If when carrying out an assessment it appears that the person is experiencing, or is at risk of abuse or neglect the Council will carry out a safeguarding enquiry and decide with the adult in question what if any action is necessary. The decision to carry out a safeguarding enquiry will not depend on whether or not the needs are eligible. The test under the Care Act is whether the individual has care and support needs and is unable to protect themselves as a result of those needs. The actions taken as a result of the enquiry may be the provision of care or support, but may also include preventative services or information and advice.

If the adult has care and support needs the Council will continue the assessment in parallel with the safeguarding enquiry.

## 5. Carers

If the individual being assessed has a carer, as part of the assessment, the Council will consider whether a carer's assessment is needed. The person in a caring role may also request an assessment in their own right

If there is a young carer, the Council will consider the impact of the needs of the individual on the child's wellbeing, welfare, education and development and whether any of the tasks that the child is performing are inappropriate for a child to perform.

In these circumstances, the Council will also consider whether it is necessary to carry out a young carers or children in need assessment.

Further details are available in the Carers' Policy

#### 6. Urgent Need

Where an adult has care and support needs, which are urgent, the Care Act 2014 provides the Council with the power to meet those needs without undertaking an assessment or making a determination of eligibility, regardless of the person's ordinary residence.

Circumstances under which needs could be classified as urgent include

- People who are terminally ill
- Rapid deterioration in an adult's condition
- The occurrence of an accident
- A specific issue such as a stroke
- Evidence of a safeguarding issue
- Unsafe living quarters

Under these circumstances, the Council will meet the identified care needs immediately. We will also inform the adult that a more detailed needs assessment, an eligibility determination, establishment of ordinary residence and a financial assessment will follow the intervention

# 7. Delegation of Assessments

Swindon Borough Council will delegate parts of the assessment process. Currently parts of the process are delegated to CAB, Seqol and AWP as part of their contracts. The completion of assessment will not be delegated and will be carried out by the Council's verification team.

#### 8. Completion of the Assessment

The assessment will be considered as complete when it has been moderated by Swindon Borough Council's representative and verified by the Council. The Council 's verification process may be used to ensure that the assessment is an accurate and complete reflection of the person's overall needs, outcomes and the impact of needs on their wellbeing. It will also check that all options for care and support have been considered.

As part of the assessment, the Council will used the eligibility criteria to determine whether the needs are eligible. Full details are given in sections 9 and 10.

Except in the case of urgent need, decisions about eligibility will not be made without an assessment

#### 9. Implications of the Care Act for Eligibility for Care and Support

#### The Act provides

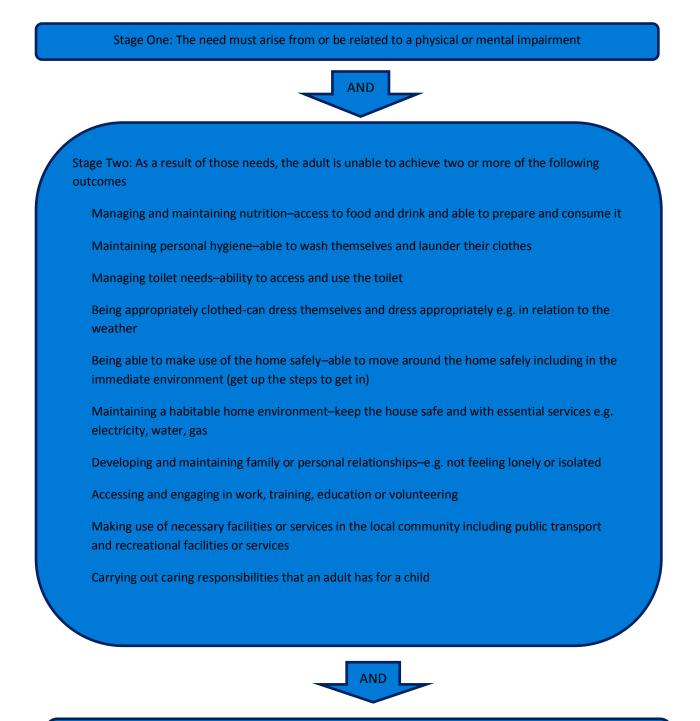
- Clear and transparent criteria, that will apply everywhere in the country and in all cases, leading to consistent decision making ,but still underpinned by professional judgement
- A new mandatory, three stage process to determine whether needs are eligible

For needs to be eligible, the following three criteria must **all** be met

- 1. The needs result from a physical or mental impairment or illness AND
- 2. As a result the adult's needs they are unable to achieve two or more of the outcomes listed in the regulations AND
- 3. As a result of not being able to achieve these outcomes, there is, or is likely to be a **significant** (substantial and critical) impact on the adult's wellbeing
- A focus on outcomes rather than services –what does someone want to achieve rather than what service can we provide which will help them
- A focus on wellbeing –eligibility depends on what impact not being able to achieve an outcome has on an adult's wellbeing, not simply that they cannot achieve the outcome. If it has little or moderate impact, it will not be an eligible need
- Decisions why needs have been judged eligible or ineligible must be explained in writing.
- In all cases, information and advice must be given about what can be done to meet or reduce the needs and what can be done to prevent or delay the development of needs for care and support, or the development of needs for support, in the future. This includes helping the person needing the care or their carer to think more broadly. What are the person's own strengths and capabilities and what support might be available in the local community or through their support network to meet their needs and support the outcomes they want to achieve

#### 10. The National Eligibility Threshold for Adults Needing Care

The regulations of the Care Act (Section 13) clearly set out the level of care and support need that all local authorities must meet. This threshold is based on whether a person's needs limit their ability to meet specified outcomes and to what extent this affects their wellbeing. After completing the assessment, we will determine whether a person has eligible needs i.e. is the level of need sufficient that it must be met. This does not mean that it will necessarily be met through a funded service. Other solutions would include meeting the needs through a universal service, a direct payment, a personal budget or an individual service fund.



Stage Three: As a consequence of being unable to achieve these outcomes there is or there is likely to be a **SIGNIFICANT impact** on wellbeing

These national criteria replace our current criteria based on Fair Access to Care and Support (FACS) thresholds, and will apply to all assessments. They provide a clear and transparent framework for decision making which everyone can understand.

The Council will establish whether the person meets the ordinary residence requirement. To be eligible for support the adult must be ordinarily resident within the Swindon Borough Council area e.g. at an address where the council tax is payable to Swindon Borough Council or where the person in need has acquired Ordinary Residence through prior decisions by Swindon Borough Council. There are some exceptional circumstances e.g. where the individual has no fixed abode where the authority within which the need arises takes the lead. Disputes regarding ordinary residence will not create delays in assessing, determining eligibility or providing services to meet needs.

For need to be judged as eligible needs the three criteria **must** all be met.

#### Stage One

We will consider whether the need arises from physical, mental, sensory, learning or cognitive disabilities or illnesses, including frailty as a result of age, substance misuse or brain injury, and not from other circumstances. We will decide whether this criterion has been met based on our assessment of the adult and will not require a formal diagnosis showing the root cause of the presenting need.

## Stage Two

For this criterion to be met it is necessary that the adult is unable to achieve two or more of the outcomes listed in the diagram above. The definition of what is meant by being unable to achieve an outcome is defined in the regulations and includes circumstances, where the adult

- Is unable to achieve the outcome without assistance.
- Is able to achieve the outcome without assistance but doing so causes the adult significant pain, distress or anxiety
- Is able to achieve the outcome without assistance, but doing so endangers or is likely to endanger the health or safety of the adult, or of others
- Is able to achieve the outcome without assistance but takes significantly longer than would normally be expected.

When applying this criterion we will consider what being unable to achieve an outcome really means. There may be minor aspects of the outcome that cannot be achieved i.e. cleaning outside windows, or there may be above average expectations about what constitutes a habitable environment. In these situations, the outcome **will be considered as** achieved. We are committed to transparency at every stage of the process, so decisions to describe outcomes as achieved will be explained. In addition, we will make sure that we give clear information to the adult about services that they can access themselves to help them achieve the outcome to their desired standard.

#### **Stage Three**

The third criterion is fundamental. Wellbeing is at the heart of our policy. Being unable to achieve the outcomes only makes needs eligible if it causes a **significant impact at a substantial or critical level** on the adult's **wellbeing**. This criterion will be met if the total effect of being unable to achieve the outcomes has a significant impact on wellbeing at a level that would have under FACS criteria been considered **substantial or critical**.

Wellbeing is a broad concept and varies from individual to individual. We will apply the approach outlined by Swindon's Health and Wellbeing Board.

Health and wellbeing is the ability to adapt and to self- manage in the face of social, physical and emotional challenges and to function with fulfilment. It is much more than the absence of disease; it is the ability for everyone to fulfil their potential, make a contribution and be resilient to life's challenges.

The term significant is not defined in the regulations. We are encouraged to use significant as it is used in every day speech. We will consider each case at an individual level in the context of the impact on the wellbeing of the adult and whether that impact is at a substantial or critical level. We recognise that needs affect different people differently and that what is important to one person's wellbeing may not have the same impact on someone else. Our key consideration will be whether the inability to achieve the outcomes has a substantial or critical effect on how the adult experiences their daily lives and their feelings of fulfilment.

#### **Fluctuating Needs**

We recognise that some people will have fluctuating needs that are not apparent at the time of the assessment, but have arisen in the past and are likely to arise again in the future. When considering a person's eligibility we will ensure that their needs are considered over an appropriate period so that any changes are taken into account.

#### <u>Carers</u>

Our determination of eligibility is based on the adult's needs and how they impact on their wellbeing. Eligibility is **not** affected by whether or not someone has a carer. We will however, consider the carer's contribution to meeting those needs after the eligibility determination as part of the wider care and support planning. Needs which are being met be a carer will be recognised and recorded as eligible, but will continue to be met by the carer. If, at some point in the future, the carer is no longer able to meet these needs, further consideration will be given as to how best to meet these eligible needs.

Carers can be eligible for support in their own right. Details of this are included in the Council's Carers' Policy

#### **11. Actions Following Eligibility Determination**

- The decision about whether or not needs are eligible is determined by the assessment and will be taken by the Council.
- The Council will notify in writing, the judgement about which needs are and are not eligible and why.

- This will be sent to the adult, their carer and any other person the adult nominates
- Where needs are not eligible the Council will provide advice and information on what services are available in the community to support the person in meeting those needs.
- If the adult has some eligible needs, the Council will agree with the adult which needs they would like the Council to meet and which they would like to arrange themselves.
- The Council will start to consider the potential support options in order to determine whether some of these may be chargeable services. Where this is the case, the Council will carry out a financial assessment (See Fairer Charging Policy)