

## **RESETTLEMENT, Care Act And Social Care Entitlements**

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### ***People with care or medical needs in prison***

Please see our information sheet on Care for Ill and Disabled Prisoners for more details of care and support you may be entitled to in prison. Prisons have a duty to make reasonable adjustments and provide support under the Equality Act 2010. They must also prevent breaches of Articles 3 (inhumane and degrading treatment) and 8 (right to respect for private and family life) of the European Convention on Human Rights. Please also see our information sheets on Healthcare, and Disability Discrimination.

### ***What are Community Care services?***

These are provided by local authority (LA) social services departments and can include:

- Residential accommodation (e.g. care homes or supported accommodation) for those who by reason of age, illness, disability or any other circumstances (including addiction) are in need of care and attention.
- The provision of meals, practical assistance such as the provision of visiting carers, specialist equipment and aids, and adaptations in the home.
- ***Care leavers:*** Young people who were previously looked after by a LA may be entitled to receive support and assistance which could include financial assistance and provision of accommodation until they are 2, or 25 if in education or training.

Prisoners who may be eligible for community care services include those with a severe disability, physical or mental illness

The Care Act 2014 confirms that LAs must ensure that social care is provided for adults in need in prisons and approved premises. This should be provided to the same standard as in the community.

***Community Care Assessments*** If you are disabled or physically or mentally ill, you may benefit from a Care Assessment either in prison or prior to release.

PSI 03/2016 Social Care sets out prisons' responsibilities to identify prisoners who may be eligible for a community care assessment, make referrals where necessary and enable provision of services.

Where an LA is made aware that an adult in a custodial setting may have care and support needs, they *must* carry out an assessment. You can refer yourself by simply writing to Social Services at the LA where your prison is based. LAs should provide appropriate care and support prior to completion of the assessment where it is clear the person has urgent needs (as per section 19 (3) of the Care Act).

LAs are also required to assess the future needs of prisoners who are due for release or coming up for parole, even though they do not have a definite release date. The duty to assess is triggered as soon as the authority becomes aware that someone 'appears' to be in need or is 'about to be in need' of services.

Local authorities have responsibilities to complete assessments, to prevent escalation of needs, to provide information and advice to aid well-being and services such as aids to daily living that will prevent, reduce or delay increased care needs developing- even if the person's needs do not reach the threshold for care services to be provided.

### ***Other services***

Care Assessments can also act as a gateway to assessments by other agencies, such as the NHS or housing authorities, where a need for health services or housing is identified during the care assessment. The following help can be provided:

- health care services provided by GPs, community mental health and learning disability teams, and hospitals under the NHS Acts; wheelchair services;
- free ‘after care’ services under s117 of the Mental Health Act (MHA), which could include provision of accommodation, where needed to prevent relapse for those who have been previously sectioned or who have been transferred to hospital under section 47 or 49 MHA and returned to prison before release. The NHS and LA will be jointly responsible for funding this.
- LA accommodation under homelessness legislation for individuals who are identified as being in ‘priority need.’

***Who can request a Care Assessment?***

Anyone can request an assessment. The LA system for self-referral should be accessible and ensure that independent assistance with self-referrals is available, if required. Clear information should be available from the LA on assessment and eligibility. You can write directly to the LA or ask the prison to request an assessment on your behalf.

***Who is the responsible local authority?***

LAs with prisons or approved premises in their geographical area are responsible for assessing and meeting eligible social care / support needs of people in those prisons or approved premises.

It does not matter where you were previously resident before custody, or where you intend to move upon release. Section 76 of the Care Act states that the LA in the area where the prison is located is responsible for the delivery of care while you are in prison.

The Care Act places a reciprocal duty on LAs and their relevant partners to cooperate with each other in respect of their relevant care and support functions. These partners include prisons, probation services, police and the NHS. Prison governors and Deputy Directors of Custody (DDCs) are also

engaged in a variety of health care strategic and operational governance boards.

In accordance with **PSI 03/2016**, each prison must have a Lead for Adult Social Care. They are responsible for liaising with LAs, their providers and provider staff.

***Which LA is responsible for providing care and accommodation on release?***

The LA where a prisoner was living before going into custody is usually responsible for providing social care and accommodation on release if the prisoner is eligible but the LA into which a prisoner is resettled may also have duties. If it is not clear which LA is responsible they must co-operate to ensure that assessments are done and services are provided where required.

***Challenging Care Assessment decisions***

If not satisfied with an assessment you can make an adult social care complaint to the local authority and escalate it up to the Local Government and Social Care Ombudsman if necessary.

Decisions, actions or failures to act by a public body such as a Local authority or NHS which are unreasonable, unlawful or procedurally unfair can be challenged in court by Judicial Review (JR) proceedings. Public funding is available for JR in strong cases subject to financial assessment. The court can make emergency orders if necessary, for example, compelling the LA to do an assessment or provide services. Such proceedings can be complex and prisoners should consider seeking the advice of a specialist solicitor.

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