

Care and Support Alliance response to the Department of Health consultation on draft regulations and guidance for implementation of part 1 of the (Care) Act in 2015/16

Information and Advice

5. Views are invited about how local authorities should co-ordinate and target information to those who have specific health and care and support needs.

Local authorities need to understand the many diverse ways people obtain information on care. In [research Independent Age undertook for Think Local, Act Personal](#), we noted that the way individuals obtain information and advice is highly personal, dependent on the ‘cloud of support’ that surrounds them. For each person this will be a mix of individuals, health and care professionals, charities, carers, local groups, friends, and so on.

In planning to meet their duty to deliver and sustain a local information and advice system that meets the needs of all individuals – including those with specific health and care and support needs, local authorities must reflect on the networks individuals are likely to use within their strategic planning and plan services accordingly – ensuring that gaps in provision are filled where necessary.

We recognise that some localities will not have organisations to provide specialist advice about specific health needs as the number of potential clients locally will always be quite small. In such circumstances, guidance or supporting materials should be clear that local authorities should refer people to either national advice and information agencies, or work collaboratively with other local authorities to deliver a service.

In addition, specific groups that local authorities should have regard to in section 3.15 are residents in care homes and adults with terminal illnesses. Both groups require information and advice that explains both health and social care entitlements, including entitlement to NHS Continuing Care. We welcome subsection 3.16 listing examples of information and advice specifically of benefit to carers. We recommend that this list also includes information and advice on entitlement to Carers Allowance and carers’ rights to an assessment.

In planning to meet the information and advice needs of people with specific health issues, local authorities must continue to work through the Health and Wellbeing Board and engage with local Clinical Commissioning Groups. The Health and Wellbeing Board is the sensible forum to ensure that information and advice is delivered in a joined-up way and draws on the expertise of professionals across both health and social care.

6. Does the guidance provide sufficient clarity about the active role that the local authority must play to support people's access to independent financial advice, including regulated financial advisors?

We welcome the statement in 3.34 that local authorities should sometimes provide financial information and advice directly, but that local authorities also have an important role in 'facilitating' access to independent information and advice, 'where it would not be appropriate for a local authority to provide it directly'.

However, both these points in the more detailed section on 3.46 (Facilitating access to independent financial information and advice) need further explanation to guard against a risk of local authorities either uniformly signposting or actively referring adults to a single preferred provider.

It is not entirely clear how the Department of Health intends this act of 'facilitating access' to work because in 3.46 the guidance rather cryptically states: 'local authorities may not wish to make a *direct* referral to an individual independent financial adviser'. We believe the guidance should instead highlight local authority's role in facilitating access to a *choice* of regulated financial advisors, and in doing the Department should consider making reference to the Society of Later Life Advisors (SOLLA) to help local authorities facilitate that choice.

We believe that by suggesting local authorities can make a direct referral to a single advisor that there is a risk it could result in local authorities being liable should such a referral cause a person to challenge the information and advice they received on the grounds they were mis-sold a financial product.

The guidance is not always clear (3.41 is an example) when it would make sense for local authorities to facilitate a person's access to independent financial information and advice, that is generic rather than specialist or regulated in nature and does not contain information or advice about specific financial products. For some people support from a service like the Money Advice Service in terms of money management will suffice.

The guidance should contain clear, simple case studies that demonstrate to local authorities the circumstances where it would be preferential (and conversely, inappropriate) for a local authority to refer directly to a choice of regulated, independent financial adviser.

Finally, we warmly welcome the statement in section 3.39 that local authorities must provide information to help people understand their charges, including top-ups.

Comments following Care and Support Alliance meeting with Department of Health July 14th 2014

Attending:

- Andy Kaye, Independent Age (Chair)
- Lucy Bonnerjea, Department of Health
- Natalie Reynolds, Department of Health
- Moira Fraser, Carers Trust
- Patrick Murray, National Housing Federation
- Stephen McCarthy, Sense
- Elizabeth Feltoe, Age UK
- Hugh Huddy, RNIB
- Christy Lowe, Action on Hearing Loss
- Donna O' Brien, Parkinson's UK
- Laura Cook, Alzheimer's Society
- Bella Travis, Mencap
- Phillippa Ashcroft, VoiceAbility
- Chloe Wright, Carers UK

Purpose: To consider the draft guidance in section 4 of the care and support guidance on Information and Advice and to share initial thoughts on the 2 related consultation questions concerning local authorities co-ordinating and targeting information and advice; and the role the local authority should play to support people's access to financial information and advice.

Areas covered:

- Definitions of information and advice, including *financial* advice, and *independent* information and advice
- Duty to establish and maintain an information and advice service, and the strategies and plans LA's should develop
- Audiences for information and advice and the content of information and advice
- The significance of independent information and advice, particularly around time of assessment, and in terms of making challenges to LA decisions
- Information and advice at "first contact" and the skill-sets required in social care workforce
- Commissioning information and advice provision, and contracting, plus the factors to consider when services are outsourced or LA functions are delegated
- Charging and the legal status of information and advice provision as a free service.
- Accessibility, availability and proportionality of information and advice

- Quality, accuracy and effectiveness of information and advice
- Financial information and advice, including information for adults who pay for their own care
- Information and advice on rights to advocacy support and the links between the Advocacy section of the guidance and this section on Information and Advice
- Mental capacity, and links between the information & advice and safeguarding aspects of the guidance
- Information and advice for carers
- Prevention and the links between the Preventing needs section of the guidance and the information and advice section

Issue/Section of Guidance	Detail
Question raised as to what will actually change as a result of this guidance	Some concern that LA's will rely on existing information and advice provision, even if there are gaps and it will hard to discern in some LA's whether a coherent "service" has in fact been established. May see LA's following the course "of least resistance" due to this being a general duty.
3.5	Add in must provide independent advocacy to facilitate the person's involvement in 'safeguarding enquiries and Safeguarding Adult Reviews', where an individual...
3.7 – 3.9 - Definitions and terminology	Pleased with clear, distinct definitions for info and advice, but feel these definitions should apply across all areas of guidance, and not just section (4). This section could include a clear definition on what is meant by <i>independent</i> information and advice. There is a definition of independent financial information or advice, but clearly other types of information, e.g. about challenging LA decisions, can also be independent of an LA. Although helpful info and advice have clear definitions of their own, would be useful to have best practice guidance/implementation support product, which illustrates the different types of circumstance where information, and alternatively advice, may be provided so it's clear they are not one and the same thing.
3.3. LA's must take an active role...ensuring the coherence, sufficiency and availability of info and advice...facilitating access to it	Pleased on the whole with this statement, including the emphasis that the duty in the Act relates to the whole population of the LA area. It was not always clear, however, what the guidance meant by " <i>facilitate</i> " access to info and advice, so this could be more clearly spelt out. In addition, there was a concern that the simple act of "signposting" adults and carers to info and advice may become the default approach, when in fact "facilitate" access to info and advice implies the LA would need to take more active steps to ensure adults can actually access and make use of info and advice that is up-to-date and meets their needs. Many people's experiences of being "signposted" to info and advice today is negative, as they feel they are being fobbed off, and passed on to info and advice that doesn't really meet their individual needs.
3.22- Info and advice content – info and advice	Colleagues felt the content of the info and advice service should clearly spell out what an adult or carer's entitlements are, in terms of rights to needs assessments, carers' assessments etc. Whilst info and advice about the care and support process

<p>about rights and entitlements and basic duties of the council</p>	<p>is welcome, the emphasis in the guidance is on the care and support system locally and how to access it. There should be equal amounts of attention paid to the legal entitlements adults or carers have, no matter which LA they are resident in. This should include info on the right to an independent advocate. This will make it easier for adults and carers to know what to expect from an LA at a time where info and advice is key, and they may be in crisis.</p> <p>In 3.22 on what should be provided, besides highlighting “raising the concerns about the safety or wellbeing of an adult with care and support needs”, this shouldn’t just refer to “adults with care and support needs”, but concerns about the safety and wellbeing of a “carer with support needs”.</p>
<p>3.23 Breadth of circumstances under which info and advice must be provided</p>	<p>Useful here to add – in bullet point highlighting at top of p31 - info and advice re: “availability of employment support for disabled adults and carers” (i.e. add carers). Shouldn’t just focus in bullet point about applying for disability benefits, on eligibility for benefits, but in addition, info and advice on income maximisation.</p> <p>In bullet point on children’s social care services and transition, could clarify, information and advice for “whole the family”. This could be usefully expanded to specify that this includes children with care and support needs, young carers who may become adult carers and parents of disabled children approaching transition.</p>
<p>3.24 When information should be provided</p>	<p>Should add a bullet point covering discharge from hospital. (Healthwatch England has already identified that unsafe discharge has the greatest impact upon people who are vulnerable. http://www.healthwatch.co.uk/then-what-special-inquiry By definition hospital patients are more likely than the general population to need information and advice about services and are less able to get it as they are inpatients and unwell. There should therefore be a particular requirement in the guidance that local authorities must work with CCGs to ensure that all hospitals and facilities running inpatient care facilities have adequate provision of information about aftercare services.)</p> <p>The bullet covering transition would benefit from a reference to the review of an EHC plan for a child of 14 or above. This is particularly important in preparing children with care needs and their carers for transition.</p>
<p>3.14-3.21 The audiences for the Info and Advice service</p>	<p>Decent emphasis on LA’s need to ensure that all adults in their area with a need for info and advice are able to access it. The list of different possible audiences is helpful, although the final bullet point about people who may benefit from financial info and advice relates to both adults who pay for their own care and support, and adults who qualify for LA-provided care and support. It might be helpful to separate out and include self-funders as an audience in their right, not just in terms of accessing financial info and advice, but many different types of info and advice. In addition, residents in care homes could be included as an audience as they aren’t always well served. A further audience may be adults with terminal illnesses, at the end of their lives, who need integrated info and advice across health, social care, including info and advice on NHS Continuing Care.</p>
<p>3.16 Carers</p>	<p>Welcome emphasis here on a carer’s need for info and advice being separate and distinct, but see statement above about</p>

	<p>raising concerns about safety or wellbeing of carers, and not just info on raising concerns about adults with care needs. Include extra bullet about training and support.</p>
<p>Accessibility and proportionality</p>	<ul style="list-style-type: none"> • Some confusion as to why points on accessibility are separated out in different sections (3.17-3.21) and then later on, 3.26-3.30. Some interest in seeing these two sections combined or the different points raised in these sections more obviously tied together. • Welcome DH has addressed earlier concerns communicated by CSA members re: links to the Equality Act 2010. • However, could be more comprehensive list of most typical range of accessible formats, including large print, audio and Braille; these preferred formats are highlighted in other sections of the draft guidance, so no reason not to cite them here. Important to detail what is meant by accessible formats as research suggests LA frontline staff don't always know what "accessible formats" actually means. • Strong welcome for section 3.19 and point that the duty will not be met through the use of digital channels alone. • Query whether it might also be useful to clarify that under the Equality Act 2010, LA's can treat disabled people more favourably to achieve equality of access to certain services, and this also applies to info and advice provision. • Given the legally binding nature of the Equality Act duty to provide info and advice in accessible formats/make reasonable adjustments, not clear why 3.18 states reasonable adjustments "should" be made and in 3.19, draft simply states advice and info "should" be provided in the manner preferred by the person. Shouldn't this be changed to "must"? • Would be useful to include an illustrative case study here emphasising the way in which an LA frontline worker is typically expected to consider info & advice needs from the adult or carer's perspective, asking them up front how they would like to receive info and advice, and stating it can be made available in a range of formats. • 3.21 on independent advocate good, but this point could be stronger still: info and advice on the right to an independent advocate in certain circumstances key to how many adults, including those with dementia, then go on to access/experience other parts of the care and support system. • 3.20, again, could include adults at the end of their lives with terminal illnesses. • On channels through which to reach people, in 3.19, makes sense to talk about "the cloud" of support surrounding adults, and that many people typically rely on familiar sources of support; a point that was highlighted in the Independent Age 2013 report for TLAP on info and advice provision, and could be quoted here. Besides GP surgeries, the role housing providers play could also be referenced here. • On proportionate info and advice, some adults and carers will never be online, and although there is the strong statement about digital channels not necessarily working for everyone, irony is that the list of organisations LA's can direct people to in section 3.63 only contains websites. Should include more helpline numbers.

Financial info and advice	<ul style="list-style-type: none"> • Perhaps needs to be more tips for LA's on the most obvious triggers for directing to regulated financial info and advice. Not always clear from the guidance when it would make sense for LA's just to direct to independent financial info and advice, that is generic info and advice, but does not contain I&A about specific financial products. Some of the time, info and advice from a service like the Money Advice Service in terms of money management will suffice. Again, an illustrative case study to aid LA's with judging when it makes sense to direct to regulated financial info and advice (and when, alternatively to direct to non-regulated, independent financial info and advice) would be helpful. • Money management section could be padded out in 3.41 so it is clearer where and how the provisions relate to adults with limited, or no mental capacity. And so for those adults, it's clear an independent advocate is a possibility. For example, the para just talks about at the lower end of the spectrum...might want to say, at the higher end of the spectrum, people may need independent advocacy or some social care support. • Could add a few lines: There must be clear information and advice about money management when a person lacks capacity to manage their money, including how and when to apply to the Court of Protection to be a Deputy.
Mental capacity	<ul style="list-style-type: none"> • There may be some merit in a stand-alone section on info and advice for adults with limited, or no capacity to pull together a few disparate strands in the guidance • This would cover all the relevant points about power of attorney, Deputy-ship etc. Plus the otherwise hidden, but critical, statement in section 3.37, about some people being less able to protect themselves from fraud, theft etc. This could be contained in a stand-alone section on a LA's info and advice role/provision for the population of adults with limited mental capacity. But needs to be clearer what is meant in 3.37 by a LA needs to "provide" for the fact that some people will be less able to protect themselves. Needs to be a clear reference to chapter 14 on safeguarding here. (and could refer to 3.47 and 3.48 in this chapter)
Quality and effectiveness of info and advice	<p>Welcome reference in 3.17 and 3.26 to the NHS information standard and the Crystal Mark on plain, written information, but these points are all made in disparate sections on accessibility, when in fact they relate just as much to the effectiveness and accuracy of info and advice, which needs to be strengthened. Whilst the reference to the NHS info standard ok, it is a poor fit for social care, intended as it was mainly for healthcare. Difficult to pinpoint common and agreed standards for all aspects of info and advice provision, but believe nonetheless there are other standards and benchmarks the guidance could make reference to, not least non-written forms of communication, including the AQS legal standard for advice services and other relevant benchmarks for telephone advice. Something about Las should ensure information is good quality.</p> <p>3.28 on accuracy of information and advice provided within the service is welcome, but this is labour intensive, and says nothing about the accuracy of, and to what extent, independent info and advice the LA is directing people, remains up-to-date.</p>

Independent info and advice	3.30 strong on circumstances where info and advice best impartially provided. May need to draw this out even more – to explain impartial info and advice is useful at many different stages throughout someone’s care and support journey, not just when someone wants to question or challenge the LA decision, but also around the time of assessment, and care and support planning. Significance of independent info and advice could be made more explicit here, so LA’s know trusted, impartial info and advice is available, such that adults and carers understand their basic entitlements. This may minimise the risk of legal challenges.
3.52 - Integration and co-operation	Useful reference here to integrating care and support provision with health and health-related issues (including housing). May need to strengthen this further still to explain that it’s in Health and Wellbeing Boards’ interests to get this right, and not LA’s alone. After all older and disabled people experience health and care needs, and they need joined-up info and advice. So LA’s should be working especially closely with CCG partners to make sure the info and advice newly diagnosed individuals and adults who have just acquired a health condition etc, get the right type of info and advice. It will often be through the NHS that an adult first comes to think about the need for info and advice.
3.50 onwards - Strategies and Plans	<p>All welcome, but there is a problem in terms of just expecting LA’s to have regard to what health and social care information the community needs through JSNAs. Many JSNAs don’t have sufficient understanding of the information needs of adults with sensory impairments for example, so just relying on JSNA’s won’t always be adequate.</p> <p>It will be a daunting task for LA’s to have to review and develop a plan or strategy just by themselves, will be massively labour intensive. Guidance could therefore be clearer about how LA’s can meaningfully work with other partners around the HWB table to actually achieve this, especially understanding the info and advice needs of adults with low incidence, but complex needs.</p> <p>To gain an understanding of the particular requirement some people in the community have for information about care and support, the local authority should ensure that its information strategy is linked in with their mapping work under the market shaping duty.</p> <p>To try and influence LA’s so the development of plans and strategies becomes the norm, the guidance could be clearer about why a strong, coherent “offer” of info and advice helps LA achieve many of its other objectives, including preventing care needs from developing/getting worse. A reference to housing providers under the list at 3.59 of persons / places most likely to come into contact with people who need information and advice at critical points is recommended, along with the elevation of the case study on pg. 242 of the integration guidance as an example of commissioning advice services (link to source doc).</p> <p>LAs/HWBs should also build in ways of reviewing the effectiveness of their I&A strategy and whether there is adequate</p>

	<p>provision and the quality of the provision. A review should particularly focus on how I&A is working for sfs whose views are not captured in current analysis of LA provision of services (ASCOF).</p>
<p>Links to prevention and guidance on charging</p>	<p>Would be helpful to explicitly state that even where provision of info and advice is considered/treated by LA as meeting/contributing towards the fulfilment of their duty on preventing care needs, in this case info and advice provision still can't be charged for (unless, regulated financial advice then provided for separate to what the LA is organising or providing).</p> <p>In terms of information and advice helping prevent, reduce or delay care needs, really useful to think in terms of info and advice being available throughout the care journey and not just to conceive of it as a form of primary prevention. It's also a form of tertiary prevention so that it can aid adults with existing care needs, but also help them manage their conditions so their social care needs don't get worse. This could be clarified a bit more.</p>
<p>Links to safeguarding</p>	<p>Could be stronger references to chapter 14 in paras. 3.47 and 3.48, in terms of detailing the many different types of abuse and neglect.</p> <p>Considered odd that in 3.48 guidance first states LA "must" provide info and advice on how to raise the concerns about the wellbeing of an adult who has needs for care and support....but then only goes on to state, the info and advice provided "should" cover who to tell when there are concerns. Isn't the info and advice on "who to tell" fundamental? Shouldn't also therefore be a "must"?</p> <p>Useful extract in 3.47 on not preventing adults from making their own choices, but also the importance of everyone in the community understanding safeguarding and helping keep people safe. Felt this could be mirrored in the safeguarding guidance in chapter. 14.</p> <p>3.48 could also include info and advice on right to an independent advocate to access and understand the safeguarding process.</p>
<p>Self-funders and adults who pay for their own care</p>	<p>People shouldn't just be fobbed off at first contact with the LA, with a list of local care homes. Strong view expressed that this guidance should also highlight that info and advice shouldn't just highlight the choice of care providers in the local area, but crucially, their cost as well. Otherwise, questions about whether the market is working as it should if self-funders can't get quotes and don't readily know how to compare and contrast the costs of different services.</p> <p>Re: information and advice provided. Could add.</p> <p>The LA should consider how best to reach people in the community. For example, local groups, including self-advocacy</p>

	groups are often well-placed to help produce information and play a role in ensuring it is shared and understood.
Other small points	3.22 – ‘how to access the care and support available locally’ – include challenge ie how and where to request an assessment of needs, a review or to challenge, complain or appeal.. 3.23 – include info and advice on ‘entitlements – ie the national offer’ 3.25 – include ‘end of life care’ 3.27 – is it possible to add to the end of this para ‘and consider the need for independent advocacy where it is not’