

Assisting clients with 'unclear or limited entitlements' to access care and support under the Care Act 2014

Created in collaboration with Safeguarding Circle

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Guidance

This guidance is designed to enable St Mungo's staff to assist clients to access care and support under the Care Act, where they have unclear or limited entitlements. It should be read in conjunction with other St Mungo's policies and procedures and in particular [B37 Safeguarding Adults Procedure](#) and [B35 Supporting Non UK Nationals](#)

What is the Care Act?

The Care Act is legislation that can be used to enable statutory support for people who have care and support needs including, in some cases, for people with unclear or limited entitlements in the UK. If the person meets specific eligibility criteria, the local authority will be required to complete a care plan setting out how they will meet the person's care and support needs.

If the person's care and support needs can only be met if they have accommodation or a specific type of accommodation, the local authority may be required to provide this 'accommodation-based support' through the Care Act. In some cases, this will apply even if the person is not able to access mainstream housing support under the Housing Act 1996. Therefore, this is a particularly important piece of legislation for people with care and support needs who cannot work and/or access mainstream housing or benefits because of their immigration status. It is important to note that some limitations apply.

When applied the Care Act can enable clients to access:

- Accommodation for someone who is not eligible for accommodation under the Housing Act
- Accommodation in a care home or other supported accommodation if they need a high level of care and support
- Accommodation to prevent rough sleeping
- Accommodation where an individual's current accommodation is not reasonable or suitable to continue to occupy
- A care package which could involve carers making home visits to support with things like cleaning and providing personal care.

Who is responsible for administering the Care Act?

Applications for accommodation under the Housing Act and the Homelessness Reduction Act are managed within the local authority by Housing Options services (specific names may vary). Care Act referrals, assessments and support, including accommodation-based support are managed by Adult Social Care departments (ASC).

ASC teams in every council across the country are struggling to meet the rising cost of care within existing budgets and consequently they are under huge amounts of pressure. As such, in practice accessing support may not be as straightforward as it is in theory. Regardless of local budgets, a person's right to access care and the circumstances in which they are entitled to do so, are enshrined in law.

Before you get started:

- a. If you have a safeguarding concern relating to a client, then you should complete a safeguarding referral as soon as possible and liaise with safeguarding@mungos.org on next steps
- b. If your client has an immigration support need then they should be referred for immigration advice so they can understand their rights and entitlements before being referred for a Care Act assessment.

A client has an immigration support need if:

- They are unclear if they have status in the UK
- They are unclear if they have a route to get status in the UK by submitting an immigration application
- They have a route to get status in the UK but need to work with an immigration adviser to submit an application
- They have status but need to extend it.

Remember your client's situation may change over time, so immigration advice should be dated in the last 12 months and if the client states their circumstances have changed, they should be re-referred for advice.

Some helpful context:

A key part of this toolkit is to explore the ways in which entitlements under the Care Act vary between UK citizens and non UK citizens.

For the purposes of the Care Act there are several different 'categories' of people who are not UK citizens, and which 'category' your client falls in will impact their entitlement to support under the Care Act.

1. *People who have the right to live and work in the UK*

Most people from outside the UK are in the UK legally. Many, including those who have indefinite leave to remain or EU citizens with Settled Status, will be able to work and access mainstream benefits and housing under the Housing Act if they need to. These people have 'recourse to public funds'. There are no restrictions on providing them with support under the Care Act.

Some people who are here legally, for example those in the UK under visitor visas or with Pre-Settled Status have 'no recourse to public funds' (NRPF). This means they cannot automatically access means tested welfare benefits (such as Universal Credit or Housing benefit) and are not always able to obtain housing through the Housing Act. If they cannot support themselves, the government expects them to return to their home country.

Care and support is not regarded as a 'public fund' for immigration purposes and therefore if those with restricted access to public funds have eligible care and support needs because of an underlying physical or mental impairment or illness they should be assessed by the local authority and provided with the same support they would have received if they were a UK citizen, which may include accommodation-based support.

The person's needs cannot have arisen solely because they are homeless and destitute, this is known as the 'destitution-plus' test and is explained further in 'test 4' below.

2. People who do not currently have the right to live and work in the UK

People in this category cannot work or access public funds and the local authority is not allowed to provide them with any support under the Care Act, unless this would breach their human rights. In these instances the local authority complete a human rights assessment to determine whether they are permitted to provide support. They will also have to meet the destitution-plus test.

Asylum seekers will be entitled to accommodation and subsistence through the Home Office Asylum Support provision. People who have made another type of immigration application, may be entitled to Home Office accommodation via Schedule 10. In both cases, if the person has care and support needs, the local authority will be required to assess and if appropriate, meet these. If those needs include a need for accommodation-based support, ASC will be required to provide this instead of the Home Office.

My client has unclear or limited entitlements in the UK. How will I know if they are eligible for support under the Care Act?

If your client has unclear or limited entitlements in the UK then there are 5 tests which may be relevant to understanding if they can access support under the Care Act. The first 3 tests apply to everyone accessing support under the Care Act including UK citizens. Test 4 applies to people who are in the UK legally but do not have full access to public funds e.g. they are unable to claim Universal Credit. Test 5 applies to people who do not currently have the right to live and work in the UK.

Tests for eligibility under the Care Act.

	Test	Who does this apply to?
1	The person's needs arise from or are related to a physical or mental impairment ¹ or illness, and ;	Everyone attempting to access support under the Care Act
2	As a result they are unable to achieve two or more of the ten specified outcomes ² outlined in the Care Act; and ;	Everyone attempting to access support under the Care Act
3	As a consequence there is, or is likely to be, a significant impact on the adult's wellbeing	Everyone attempting to access support under the Care Act
4	The client's care needs do not result from destitution (i.e. as a result of them having unclear or limited entitlements)	People in the UK legally with restricted access to public funds and people in the UK without the right to live and work in the UK.
5	It would be a breach of the client's human rights to not provide appropriate support to meet their care needs.	People without the right to live and work in the UK. (This includes people with a submitted immigration application in order to achieve status in the UK)

1. Test 1

Does your client have care and support needs that result from or are related to a physical or mental impairment or illness?

You will need to show that the care and support needs arise from a physical or mental health problem. This could include:

- Physical ill-health
- Mental health problems
- Disability
- Sensory disability
- Learning disabilities
- Cognitive disabilities
- Dependence on alcohol or drugs

You don't need to have a specific diagnosis to be eligible for social care and support as it may be the case that the client hasn't received a formal diagnosis.

¹ This is defined deliberately quite widely in the statutory guidance that accompanies the Care Act. It is important to demonstrate that their needs are not caused by 'other circumstantial factors' such as the anticipated destitution caused by their immigration status, but where the adult has 'physical, mental, sensory, learning or cognitive disabilities or illness, substance misuse or brain injury' they will need to consider this. Equally, the guidance explains 'there is no requirement for a formal diagnosis.' [pg6.104 Care and support guidance]

² <https://legislation.gov.uk/ukdsi/2014/9780111124185>

- Ana is rough sleeping. She needs care and support as she is sight impaired.
- Mo is in a short stay assessment centre. He needs care and support because he struggles to understand and retain information. He is on the waiting list for a learning disability assessment
- Bart is rough sleeping and experiences severe anxiety and PTSD.
- Marco suffers from back pain and low energy relating to vitamin deficiency

Ana, Mo, Bart and Marco will all pass test 1 of the Care Act and can move to test 2.

Test 2

Is it the case that, a result of the mental or physical impairment, the client is unable to meet 2 or more of the 10 specified outcomes?

What are the specified outcomes?

1. Managing and maintaining nutrition
2. Maintaining personal hygiene
3. Managing toilet needs
4. Being appropriately clothed
5. Being able to make use of the adult's home safely
6. Maintaining a habitable home environment
7. Developing and maintain family or other personal relationships
8. Accessing and engaging in work, training, education or volunteering
9. Making use of necessary facilities or services in the local community
10. Carrying out any caring responsibilities the adult has for a child

What do you mean by 'fail to meet'?

An adult will be 'unable to achieve' an outcome where they:

- Are unable to achieve it without assistance
- Are able to achieve it without assistance but doing so causes them significant pain, distress or anxiety
- Are able to achieve it without assistance but doing so endangers or is likely to endanger the health and safety of themselves or of others
- Are able to achieve it without assistance but takes significantly longer than would normally be expected

Where the level of an adult's needs fluctuates, in determining whether these meet the eligibility criteria, the local authority must take into account the person's circumstances over an appropriate period of time.

If the person is in emergency accommodation but will shortly return to rough sleeping, the assessment should address how the client will meet their care needs when they are rough sleeping.

- Ana is sight impaired and cannot go shopping for food without assistance or cook/prepare food for herself. This demonstrates how her physical impairment affects her ability to achieve outcomes 1: managing or maintaining nutrition, outcome 5: being able to make use of the adult's home safely, and outcome 9: making use of necessary facilities or services in the local community.
- Mo's suspected learning difficult means he struggles to travel independently and attend appointments at the GP which he needs to do regularly. He struggles to sign up for and travel to activities that help with social isolation. Mo's room at the assessment centre requires extra daily checks as he sometimes brings in items that could cause a risk to his safety. This demonstrates how his suspected mental impairment affects his ability to achieve outcome 5: Being able to make use of the adult's home safely and outcome 8: accessing and engaging in work, training, education or volunteering, and outcome 9: making use of necessary facilities or services in the local community.
- Bart's severe anxiety means that he struggles to go to appointments or complete day to day tasks like purchasing food, attending medical appointments, looking for work. This demonstrates how Bart's mental impairment affects his ability to achieve outcome 1. Managing and maintaining nutrition, outcome 8. Accessing and engaging in work, training, education or volunteering, and outcome 9. Making use of necessary facilities or services in the local community
- Marco' back pain and low energy means that he struggles to dress himself, so he tends to wear pyjamas all the time, and to wash properly without causing himself significant pain. This demonstrates how Marco's physical impairment affects his ability to achieve outcome 2: Maintaining personal hygiene, and outcome 4: Being appropriately clothed.

Ana, Mo, Bart and Marco all pass test 2 of the Care Act and can move to test 3.

The Care Act Screening Tool will help you evidence why your client will struggle to meet two or more outcomes.

Test 3:

Is it the case that because of not meeting 2 or more outcomes there is, or is likely to be, a significant impact on the adult's wellbeing?

The Care Act assessment is required to take into the account the client's wishes and any care package should be personalised to maximise the client's autonomy. Therefore the client should want to achieve the outcomes identified in Test 2 or it be reasonable assumed that not meeting these outcomes will impact wellbeing.

In the Care Act assessment, the client might be asked:

- What's important to you right now?
- How are you currently achieving this / how have you achieved this before?
- Your own strengths and assets right now to help achieve this?
- How the desired outcomes could promote wellbeing?

The client must talk about meeting the outcomes rather than the requirement for accommodation. If the only need appears to be for accommodation then the local authority may believe the primary need is for housing not care and support.

Ana, Mo, Bart and Marco all pass test 3 of the Care Act and can move to test 4.

Test 4:

Do the client's care needs result from destitution (i.e. as a result of them having unclear or limited entitlements)?

Rough sleeping is harmful but for the purposes of the Care Act, it is not a care need.

In order for ASC to meet any care and support needs of a client with restricted access to public funds, their needs cannot arise solely from rough sleeping and destitution, or the physical effects of destitution.

The test is "whether the applicant's need for care and 'support' is made more significantly acute by some circumstance other than mere destitution, so that he is likely to be more vulnerable and less able to survive, than if he were merely destitute."³

Not every person who meets the destitution-plus test will be entitled to accommodation-based support. Some care packages can be provided even if the person continues to sleep rough. To be entitled to accommodation-based support, the person will need to be assessed as needing to be 'looked after' by carers in accommodation. If they cannot be 'looked after' without accommodation, then ASC will need to provide that accommodation so that carers can attend, even if they do not require care at the level of residential care or supported accommodation.

Tips on how to make clear to ASC that the client's needs do not arise from destitution or that they require accommodation-based support:

- Set out how long the client has had these needs, i.e., they had these needs before rough sleeping.
- Explain if there is other evidence that the needs are not linked to rough sleeping (e.g. they sustained injuries in a car accident or they have a family history of the same type of mental disorder).
- Ask yourself, if this client was wealthy would they still need support from ASC/private carers? If yes, then the needs do not arise from destitution.

Set out how you/other professionals are supporting the client to meet their needs, and that there is a need for the client to be 'looked after', i.e. they need assistance to perform specified tasks as they cannot do this themselves or they could only do so with great difficulty.

- Ana would require assistance to go shopping for food and to cook/prepare food for herself due to her sight impairment regardless of whether she was destitute or had full access to public funds. She passes the destitution-plus test.
- Mo would require assistance to attend appointments and to sign up for and attend local activities due to his suspected learning difficulty regardless of whether he was destitute or had full access to public funds. He passes the destitution-plus test.

³ R v Wandsworth London Borough Council, Ex p O [2000] 1 WLR 2539

However, it is likely that these care needs could be met by ASC without providing accommodation, e.g. by arranging support to attend appointments and to engage in the community through the voluntary sector.

- Bart has severe anxiety and PTSD so requires support to attend appointments, prompts to purchase and to prepare food, and support to look for work. His anxiety has been made worse by the stress caused by having his UC claim refused but he has always had anxiety. In his home country, he struggled in school and remembers being too worried to go to lessons. His PTSD relates to trauma experienced in his home country and he has a history of not eating properly. Bart would pass the destitution-plus test as although his anxiety is being made worse by his current destitution, Bart could show that his need for support to attend appointments and to managing his nutrition existed prior to him rough sleeping.
- Marco does not have access to public funds, as a result he cannot afford accommodation and has nowhere to cook his food. He has lost a lot of weight and appears unwell. Marco has back pain resulting from rough sleeping and vitamin deficiency resulting from poor diet due to relying on food from day centres and donations. Marco's needs result from his destitution and therefore he does not pass test 4 of the Care Act. In this case, you should make a safeguarding referral.

Proceeding to test 5:

Your client will need to proceed to test 5 if they do not have status in the UK and are subject to immigration control. This includes people who have submitted an immigration application which is being considered by the Home Office.

People who have status in the UK but have restricted eligibility for public funds and people with a submitted asylum claim do not proceed to test 5. If they have passed tests 1 to 4 then the local authority should meet their needs under the Care Act. This will include providing accommodation if accommodation is necessary to meeting their care needs.

- Bart has Pre-Settled Status which gives him the right to live and work in the UK but he is unable to access welfare benefits as he does not have an additional qualifying right to reside. Bart does not need to pass test 5 and is eligible for support under the Care Act.

Ana and Mo do not have legal status in the UK and are subject to immigration control, therefore they need to proceed to test 5.

Test 5:

Would it be a breach of the client's human rights to not provide appropriate support to meet their care needs?

ASC are legally not allowed to provide support under the Care Act to people who do not have leave to remain in the UK, unless withholding support would breach the person's human rights.

The government's position is that a person who is in the UK in breach of immigration laws should return to their home country to have their needs met. However, there are a number of reasons why it could be a breach of the person's human rights to expect them to return to their home country and not meet their care needs in the UK.

A refusal to provide support which leaves a person sleeping rough and without food, accommodation or funds would usually amount to inhuman treatment which would be a breach of Article 3 ECHR⁴. However, ASC do not have a duty to avoid this breach of human rights if the person is in a position 'freely to return home'⁵.

Therefore, the local authority will need to complete a Human Rights assessment to establish whether the client can be expected to return to their home country before support can be provided.

The Human Rights Assessment will look at whether there are:

1. Legal or practical barriers to the person returning to their home country
2. Whether the person can reasonably be expected to return to their country of origin to avoid a breach of their human rights

If there are legal barriers to return, practical barriers to return or it is assessed that expecting the person to return to their home country would be a breach of their human rights then ASC must provide support. This is because failing to provide care and support would mean the person would be left destitute in the UK and their human rights would be breached in the UK.

Legal barrier to return

You will need to liaise with the client's immigration adviser to understand if there is a legal barrier to their return. The following will constitute legal barriers:

- An outstanding human rights application.
- An outstanding human rights appeal or procedural right to pursue a human rights claim.
- Further submissions made by an appeal rights exhausted asylum seeker.
- Other legal action, such as court proceedings involving a child.

A person may also be treated as having a legal barrier to return if they are subject to civil or legal proceedings in the UK.

Practical barrier to return

The following practical obstacles will usually need to be treated as a potential barrier to return and considered within the assessment:

- Medical or health needs affecting the person's ability to travel safely.
- Lack of travel documents where these cannot be obtained.
- Other practical obstacles, such as Covid-19 related restrictions on international travel.

Returning to home country would breach human rights

If the local authority cannot identify a legal or practical barrier to return then the Human Rights assessment will address whether not providing the client with care and support or the

⁴ *R (Limbuela) v Secretary of State for the Home Department* [2005] UKHL 66).

⁵ *R (Kimani) v London Borough of Lambeth* (2003) EWCA Civ 1150

person returning to their home country would lead to a breach of their Human Rights protected under the European Convention of Human Rights (ECHR).

This area of law is complex and requires technical expertise. It is essential to liaise with the client's immigration adviser so that the Care Act assessment referral contains all the relevant information, for example the immigration advisor could provide a supporting statement to address why it would be a breach of the client's human rights to expect them to return to their home country. Clients who fall into this category are likely to be working towards submitting a human rights based immigration application.

It may be necessary to refer your client to a community care solicitor if their immigration adviser is unable to support. (Note: an application under the Care Act is not an immigration application and even if the client is granted support as a result of the human rights assessment, they will need to take separate steps to address their immigration status with support from their immigration adviser.)

Get in touch with Street Legal for further support.

- Ana has overstayed her visitor's visa. She has received immigration advice which concludes that she does not have any routes to regularising her status in the UK. Ana is from Latvia therefore the assumption is that she can return to Latvia to have her needs met. Ana is fit to fly and has a valid passport so there are no legal or practical barriers to her returning. Therefore, ASC do not have a duty to provide her with support under the Care Act. However, you may be able to argue that ASC provide Ana with accommodation and support whilst travel arrangements are made. Get in touch with the MAPS service if you need support with a case like this – maps@mungos.org.
- Mo is from Indonesia and has submitted immigration application based on his right to private live (Human Rights application). This is a legal barrier and therefore ASC cannot expect Mo to return to Indonesia to avoid a breach of his human rights and should provide him with care and support to meet his needs in the UK.

Tip: when making a referral for a client who does not have status in the UK, include in the referral an explanation of how withholding support would breach the client's human rights and why the person cannot reasonably return to their home country.

Practical information

1. Making a referral

The Care Act places the duty on a local authority to assess where an individual is '**ordinarily resident**'. **For those with no settled residence, this usually means where they are physically present.** This is different to local connection criteria under the Housing Act. In general, the referral should be made to the local authority where the client is rough sleeping.

Tip: In cases where the client is rough sleeping, it is best practice to check CHAIN to see if any local authority has previously accepted a duty to provide support under the Care Act as they may have a continuing duty. In addition, also contact the borough Rough Sleeper

Coordinator in the original authority or the 'host'⁶ authority before making the referral to make them aware of the case, and involve them in the process as they may be able to effectively advocate on the client's behalf from within the local authority.

2. How to contact the local authority

Each local authority Adult Social Care department has a different referral procedure for Care Act assessments. Sometimes this will be a first contact online referral form to the Adult Social Care department. When filling this out, explicitly request a Care Act Assessment and set out how the client meets the eligibility criteria.

Front line teams often find more success when they email referrals to ASC as you can be more explicit and in-depth with your reasons. See template email to request a Care Act Assessment below.

Referrals are more powerful when they include day-to-day examples of how the client's impairment or illness result in them not being able to achieve the outcomes.

Tip: under the Care Act, local authorities have the power to place individuals in accommodation pending their care act assessment. When making a referral, a request to the local authority to use their powers under section 19(3) of the Care Act can be included.

Make sure to follow any local provisions or agreements in place within the borough when referring clients for a care act assessment and read this guidance in conjunction with these.

3. Assessment arrangements

The ASC department should respond to the referral to arrange a Care Act assessment (see below for guidance on what to do if they refuse).

There is no legal or national guideline timeframes for local authorities to carry out assessments, but this should be allocated in a timely way based on risk and level of need. It is therefore important to set out reasons as to why the referral is urgent. If it takes longer than 28 days or there is no confirmation of referral being received and is being considered within 2 working days, then it is acceptable to use advocacy and escalation techniques to ensure swift consideration.

Care Act assessments will often be arranged to happen over the phone with a social worker but in order for these to be holistic and person-centred, staff should advocate for this to happen face-to-face. Set out any reasonable adjustments an assessor should put in place to enable a trauma-informed approach. Adjustments could include ensuring that the assessor is female, that an interpreter has been arranged in advance, including any specific dialect or if the client will benefit from an in-person interpreter, if particular timings of the day which work better for the client due to their support needs, or that the assessor has had training in supporting people with your client's background, if relevant.

⁶ This is the term used when one local authority arranges accommodation-based care in another 'host' local authority but agree to remain responsible under the Care Act to support the adult, including by funding the accommodation-based support and reviewing any change of need.

In cases where the client refuses a Care Act assessment, ASC is not required to carry this out, unless the client lacks capacity to refuse the assessment or they are experiencing or at risk of abuse or neglect⁷.

4. Preparing the client for the assessment

Care Act assessments can often be a distressing experience for clients as they will need to recount details of all of their care needs to someone they've only just met, so it is important to discuss the purpose of the assessment in advance and support the client to emotionally prepare for this.

Support the client to make a list of key things to mention taking into account all aspects of their day-to-day life. Also ensure that the assessment is set up to take place somewhere that client will feel comfortable and safe.

5. During the assessment

If the client consents, it is recommended that staff are with the client when the assessment takes place so the client is supported through the process. According to the Care Act, assessors must always take into account fluctuating needs. This means that if the assessment takes place on a client's 'good day', the social worker should explore what a 'bad day' would look like by considering their care and support needs over a suitable period of time. There is also an expectation that assessors will apply NICE guidance and consider the person's executive capacity to take actions in real life situations to meet their needs or stay safe.

6. Following assessment

The client should be provided with a copy of the completed Care Act assessment. If the assessment concludes that the client is eligible for support, the assessor should work with the client to develop a care and support plan to present for funding agreement. It is key that the care and support plan is prepared involving the client, any carer they might have and any person who they ask to be involved (this might be St Mungo's staff – or other key workers, it may also involve members of their informal support network- including other street homeless people especially if they are important protective factors in their life).

If the client is found not eligible, staff should receive notification of this. A copy of the completed assessment should be provided. If staff think that the assessment is inaccurate or that the care package put in place is insufficient, communicate this to ASC in writing or contact Street Legal for legal support.

7. What is the difference between a duty and power?

Note: unlike the Housing Act, the Care Act differentiates between the 'duties' and 'powers' that it places on local authorities.

- Duties refer to actions that a local authority must take.
- Powers refer to actions that a local authority can take

⁷ s11(2) Care Act 2014

For example, local authorities have a duty to assess anyone aged 18 or over where there is an appearance of need for care and support, but they only have a power⁸ to place them in accommodation if there is urgent need to meet those care and support needs pending their assessment. The local authority is not legally obliged to place the person in accommodation before the assessment is completed.

⁸ S19(3) Care Act 2014

Appendix 1 – Care Act and Human Rights assessment quick guide

It is essential that every client St Mungo's is supporting who has an immigration support need is referred for immigration advice so they can understand their rights and entitlements before being referred for a Care Act assessment.

Immigration status	Has eligible care needs not arising from destitution	Cannot achieve 2 or more outcomes	Human Rights assessment needed?	Next steps
British national	Y	Y	N	<p>ASC has a duty to meet these needs, but accommodation should be provided by Housing team (unless they need specialist care in a care home etc).</p> <p>ASC should produce care and support plan. The person will likely be considered as priority need under the Housing Act.</p>
Non-UK national with valid leave to remain	Y	Y	N	<p>ASC has a duty to meet these needs, but accommodation should be provided by Housing team (unless they need specialist care in a care home etc).</p> <p>ASC should produce care and support plan. The person will likely be considered as priority need under the Housing Act.</p>
EEA national with Settled Status or Pre- Settled Status with a qualifying right to reside (i.e. can claim Universal Credit)	Y	Y	N	<p>ASC has a duty to meet these needs, but accommodation should be provided by Housing team (unless they need specialist care in a care home etc).</p> <p>ASC should produce care and support plan. The person will likely be considered as priority need under the Housing Act.</p>

EEA national with Pre-Settled Status or 'Certificate of Application' for Status under EUSS or eligibility to apply for EUSS	Y	Y	N	<p>ASC has a duty to meet these needs.</p> <p>People with eligibility for EUSS but who have not yet applied should be supported to make an application in the first instance.</p> <p>ASC should produce care and support plan.</p>
EEA national without eligibility for EUSS	Y	Y	Y	<p>Discuss with immigration adviser.</p> <p>ASC will likely conclude that the person can return to EEA home country to have their needs met but can use their powers to meet needs whilst planning a return to home country</p> <p>Look at whether there are any legal or practical barriers to returning to home country, e.g. fitness to travel</p>
Submitted asylum claim	Y	Y	N	<p>ASC has a duty to meet these needs.</p> <p>ASC should produce care and support plan.</p>
Non-UK national with pending immigration application on human rights grounds	Y	Y	Y	<p>ASC will have to meet care needs as would breach Art. 6 ECHR Right to compel the person to return to their home country.</p> <p>ASC should produce care and support plan.</p>
Non-UK national with pending immigration application that is not on human rights grounds	Y	Y	Y	<p>Discuss with immigration adviser.</p> <p>ASC will likely conclude that the person can return to their home country to</p>

				<p>have their needs met but can use their powers to meet needs whilst planning a return to home country</p> <p>Look at whether there are any legal or practical barriers to returning to home country, e.g. fitness to travel</p>
Non-UK national without legal right to remain	Y	Y	Y	<p>Discuss with immigration adviser. If the person is working towards a human rights based immigration application then liaise with the immigration adviser on next steps.</p> <p>If this is not the case then look at whether there are any legal or practical barriers to returning to home country, e.g. fitness to travel</p>

Appendix 2 – Template email to request Care Act assessment

Subject: Urgent Care Act assessment and Emergency Accommodation request

Dear [Adult Social Care]

I am getting in touch to seek an urgent assessment of [client name]'s care and support needs under the Care Act 2014. [client name] has been living in [borough] since [date] and continuously since this time.

[client name] [will be/has been] homeless from [date]. As [client name] is ordinarily resident in [borough], / has no settled residence but is currently physically present in your area, [delete as appropriate] you have a duty under s. 9 of the Care Act to complete an assessment of their needs. I appreciate that we are running out of time before [client name] will become homeless and destitute.

Therefore, I would kindly ask you to consider using your s.19 (3) power of the Care Act to provide them with interim accommodation in order to meet their urgent needs for care and support before their assessments are completed.

Vulnerabilities

[Add summary of the client's needs that relate to physical illness or mental impairment or illness]

GUIDANCE: *The adult's **needs for care and support arise from or are related to a physical or mental impairment or illness** and are not caused by other circumstantial factors.*

This includes if the adult has a condition as a result of physical, mental, sensory, learning or cognitive disabilities or illnesses, substance misuse or brain injury.

Be explicit that these vulnerabilities do not arise from rough sleeping or destitution.
Add detail explaining how long these vulnerabilities have been present, especially if they pre-date rough sleeping, the observations you have made of these vulnerabilities and the support you/other professionals are providing to support the client with these vulnerabilities.

Care needs under Care Act 2014

On the basis of our observations, and interactions with [client name over X time period], and multiple reports from other professionals [only include if likely to get report from other professionals, GPs etc.], [client name] may have difficulty achieving two or more outcomes. We have serious concerns regarding multiple outcomes, however we specifically draw your attention to the following outcomes:

1. Managing and maintaining nutrition
2. Maintaining personal hygiene
3. Managing toilet needs
4. Being appropriately clothed
5. Being able to make use of the adult's home safely
6. Maintaining a habitable home environment
7. Developing and maintain family or other personal relationships
8. Accessing and engaging in work, training, education or volunteering
9. Making use of necessary facilities or services in the local community
10. Carrying out any caring responsibilities the adult has for a child

[DELETE OUTCOMES WHICH ARE NOT RELEVANT]

For each outcome you include, add examples you/other professionals have observed of the client failing to meet this/the great difficulty the client experiences meeting the outcome/or the support you/others have had to give to the client to meet the outcome.

Impact on wellbeing

As a consequence of being unable to achieve these outcomes, **there is, or there is likely to be, a significant impact on [client's name] wellbeing.**

We believe that [client's name] requires accommodation-based support as we have attempted to meet these needs whilst they have been rough sleeping, and have not managed to do so effectively.

I would like to kindly request that you carry out an urgent Care Act Assessment under the Care Act 2014 and place [client name] in interim accommodation whilst you make the necessary arrangements to complete your assessments.

Due to [client's name]'s needs, we request that a face-to-face assessment is completed, using a [language] interpreter [add any other reasonable adjustments that should be made to get the most out of the assessment, e.g., an advocate or input from a specific expert or difficulties they may have in carrying out the assessment (e.g. the person's impaired cognition means they have difficulty remembering appointments or they require a trauma-informed approach as they can become fearful/aggressive if they feel challenged) and, if you have suggestions about how to overcome these, offer solutions]. We are very happy to support [client's name] to the assessment, please let us know when and where these will take place.

[If the client will require a Human Rights assessment - CHECK QUICK GUIDE - include the below, otherwise delete]:

Withholding support for [client's name] is likely to breach their human rights protected under the European Convention of Human Rights and the Human Rights Act 1998, specifically:

- The right to life (Article 2) – if support will prevent the client's imminent death
- The prohibition on torture, inhuman or degrading treatment (Article 3) – *if client is experiencing or on the verge of experiencing 'actual bodily injury or intense physical harm or mental suffering'.*
- Right to respect for home, correspondence, family and private life (Article 8) - *if the client is working towards an Art. 8 immigration application.*
- Right to a fair trial (Article 6) - *if a client has a submitted immigration application.*

[DELETE ARTICLES WHICH ARE NOT RELEVANT, get in touch with Street Legal for further guidance if you're unsure]

Considering the urgent nature of this request, we would like to request a response within 24 hours.

Please contact us either by e-mail or phone on the contact details provided below.

Appendix 3 – Care Act Screening Tool to use with Clients

The local authority has a duty to assess whether someone may have eligible needs. To assess whether an adult's needs are eligible, the Care Act establishes the following eligibility criteria:

- The needs arise from or are related to a physical illness or mental impairment or illness and
- As a result of the needs, the adult is unable to achieve two or more of the specified outcomes; and
- As a consequence there is, or is likely to be, a significant impact on the adult's wellbeing
- If the client has restricted access to public funds or no legal status in the UK, the adult's care and support needs must not result from destitution.
- If the client doesn't have status in the UK, it must be demonstrated that it be a breach of the client's human rights to not provide appropriate support to meet their care needs.

If your client has an immigration support need then they should be referred for immigration advice so they can understand their rights and entitlements before being referred for a Care Act assessment.

A client has an immigration support need if:

- They are unclear if they have status in the UK
- They are unclear if they have a route to get status in the UK by submitting an immigration application
- They have a route to get status in the UK but need to work with an immigration adviser to submit an application
- They have status but need to extend it.

Remember your client's situation may change over time, so immigration advice should be dated in the last 12 months and if the client states their circumstances have changed they should be re-referred for advice.

Under each section make a note of evidence and clear examples that illustrate the client's needs. Complete this with your client in the first instance, and then add your professional judgement if you think there is relevant additional information to include. Make clear what is your judgement, and what is the client's perception.

First name	Surname
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1. Do the needs arise from a physical or mental impairment or illness ?
For each section, document how long the client has been experiencing the issue

Substance misuse issues Prompts: Type of substance? Amount of substance? Engaging with any services? History of overdose? Arrests/ convictions for	
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<p>possession/ shoplifting/ theft?</p>	
<p>Brain injury</p> <p>Prompts: Recently attended hospital? Lost consciousness as a result of a blow to the head? Blackouts or blurred vision?</p>	
<p>Cognitive impairment or disability</p> <p>Prompts: Diagnosed health condition? Attended special needs school? Difficulty reading or writing? Appears forgetful?</p>	
<p>Physical impairment or disability</p> <p>Prompts: Diagnosed health condition? Recent hospital admissions? Receiving DLA/PIP? Taking medication?</p>	

Mental impairment or disability Prompts: Diagnosed health condition? Has the client been sectioned under the Mental Health Act? Self-harm or suicide attempts? Delusions or paranoia? Has EASL seen the client? Taking medication?	
Sensory impairment or disability? Prompts: Hearing aid? Guide dog? Registered blind?	

2. Is the adult unable to achieve two or more specified outcomes as a result of the impairment?

Guidance note:

An adult will be 'unable to achieve' an outcome where she/he:

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

Think about whether accommodation-based support is needed, e.g. have outreach workers/day centres been able to meet the client's needs whilst on the streets?
 If the client were wealthy, would they still need support from Adult Social Care?

2a) Managing and maintaining nutrition

Prompts:
You have £5 to go to the shops – how do you spend it?
How does the client appear physically?

2b) Maintaining personal hygiene

Prompts:
If you were in accommodation, would you be able to clean all of your body without assistance?
What is your daily hygiene routine?

2c) Developing and maintain family or other personal relationships

Prompts:
How is your relationship with your family?
How do you manage interacting with staff and others in your community?
Do you find that your mental or physical health impacts on your ability to socialise or form relationships?

2d) Accessing and engaging in work, training, education or volunteering

Prompts:
What activities are you interested in doing? What

<p>activities did you used to do? Do not include not having the right to work</p>	
<p>2e) Being able to make use of the home safely</p> <p>Prompts: How do you cope in your own tenancy/ manage a licence? How do you manage getting about on a daily basis? Would you need any adaptations in your home to keep safe, e.g. handrails?</p>	
<p>2f) Maintaining a habitable home environment</p> <p>Prompts: How do you manage with cleaning?</p>	
<p>2g) Managing toilet needs</p> <p>Prompts: Has the client ever soiled or wet themselves? Does the client use incontinence pads?</p>	
<p>2h) Being appropriately clothed</p> <p>Prompts:</p>	

<p>Can you choose clothes which are appropriate for the weather? If not, is this due to a lack of funds?</p>	
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<p>2i) Making use of necessary facilities or services in the local community</p> <p>Prompts: What does engaging in the community mean to you? If you don't engage with the community, why not? Are you able to attend appointments without staff support?</p>	
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<p>2j) Carrying out caring responsibilities the adult has for a child</p> <p>Prompts: How is your relationship with your children? How would you like your relationship with them in the future? What barriers do you face?</p>	
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3 Does the adult not being able to achieve the specified outcomes have a significant impact on their wellbeing?

<p>Tell me more about how you feel about your situation.</p> <p>Prompts: Personal dignity, physical mental, social and economic wellbeing, control over day-to-day life, participation in work, education, training or recreation, relationships, suitability of accommodation, contribution to society</p>	
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4 Do the client's care needs result from destitution (i.e. as a result of them having unclear or limited entitlements)?

<p>Do the client's care and support needs result from destitution?</p> <p>Prompts: If the client had access to sufficient finances would they still require care and support in this area e.g. through a private carer etc.</p>	
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If the client does not have the right to live and work in the UK and is subject to immigration control, proceed to test 5

5. Would it be a breach of the client's human rights to not provide appropriate support to meet their care needs.

<p>Is there a legal barrier to the client returning to their home country?</p> <p>Prompts: Does the client have a submitted immigration application or appeal?</p> <p>Is the client subject to legal proceeding?</p> <p>Is there another legal barrier to return?</p> <p><u>Confirm this in writing from their immigration or legal adviser</u></p>	
<p>Is there a practical barrier to the client returning to their home country?</p> <p>Prompts: Medical or health needs affecting the person's ability to travel.</p> <p>Lack of travel documents where these cannot be obtained.</p> <p><u>Confirm this in writing from their immigration or legal adviser</u></p>	

<p>Is there a reason why returning to home country would breach human rights?</p> <p>Email the client's immigration adviser, explain that you would like to refer the client for a care act assessment and ask for their opinion on this point.</p> <p>Ask the immigration adviser if they have any concerns about proceeding with a referral under the care act.</p> <p>Confirm with the immigration adviser that they are happy for you to proceed with the referral under the Care Act</p>	
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Further useful resources on the Care Act

1. Multiple Exclusion Homelessness: A Safeguarding Toolkit for Practitioners
<https://www.qni.org.uk/wp-content/uploads/2020/05/SafeguardingToolkitDRAFT-PDF.pdf>
2. Bitesize learning: Strengths-Based Practice
<https://homeless.org.uk/knowledge-hub/bitesize-strengths-based-practice/>
3. Bitesize learning: Supporting adults and young people through safeguarding
<https://homeless.org.uk/knowledge-hub/bitesize-learning-multiple-and-complex-needs/>
4. NRPF network Assessing and supporting adults who have no recourse to public funds (England)
<https://guidance.nrpfnetwork.org.uk/reader/practice-guidance-adults/introduction/>