



COT/BAOT Briefings

Fair Access to Care Services, LAC (2002) 13

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Acknowledgement

Much of the material used in the Briefing is taken from an article by Jeremy Cooper (Wessex Law) written for OTIP bulletin Issue 20. Occupational therapists are advised to read the guidance in full, along with the practice guidance implementation questions and answers provided by the Department of Health.

Introduction

The need for some guidance on eligibility criteria for adult social care was identified in the 1998 White Paper *Modernising Social Services*. This highlighted the variations, and ensuing unfairness, in the application of criteria for assessment and the eligibility for provision of services, for adults across the country.

Thus the Department of Health issued the *Fair access to services: guidance on eligibility criteria for adult social care in 2002*, under Section 7(1) of the *Local Authority Social Services Act 1970*. It sets out a framework by which councils must set their eligibility criteria, with the aim of gaining fairer and more consistent access to services across the country, promoting person-centered care and independence. It came into effect in April 2003. The guidance identifies several factors that need to be considered when developing eligibility criteria for services. These include children and families, carers, transport, rights and discrimination and employment. The relevant legislation in all these areas is highlighted.

The guidance applies to all adult social care services that have been agreed as the responsibility of councils under local continuing care arrangements. These services may be provided out of community, primary or secondary settings.

Needs and risks

The framework is based upon the assessment of an individual's needs and the associated risks to independence, considering the situation at the time of assessment and the risks that are likely to increase without the provision of assistance. In a later guidance in 2003, the Department of Health explained the relationship between need and risk. Councils should identify the needs which, if addressed, will ameliorate, contain or reduce risks. Eligible needs are those associated with risks that fall within the council's eligibility criteria. Where needs arise from eligible risks, the council is obliged to consider meeting them, although



there is no explicit requirement in the policy guidance that all needs associated with 'eligible risks' should be addressed.

In the guidance a distinction is made between presenting and eligible needs. Presenting needs are those that are identified when an adult first has contact with social services. Eligible needs are only those that are assessed as falling into a council's eligibility criteria and so should be met.

Assessment and care planning

General principles for assessment and care planning are given in the guidance. They build upon the *Care management and assessment: practitioners' guide* issued in 1991. The guidance suggests that any assessment used should be in line with appropriate assessment frameworks, such as the single assessment process for older people.

Much of the guidance restates the current approach to assessment and care provision, though it gives new emphasis to the need to engage fully with the service-user in drawing up care plans, and to provide evidence of such engagement. The guidance is driven by the priority of 'maintaining service-user independence', stressing that this above all else, should be the principle guiding care package construction. Within this overall principle, the service-user's written care plan must cover: Needs, Risks, Proposed Outcomes, and Cost, and must be reviewed after three months, and annually thereafter. The guidance identifies what reviews should do, when they should be done and who they should involve.

The guidance states that all assessments for community care services must be carried out by 'council professionals' who are competent in assessment and in a position to determine eligibility and plan care services. It is arguable that the term implies that assessments should be the responsibility of individuals who are trained, qualified and supervised in their work, and will therefore be primarily qualified social workers, occupational therapists, or occupational therapy assistants working under their supervision. In addition, the guidance states that local authorities should be promoting the use of Interpreters, advocates and supporters in the assessment process, to help individuals access and make best use of the assessment process.

Assessments should adopt a low threshold at the initial assessment stage, to avoid screening individuals out of the assessment process before sufficient information is known about them. The fact that the council may not eventually meet the presenting needs is no grounds for refusing to assess for those needs in the first place. The time limit for completing the assessment remains a 'reasonable time' (NB Since 2004, older people assessments have been time-limited, 48 hours for the initial assessment, and 28 days for its completion). The guidance states that councils must provide an immediate response to individuals who approach them, or who are referred to them, in emergencies or crises. All assessments must be co-ordinated and integrated across all relevant local agencies and not just confined to health and social services.



Where the risks to independence appear relatively low, but are likely to become more serious over time, councils are encouraged to take preventative approach, working with other local support agencies. Guidance is also provided on supporting individuals whose needs are not eligible for help.

The assessment framework, set out in the guidance, proposes that local authorities separate their *eligibility criteria* into four bands, as follows:

CRITICAL: The service-user has *either* life threatening unmet needs, *or* a failure to meet their needs will lead to vital consequences with regard to any of the following categories: their autonomy, health or safety, management of their daily routines, or their ability to sustain meaningful involvement in their family/ or wider community life.

SUBSTANTIAL: If their assessed needs are not met, *the majority* of the service-user's support systems in the above categories will be placed in jeopardy.

MODERATE: If their assessed needs are not met, *several* of the service-user's support systems in the above categories will be placed in jeopardy.

LOW: If their assessed needs are not met, *some* (i.e. maybe one or two) of the service user's support systems in the above categories will be placed in jeopardy.

The updated guidance of 2003 provided greater explanation of the use of the terms 'critical' and 'vital'. For risk to be 'critical' there must be risk to 'vital' aspects of a person's autonomy. 'Vital' means that 'without help, individuals are at great risk of either losing their independence, possibly necessitating admission to institutional care, or making very little, damaging or inappropriate contributions to family and wider community life, with serious consequences for the individual and others' (Department of Health 2003, Q 3.6). The guidance states that critical risks may arise where 'life is threatened, significant health problems are present or vital aspects of independence are threatened' (Department Of Health 2003, Q 3.4), thereby making it clear that threat to life or to health cannot be the only factor defining critical risk. It is noted that what may be 'vital' for one person may not be 'vital' for another. Councils should therefore be prepared to add to risk factors and eligibility criteria in response to individual circumstances.

The guidance stresses that whilst the above *bands* are hierarchical, there is no hierarchy within the *categories* for each band. This expresses the core philosophy that the guidance seeks to espouse. Needs assessment must be guided by the overall priority of maintaining the service-user's independence. In this context an occupational therapist or occupational therapy assistant assessor may well decide that helping meet the service user's social, educational, cultural or employment needs, are a greater priority than meeting their physical needs. The guidance explicitly encourages such an approach, thereby giving the occupational therapy profession a great opportunity to move their assessments from a medical to a more social model approach.



Finance

The *Fair access to care services guidance* reiterates the principle that rationing community care services in light of limited resources is quite permissible, so long as the rationing is based upon reasonable principles that conform to the local authority's predetermined eligibility criteria.

The practice guidance envisages that each local authority will make a rough financial assessment at the beginning of each year on the likely level of needs they will be in a position to meet in the light of their local knowledge, and set their eligibility criteria accordingly. If authorities are unable to provide services deep into the lower bands, they still retain a legal duty to advise those whose needs they do not meet of the availability of alternative assistance, in either the voluntary or the private sector. In addition the guidance makes clear that a local authority need not withdraw an existing service from an ineligible individual, if the risks of doing so are too great. Henceforth, all refusals of service must be in writing, with reasons.

Councils are expected to audit and monitor their performance with respect to fair access. The information that is collected should be made available to interested parties. The Department of Health will check the implementation of fair access through Social Services Inspectorate monitoring and inspections.

References

College of Occupational Therapists (2003) *COT/BAOT Briefing 12 Fair access to care; revised guidance*. London: COT. (No longer available)

Cooper J (2003) Fair access to care services. *OTIP Bulletin*, 20, 24-25.

Department of Health (2002) *Fair access to services: guidance on eligibility criteria for adult social care*. London: DH.

Available to download from:

www.dh.gov.uk/assetRoot/04/01/97/34/04019734.pdf

(Accessed 07/02/06)

Department of Health (2003) *Fair Access to Care Services Practice Guidance: Implementation Questions and Answers*. London: DH.

Available to download from:

www.dh.gov.uk/assetRoot/04/01/97/34/04019734.pdf

(Accessed 07/02/06)

Great Britain, Parliament (1970) *Local Authority Social Services Act 1970*. London: HMSO.

Great Britain, Parliament (1998) *Modernising social services. White Paper*. London: Stationery Office.

Social Services Inspectorate, Department of Health, Social Work Services Group Scottish Office (1991) *Care management and assessment: practitioners' guide*. London: Stationery Office.