

Care Act Easements

North Somerset Council -
Adult Support and
Safeguarding Service

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The Coronavirus Act 2020

- The Coronavirus Act 2020 provides powers for local authorities to enact easements under the Care Act 2014.
- [the Care Act Easements: Guidance for Local Authorities](#)

What duties can be eased?

Easements available to the council include limiting the extent to which we:

- carry out detailed assessments of need
- undertake financial assessments
- prepare or review care and support plans
- meet eligible care and support needs

If implemented, duties become powers.

We would continue to meet pre-amendment duties as far as possible.

A duty to avoid a breach human rights under ECHR would remain.

Covid 19: Ethical Framework for Adult Social Care

- This framework is aimed at planners and strategic policy makers at local, regional and national level to support response planning and organisation of adult social care during and as COVID-19 develops.
- It also aims to support the work of professionals and others in the health and social care workforce who are developing policies and responding to the outbreak, in line with their own professional codes of conduct and regulations.
- The Ethical Framework is paramount to decision making and should be referenced in records.
 - Respect
 - Reasonableness
 - Minimising harm
 - Inclusiveness
 - Accountability
 - Flexibility
 - Proportionality
 - Community

<https://www.gov.uk/government/publications/covid-19-ethical-framework-for-adult-social-care/responding-to-covid-19-the-ethical-framework-for-adult-social-care>

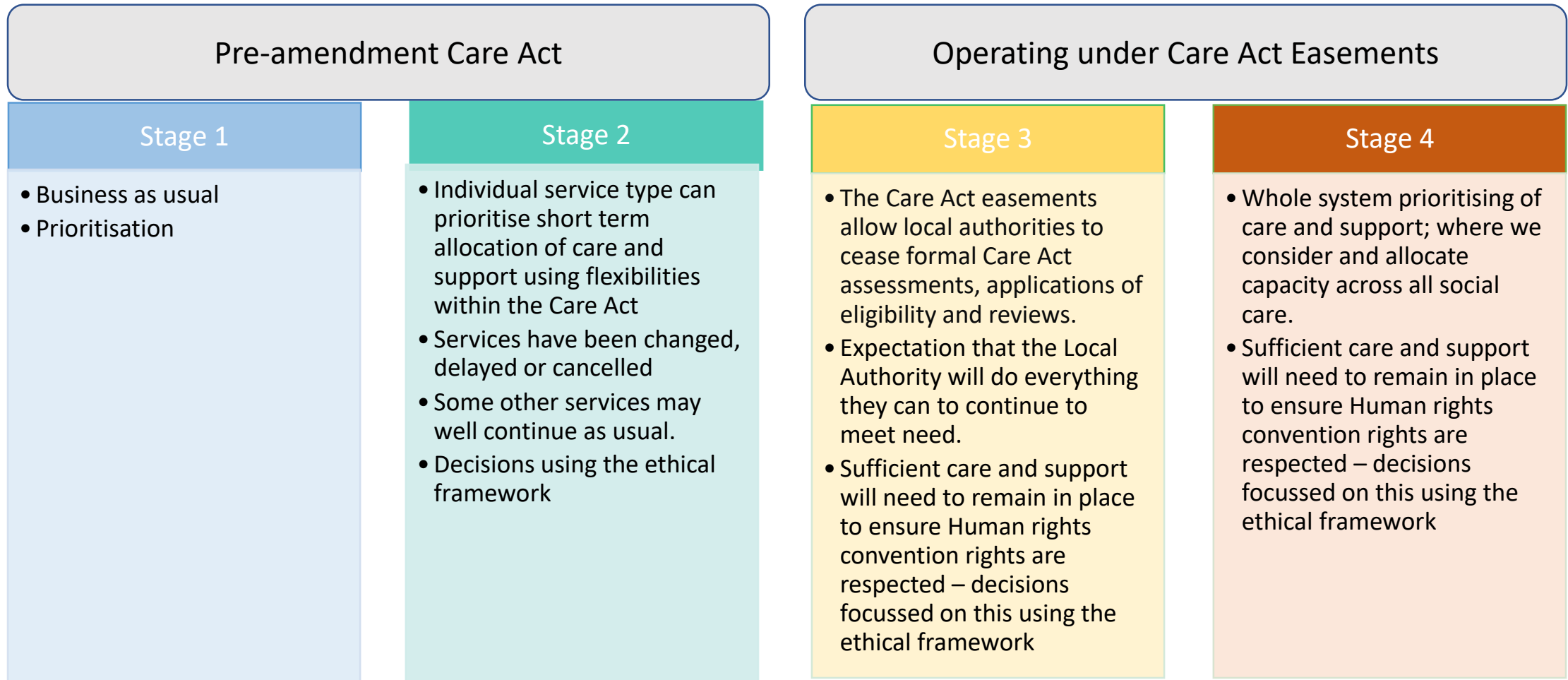
When would we consider operating under the easements?

“A local authority should only take a decision to begin exercising the Care Act easements **when the workforce is significantly depleted, or demand on social care increased, to an extent that it is no longer reasonably practicable for it to comply with its Care Act duties (as they stand prior to amendment by the Coronavirus Act)** and where to continue to try to do so is likely to result in urgent or acute needs not being met, potentially risking life. Any change resulting from such a decision should be proportionate to the circumstances in a particular local authority”.

Section 6 -

<https://www.gov.uk/government/publications/coronavirus-covid-19-changes-to-the-care-act-2014/care-act-easements-guidance-for-local-authorities>

The decision making framework?



- **North Somerset Council is at Stage 2**
- **Current flexibilities include remote assessment and the temporary closure of some day services**
- **Our position is reviewed regularly and communicated on the NSC public facing website**

Even under easements, many duties remain:

- promote wellbeing
- safeguard adults at risk of abuse or neglect
- apply the Mental Capacity Act 2005 and Deprivation of Liberty Safeguards (DoLS).
- consider prevention and provide information and advice
- provide advocacy
- consider duties imposed under the Equality Act 2010
- meet needs where failure to do so would breach an individual's human rights under the European Convention on Human Rights (ECHR).

How is the decision made?

- Robust governance arrangements are in place
- The PSW, Principal OT, DASS and service leaders meet at least weekly with team managers and a representative from the contracts and commissioning team to discuss system pressures.
- The following measures are discussed and monitored:
 - Pressures on the provider market (e.g. outbreaks in Care Homes)
 - Covid-related staff absence
 - Increase in demand for services (e.g. number of referrals, increase in waiting lists etc)
 - Systems for prioritising care and managing risk
- We aim to mitigate the need to operate under the easements on a case by case basis via a Professional Decision Making Forum for frontline staff
- A decision to move to Stage 3 would only be considered as an absolute last resort
- It would be temporary and proportionate with a clear recovery plan, e.g. it may only apply to one team or service area for a time-limited period
- The decision is ratified by the DASS on the recommendation of the PSW and will involve the Health and Wellbeing Board and the Lead Member for Adult Social Care.
- A decision to operate under the easements must be reported to the DHSC and communicated to people who use adult support services.

ADASS report- learning from Spring / Summer 2020

Some key points from the report:

- LAs who operated under the easements were heavily criticised by some legal organisations
- However, many of the approaches used by councils that did were similar to those that did not. Different interpretation of the DHSC guidance.
- No council moved from Care Act eligibility to a human rights threshold.
- The councils who did not operate the easements were not faced with as immediate a crisis and were therefore able to use more time to consider the local situation, and to take a slightly more measured approach.
- Councils (regardless of easement status) moved quickly to using remote (telephone, video) assessment and review approaches, wherever possible. Where it wasn't possible to speak to the person with care and support needs using these means, assessors spoke to family, friends and staff to gain the information.
- Regardless of easement status, a more proportionate approach to assessment was taken.
- Councils introduced regular review check-points, to aid decision-making about whether to move into easements.
- Most LAs undertook risk assessment/RAG-rating of people who receive home care services in readiness, in case home care services had to be reduced or re-prioritised due to lack of staff.
- Most of these councils found alternative ways to meet assessed needs while day centres were closed. Unpaid carers and family members were vital in providing this support.
- Highlighted the importance of being transparent with community groups and individuals with care and support needs, to discuss the local responses to the pandemic.

Questions /
Comments

