



FACTSHEET 12

The Care Act – Prisoners and people resident in approved premises

“The difficulties that older prisoners face in the physical environment have been exacerbated by social care that is described variously as variable, sparse and non-existent; there has been a deplorable absence of basic personal social care, for example for prisoners with serious mobility problems, and no one seems sure who has been responsible for its provision.”

House of Commons Justice Committee, Fifth Report of Session 2013/14, Older Prisoners

This factsheet describes how the Act sets out Local Authorities’ responsibilities for arranging and funding services to meet the care and support needs of adults who are detained in prison or who are resident in approved premises.

Context

A number of the people in prison, or living in approved premises on licence, will have a need for care and support.

Social care services are important for people in the criminal justice system who have care and support needs. It supports their rehabilitation and may positively impact on the likelihood of reoffending and the person’s ability to rebuild their lives on release.

Why have we changed the law?

Before the Care Act came into law, it was not clear about whether or which Local Authorities were responsible for providing care and support for prisoners and people living in approved premises. This meant that very few prisoners with care and support needs were having these needs properly assessed or met in an effective way.

For prisoners who have care and support needs before they enter prison, services can sometimes stop once they enter prison. Other prisoners may not have had their needs identified before entering prison or may develop care and support needs during their sentence. Not receiving care and support may impair their ability to take part in meaningful activities, impact negatively on rehabilitation and increase the risk of their reoffending on their release.

Reports by Her Majesty’s Chief Inspector of Prisons, the Prison and Probation Ombudsman and the Prison Reform Trust have all criticised the quality of social care provision in prisons.

What does the Care Act do?

The Care Act makes clear where the responsibility lies for assessing the care and support needs of prisoners and people in approved premises, and providing care and support where those needs meet eligibility criteria.

The Act states that it will be the Local Authority where the prison or approved premises is located which is responsible. This means assessing whether someone has care

and support needs and what those needs may be. After the assessment, the local authority must then determine whether the person is eligible for care and support using the same eligibility framework used for people living in the community. If they are assessed as having needs that meet the eligibility criteria, the Local Authority will meet those needs.

Just like people living in the community, prisoners and people in approved premises will have to pay part or the full cost of their care, if they can afford to do so.

Prisoners frequently transfer between prisons due to the progression of their sentence, changes in security category, or in preparation for release. If a prisoner is receiving care and support, the Care Act will ensure that there will be continuity of care in the next prison.

People leaving prison often experience difficulties in preparing for release. The Local Authority where the prisoner is located may carry out an assessment of the care and support they will need to support their release into the community. The Care Act will ensure that there will be continuity of care on release.

Whilst the Care Act will ensure that prisoners and people in approved premises will be entitled to care and support largely in the same way as people in the community, there will be instances where the care and support legislation will not apply to them.

Prisoners will not have the same choice in arranging their care as people not in prison and will not be entitled to direct payments for their care and support. However, this exclusion does not apply to those who have not been convicted of an offence, for example some people in bail accommodation.

Prisoners will not be able to express a preference for particular accommodation except when this is being arranged for after their release from prison or approved premises.

Some prisoners provide care for other prisoners, helping them in their day-to-day life. The Act gives local authorities a responsibility to assess a carer's own needs for support. However, the Care Act clarifies that people will not be regarded as carers if they provide care as part of voluntary or paid work, and almost all care provided by prisoners is expected to fall within these exclusions.

Local authorities will not have to protect the property of adults in prison or approved premises with care and support needs.

Prisons and approved premises will still be responsible for the safety of their detainees. This means that Safeguarding Adults Boards do not have a duty to carry out enquiries or reviews where a prisoner with care and support needs may be, or have been, at risk of abuse and neglect. Safeguarding Adults Boards can provide advice and assistance on safeguarding to prison governors and other officials and can invite prison staff to be members.

Further information

See also:

Factsheet 3: Assessment and Eligibility

Factsheet 5: Charging and Financial Assessments

Factsheet 9: Continuity of Care and Moving Between Areas