Care managers’ perspectives on new national eligibility regulations for ASC in England

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Background to the study

❑ Fair Access to Care Services (FACS) guidance used by LAs since 2003 to determine eligibility

❑ LAs assess the needs as critical, substantial, moderate or low but retain autonomy to determine the minimum level of needs at which individuals are eligible to support (substantial –in the majority of LAs)

❑ As part of social care reforms set out in the 2014 Care Act, the FACS framework will be replaced by national minimum eligibility criteria from April 2015 to:

- Improve the transparency around entitlement to support
- Establish a common minimum level of eligible needs across all local authorities
- Allowing LAs to maintain their existing levels of access to care and support

Draft eligibility criteria

❑ First version tested last June: survey (case studies); workshops, engagement with voluntary sector, ADASS

❑ Feedback:

- New regulations easier to understand than FACS
- Will increase the number of eligible individuals
- Requests for defining certain phrases (e.g. significant)
- Requests to develop more outcomes-focused regulations

❑ Second version(s) of regulations tested in June/July 2014

Activities/outcomes-focused regulations

❑ Three variants of regulations:

Outcomes-focused (some or more)

Outcomes-focused (1 or more)

Activities-focused (some or more)

Quantitative & qualitative evidence

❑ Survey (27 LAs covered the four main social care client groups and carers) gathered information about:

- Needs-related factors of the individuals assessed for social care support (e.g. disability; informal care support)
- The outcome of assessment process: eligibility and support packages

❑ Care managers applied the draft eligibility criteria to people that they had recently assessed

❑ Professionals from the first point of contact and carrying out full assessments

- Six focus groups carried out in a sub-sample of participating LAs (3/9 participants in each, 1-1.5 hours long)

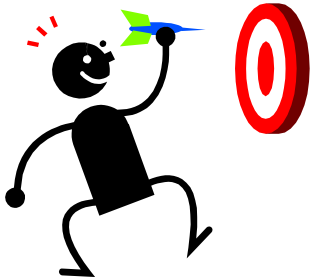
- Discussions were audio-recorded & transcribed verbatim

- Qualitative data management software: NVivo 10

- Thematic analysis was employed in analyzing the content of discussions to systematically organize data by focusing on identification and reporting of patterns and themes across the whole dataset and collating passages relevant to each theme.

Objectives of the focus groups

❑ Participants were asked to provide feedback on the content of the draft eligibility regulations relative to FACS to examine care managers' views about the potential consequences of new regulations on:



- The existing level of access to care and support
- The likely costs of reforms and impact on LAs
- Implications of new regulations for assessment processes

Clarity of language

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- New regulations: clear and easy to understand relative to FACS
- However: ‘significant impact on wellbeing’ reported as vague, open to interpretations, particularly in the context of personalization where it is up to the client to define these words:

> *I:…when you bring in personalisation into it, how do you define somebody’s wellbeing? You cannot define it as a practitioner, they will define it, if they say ‘this has a significant impact on my wellbeing I need that piece of equipment’ … [LA1]*
>
> *I: What’s significant to one person might not be to another...they might think something is really significantly impacting on their life but we might see it, well, it ain't really. [LA 5]*

- Conversely, some reported that ‘significant impact on wellbeing’ is equivalent to the definition of substantial needs in FACS.

Increase in the number of eligible adults?

☐ New regulations will increase the existing level of access to care and support (in 6 LAs) due to:

- Uncertainties in interpretation of certain phrases (e.g. significant, wellbeing)
- A lack of a clear cutoff point relative to FACS to define eligibility: increase in eligible cases and possibly more legal challenges (4 LAs)

> *I: How would you justify that somebody is not eligible, because now we only provide service if there is critical or substantial but there is nothing here to say to justify.*
> *I: That is not defensible because it is not clear where the cutoff point is. [LA 3]*

- The inclusion of household maintenance (3 LAs)
- The inclusion of carers regardless of users' eligibility

Financial implications

- ❑ Increase in numbers of eligible people → anxieties re. financial resources

- ❑Where financial pressure already high → greater anxiety, perceived threat regarding potential impact of new regulations on eligibly numbers → expressed disadvantages of new regulations:

> *I: how are you gonna meet the costs, if you look at our LA, if you look at demographics how many people will be eligible, how many carers we have got, I do not know how the budget will be divided to support these increased numbers. [LA 7]*

- ❑ Conversely, 2 LAs: new regulations unlikely to impact their budgets significantly (1 LA -explicit carers' assessment may increase financial needs, potentially eligible carers may be signposted to non-statutory services)

Groups of users/needs missing

☐ ‘Some or more’ basic care outcomes/activities may exclude individuals who have difficulties with one dimension of needs only:

> *I: or if you cannot manage nutrition, even if it is only one thing, it will have a big impact on your wellbeing.*
> *I:…if you cannot cope with dusting your house, it may distress you a little bit but you will not die from that, if you cannot get your food that is a different story. [LA 7]*

☐ Needs have to stem from physical/mental impairment or illness → exclude people with autism or substance misusers.

☐ Managing finances/bills/correspondence missing (or not clear) → older people (financial abuse) or people with brain injuries.

☐ Access to public transport → some clients need non-public transport (e.g. with mhp).

ASC responsibility?

- ☐ It was pointed out that:
  - NHS - responsible for making their services more accessible not ASC (2d/ 4vi).
  - Should engaging in work, training, education and volunteering be ASC responsibility?

> I: *So if all the agencies are reading this, now they will think 'well ASC can do this' and that is our responsibility now [LA 3].*

- ☐ New reg. should clarify the extent of collaboration between agencies/clear for clients that needs may be met by other services or informal carers:

> *I: If we truly integrate with health, if we say we identified needs but within these it should say that is how we work with other agencies…*
> *I: It does not say [in the new regulations] that you are eligible if other services are not available, because we do use voluntary sector…and we encourage them to use informal carer… It should be more detailed, [so that] when they turn around you can say 'you may be assessed for these but this need can be met in many different ways. [LA 7]*

- ☐ These opinions were related to respondents' concerns over budgetary pressures

Outcomes versus activities

❑ Some reported that outcomes-based reg. are more person-centered and allow practitioners to consider a wider variety of needs compared to activities:

> *I:..Someone may be able to get up and get dressed but it may be middle of the winter and they may put on a vest top, whereas the outcome says being appropriately clothed and there is a world of difference between the two. And being able to use the home safely and getting around the house, somebody can get around their house but it could be a nightmare for them and their risk may be high for e.g. accessing the kitchen…what they are like on the stairs. [LA 6]*

❑ Activities-based reg. were reported to risk excluding people who are able to perform an activity but cannot achieve an outcome (e.g. adults with dementia, mhp or ld)

❑ Even supporters of out.reg. highlighted that subjectivity of such words as 'adequately' and 'appropriately' could be problematic.

❑ Outcome-based reg. may lead to enforcement of ‘appropriate standards’ and put pressure on users to perform an outcome

❑ Activities-based reg. perceived as more objective, straightforward to apply and easier for users to understand:

> *I: Activities is more about what people do, it is more objective... outcomes could mean that you could impose something on a user, because they do not meet appropriate standards. [LA 4]*
> *I: activities are a lot more straightforward and user friendly, if you are explaining law to service users, it is reader-friendly.*
> *I: Outcomes are very subjective, if someone’s nutrition and diet are managed, whereas eating and drinking are more basic, it is a yes, no answer. Whereas nutrition becomes more subjective and there is a lot of discretion around that. [LA 2]*

❑ Activities easier to measure → easier to provide evidence for eligibility. Related to the extent of flexibility and professional judgment cm have in the assessment process

Risk of legal challenge

- New reg. sufficient flexibility to exercise professional judgment. Too much flexibility & not enough transparency [vague language, no cutoff point] → more legal challenges:

  I:... with the wording, if we are trying to argue that it does not have a significant impact...you have people ... saying that it has such a catastrophic impact on somebody's lives, whereas to us it may be a moderate need, but we do not have that backup now in legislation [LA 3]

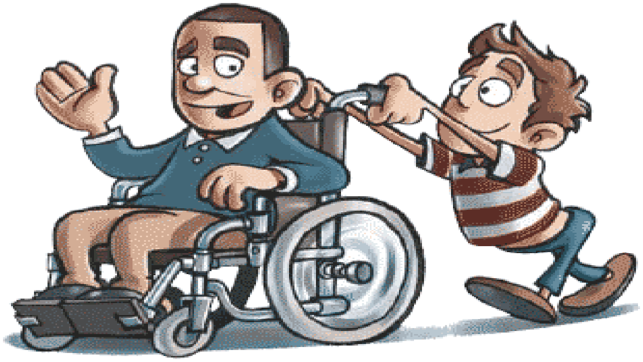
  I: if we have to follow these registrations and if we do not offer service to people, we will be sued, the council, we will not be able to sustain this... [LA1]

- Where no immediate threat to the budget [2LAs], the new reg. reported as less likely to result in legal challenge than FACS:

  I: I would say there would be less legal risk because this is less rigid than current FACS criteria [LA 6]

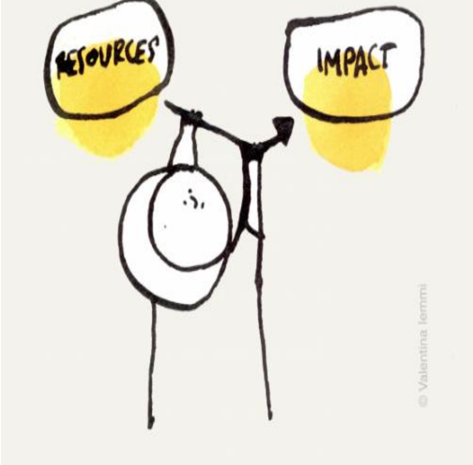
  I: If some families thought they were being listened to and given a care package that they want as an outcome, and I don't think they would [legally] challenge it as much. [LA 5]

Carers



- ☐ Expressed satisfaction with the explicit inclusion of carers
- ☐ Concerns that this will most likely lead to an increase eligible people
- ☐ Not clear who is a “carer”-important when there are multiple carers
- ☐ Uncertainties about whether the new regulations should apply only to people caring for an adult with eligible needs:

> *...if individual’s needs do not meet criteria but the carer is pulling their hair out because they are making sure that this individual’s needs are met then it would be good for the carer to have money attached to meet their needs, but it will cost...[LA 6]*
>
> *I: Service user does not have to have their own eligible needs for the carer to meet these criteria ...that is going to be an increase [in eligible people]*
> *I: maybe it should say that a person has to have eligible needs, because that closes it down somehow. [LA 7]*



Conclusions

- ❑ New regulations often perceived as letting more people into the system

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- ❑ Anxieties about the need for further financial resources especially in the current financial climate of austerity, particularly in LAs where the financial pressures are already high
- ❑ Need to use more explicit language
- ❑ Set clear[er] threshold to eligibility?
- ❑ Outcomes often perceived as encompassing more needs relative to activities however more subjective
  - Letting more people in? Enforcing standards on users?
- ❑ Inclusion of carers' explicit assessment seen as good but concerns over financial resources

Questions?

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No	Type of Local Authority	Focus group participants
LA 1	London Borough (inner)	4 participants: Social worker (SW): people with learning disabilities; Occupational therapist ; SW from initial contact team SW: older people
LA 2	London Borough (inner)	4 participants, all social workers: Two SWs: older people/dementia; One SW: learning disabilities/mental health
LA 3	Metropolitan Borough	9 participants, all social workers. One SW: intermediate care, joint ASC and health; Three SWs: older people Two SWs: learning disabilities; Two SWs: mental health; One SW: older people-dementia
LA 4	A Non-Metropolitan County	Telephone interview with a manager from the initial access team
LA 5	Metropolitan Borough	Participants: Informant 2: learning disabilities
LA6	A Unitary Authority	3 participants: one Occupational therapist (people with neurological conditions) One SW: older adults (community mental team) One personal facilitator (dementia and mental health).
LA 7	Metropolitan Borough	Participants: 1 nurse: clients with mental health problems ; 5 social workers, two of whom worked in the first contact team: 1 SW –older people ; 3 SW-learning disabilities; 1 SW-transition

Focus group question guide

Q1. Are the national eligibility regulations easy to understand? (This question refers simply to the words used in the regulations, and whether they are easy to interpret).

Outcomes versus activities

How do they compare against FACS

Q2. Are the national eligibility criteria easy to apply?

Outcomes versus activities

How do they compare against FACS

Q3. Do the national eligibility regulations cover the right needs and circumstances?

Are there particular types of client or circumstances to which you feel the draft regulations are better / less well suited?

Outcomes versus activities

How do they compare against FACS

What, if anything, do you feel is missing from the draft eligibility regulations in identifying eligible needs?

Q4. Are the national eligibility criteria flexible enough to allow for professional judgment?

Are they open to legal challenge from users and carers (more or less than FACS?)

Q5. What about the regulations for carers?

Go through similar sets of questions as above

Q6. What types of guidance do you feel would be needed in order to apply the national eligibility criteria?

Are there particular areas where the regulations are too vague, for example definitions of eligible needs, of significant impact on well-being?

Q7. Do you have any other comments on the draft eligibility criteria?