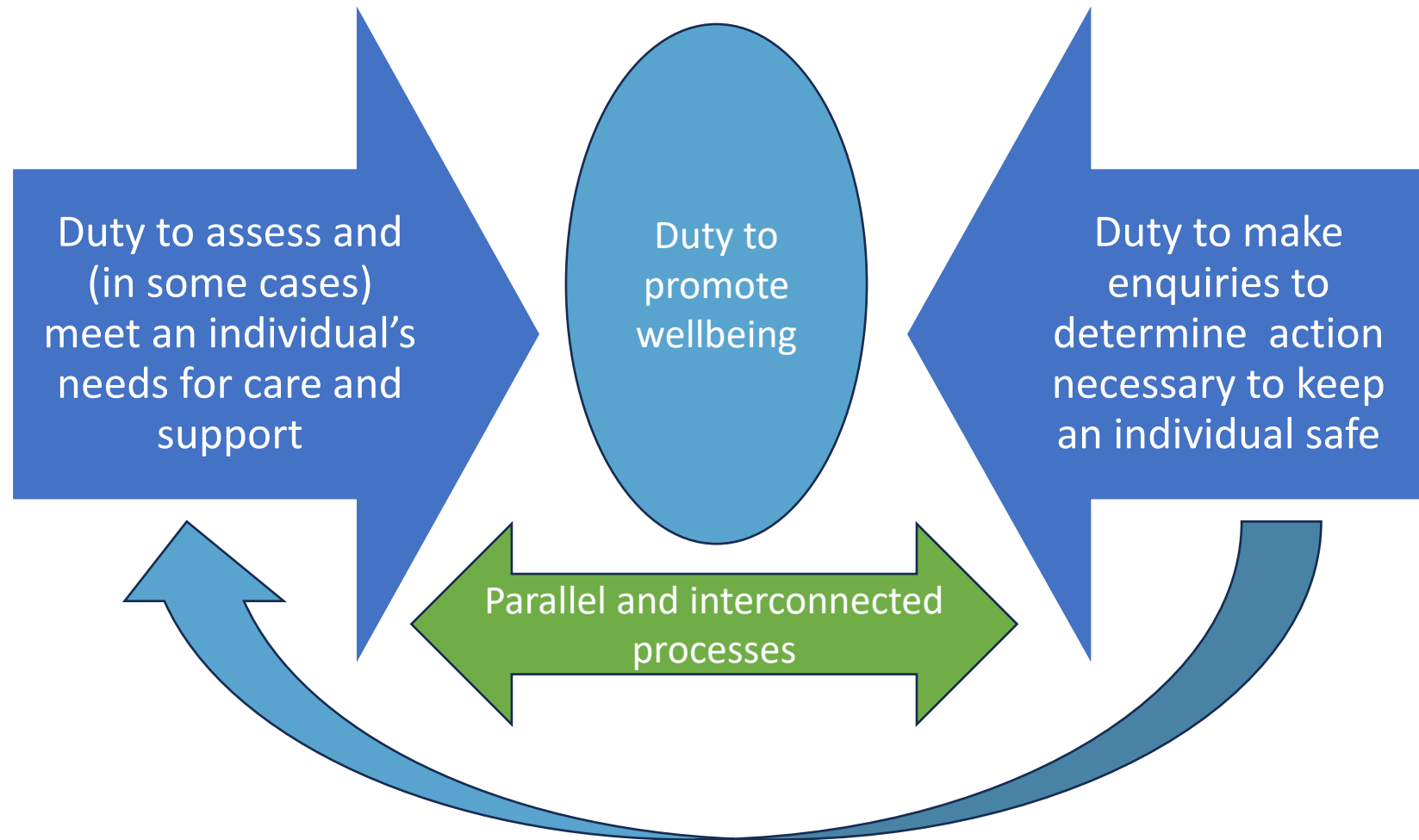


Care and support needs How do they interface with safeguarding?

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Care Act 2014: two key mandates



Section 42: Safeguarding enquiry

- Where the local authority has reasonable cause to suspect that an adult
 - Has needs for care and support (whether or not the authority is meeting them),
 - Is experiencing or at risk of abuse and neglect, and
 - As a result of those needs is unable to protect themselves against the abuse or neglect (by controlling their own behaviour)
- The local authority must make (or cause to be made) whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case and, if so, what and by whom
- What constitutes an enquiry is not defined: Information gathering and assurance that risk is managed can be seen as the early stages of an enquiry... Local authorities differ on whether activities under this triage process are logged as an enquiry

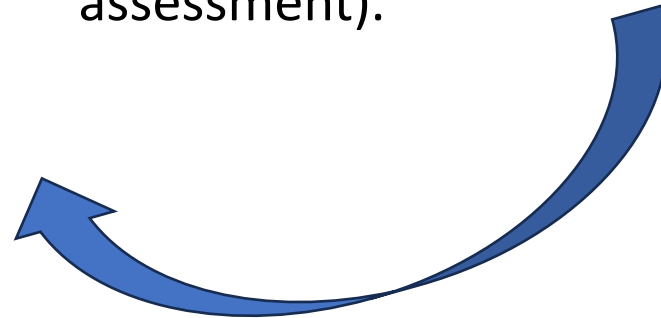
Definitions

Care and support

- The mixture of practical, financial and emotional support for adults who need extra help to manage their lives and be independent – including older people, people with a disability or long-term illness, people with mental health problems, and carers. Care and support includes assessment of people's needs, provision of services and the allocation of funds to enable a person to purchase their own care and support. It could include care home, home care, personal assistants, day services, or the provision of aids and adaptations.

Adult with care and support needs

- A person over the age of 18 years who has a need for care and support. Depending on the context, this could be an adult receiving a particular care and support service, or an adult who has such needs but are not receiving a service (for example, someone coming forward for an assessment).



So how do we interpret 'care and support needs' in the context of s.42?

- To engage the s.42 duty, the care and support needs do not have to be eligible needs
- (How do we know without making enquiries?)
- But we have clues
 - The purpose of assessment
 - The wellbeing principle
 - The eligibility outcomes
 - Care planning
 - s.8 examples of how care and support needs might be met

Guidance on assessment

- *(It) must seek to establish the **total extent of needs** before the local authority considers the person's eligibility for care and support and what types of care and support can help to meet those needs. This must include looking at **the impact of the adult's needs on their wellbeing and whether meeting these needs will help the adult achieve their desired outcomes**. The assessment process also provides the opportunity for local authorities to take **a holistic view of the person's needs in the context of their wider support network**.*
- *“A good starting point ... would be to ask: **‘what does a good life look like for you and your family and how can we work together to achieve it?’**”*

The wellbeing principle (s.1(2))

- Personal dignity
- Physical and mental health and emotional wellbeing
- Protection from abuse and neglect
- Control over day-to-day life
- Participation in work, education, training or recreation
- Social and economic well-being
- Domestic, family and personal relationships
- Suitability of living accommodation
- Contribution to society

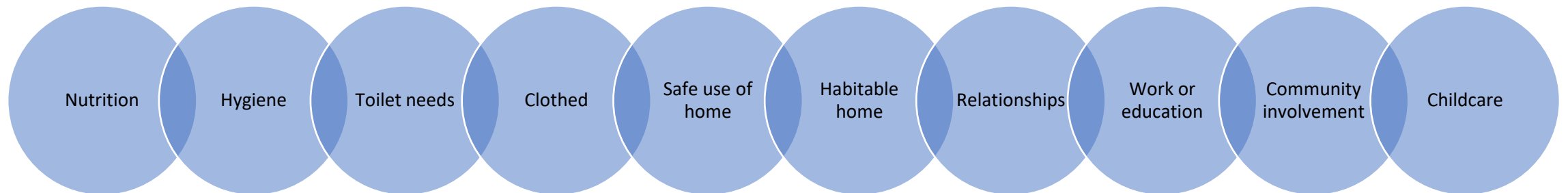
“An approach that looks at a person’s life holistically, considering their needs in the context of their skills, ambitions, and priorities ...”

Eligibility criteria

- The adult's needs arise from or are related to a physical or mental impairment or illness

“Local authorities must consider if the adult has a condition as a result of either physical, mental, sensory, learning or cognitive disabilities or illnesses, substance misuse or brain injury.”

- As a result of which they are unable to achieve two or more of the specified outcomes



- Resulting in a significant impact (or likelihood of impact) on their wellbeing

Care planning

- *“Consideration of the needs to be met should take a holistic approach that covers aspects such as the person’s wishes and aspirations in their daily and community life, rather than a narrow view purely designed to meet personal care needs.”*

Section 8 examples

- *Accommodation in a care home or other premises*
- *Care and support at home or in the community*
- *Counselling and other types of social work*
- *Goods and facilities*
- *Information, advice and advocacy*
- *Direct payments*

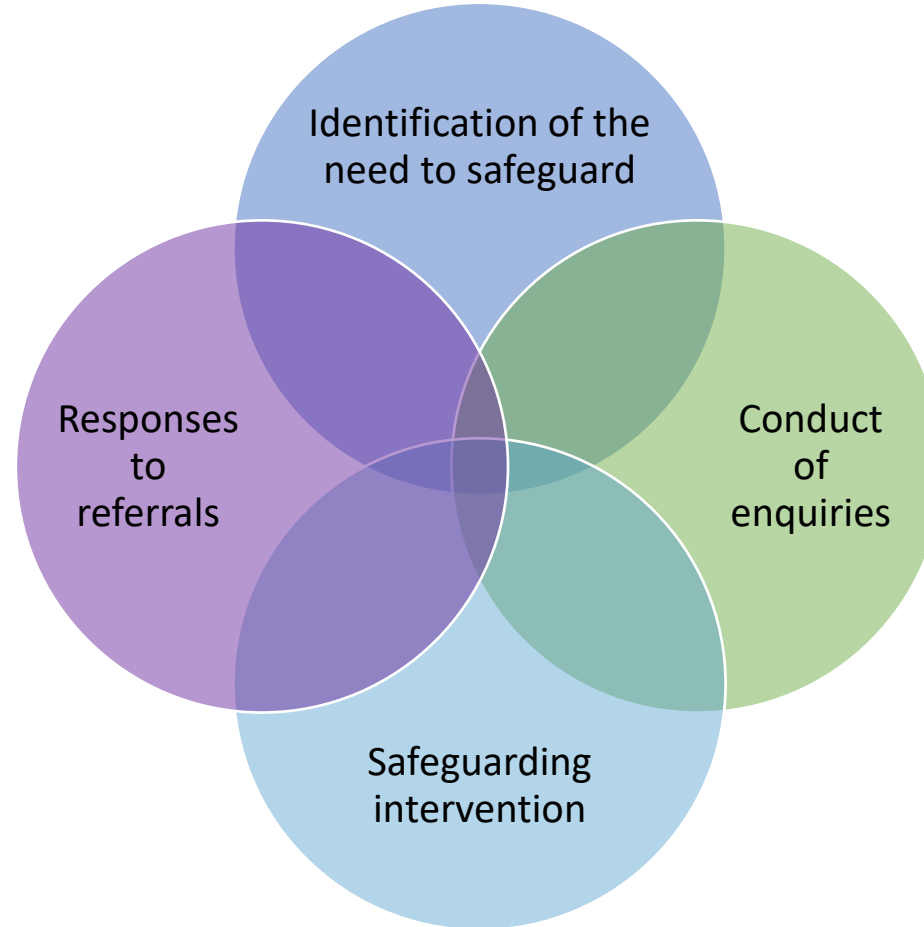
Adding these up ...

We must see 'care and support needs' as a holistic concept ...



What do we find in practice?

(National analysis data)



Reasons for not progressing to s.42



- Lack of parity of esteem
- No consent from the individual
- No care and support needs evident
- Narrow interpretation of 'care and support needs'
- Care and support needs recognized but diverted for assessment
- Care and support needs recognized but believed to be a lifestyle choice – behaviour the individual can control
- Adult Social Care already involved – risk to be managed within case management
- No abuse or neglect evident
- Individual now in a safe place
- Self-neglect diverted to alternative risk-management pathway
- Delayed response

Reflection points

- Do any of these things happen here?
- If so, how might you need to change your thinking/practice
- Where might you take this for further discussion?
- Are you aware of avenues for escalation?

Final thoughts

- Decisions about whether an individual's circumstances engage the s.42 duty are public law decisions
- The principles of administrative law apply; the decision must be
 - Lawful, rational and reasonable, timely, involve consideration of all relevant factors, not fetter discretion, participative, recorded
 - Promote equality and human rights
 - Meet standards of professional competence
 - Offer accountability and redress
- Referrers: provide as much information as you can.... use s.42 as a reference point
- Shared risk tools can mitigate the effect of different thresholds
- Remember, safeguarding referrals are a 2-way process
- Decision-makers: apply a holistic interpretation of care and support need
- LA has discretion where risks are too high not to take action
- CSAB escalation guidance for resolution of disagreements