

## Evaluation of the June 2014 Draft National Minimum Eligibility Criteria for Social Care<sup>1</sup>

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### 3 Introduction

The 2014 Care Act is introducing national minimum eligibility criteria for social care. Their introduction aims to reduce inappropriate variability in the assessment of needs and to guarantee a minimum level of support nationally. Importantly, the national minimum eligibility criteria should not lead to increases in overall levels of demand for social care services. Relative to the current Fair Access to Care system, the aim is to implement national minimum eligibility regulations broadly equivalent to the “substantial” needs threshold.

The present study evaluates the likely implications of three alternative specifications of eligibility regulations. It builds on a number of previous analyses on the same topic by the research team (Fernandez, Snell, Forder, & Wittenberg, 2013; Fernandez & Snell, 2012, 2013).

### 4 Data and methods

The present study combines quantitative and qualitative evidence drawn from a bespoke survey and a number of workshops involving professionals in charge of the assessment of eligibility for local authority social care services.

#### 4.1 Quantitative evidence

The survey covered the four main groups of services users of social care services and their carers. It collected information about:

- The 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 under three alternative eligibility regulations.

Appendix 10.2 provides further details about the content of the study questionnaire.

Although its organisation and operation varies locally, most English local authorities use a two-stage process for deciding whether an individual’s needs are eligibility for support. In a first stage, individuals usually provide a limited amount of information about their needs. On the basis of this information, a decision is taken as to whether the person should receive a full-assessment or whether he/she is provided with information or sign posted to a different service. The nature of the first contact varies across authorities in its form (e.g. face to face, telephone, professionals involved), content (areas of needs assessed), and in the nature of the decisions taken.



In some areas and for some client groups, eligibility to care is established at first contact. In this case, the full assessment concentrates on the design of the care plan.

The study included professionals involved in the first point of contact and in carrying out full assessments in order to gain an overall view of the impact of the new regulations on all stages of the eligibility assessment process.

## **4.2 Using “real life” data**

Previous analyses of the Care Act draft regulations have used vignettes to elicit the views of care managers about the impact of the draft minimum eligibility criteria on numbers and types of supported clients. The present study used “real life” data and asked care managers to apply the new draft eligibility criteria to people that they had recently assessed for social care support.

Using cases formally assessed by care managers gives respondents a fuller picture of the need-related characteristics of the cases used in the evaluation. However, this approach presents some challenges in terms of the standardisation of cases. In particular, this approach could lead to differences in the characteristics of the cases between authorities, and ultimately between the samples of cases used to evaluate the different regulations.

Section 4.4.3 provides key comparisons of the sample characteristics for the three regulations evaluated in the study.

## **4.3 Qualitative evidence**

The survey data was complemented with qualitative evidence. Six focus groups were carried out in a sub-sample of participating LAs with between three and nine care managers taking part in each. Additionally, one telephone interview was conducted with a manager of the first contact team (see Appendix 10.3 for a description of the characteristics of LAs and professionals taking part in the workshops). Participants were asked to provide feedback on the content of the draft eligibility regulations and to discuss the potential implications of new regulations on the eligibility for adult and social care support for users and carers (see Appendix 10.4 for focus group question guide). Discussions were audio-recorded, transcribed verbatim and material was entered into qualitative data management software: NVivo 10. Thematic analysis was employed to organize systematically the content of the discussions, focusing on identification and reporting of patterns and themes across the whole dataset and collating passages relevant to each theme.

## **4.4 The eligibility criteria evaluated**

The study evaluated three sets of eligibility criteria for social care, reported in Appendix 10.1. Whereas the majority of the content and structure was common to

the three regulations, they varied in their description of the nature of the problems associated with eligibility, and in the number of such problems required to become eligible.

Throughout the report, we will refer to the three versions of the draft regulations as:

- **1+ Outcomes-based regulations:** which varies from the other regulations in that it defines eligibility in terms of shortfalls in a number of dimensions of wellbeing (or “outcome”), and requires problems attaining at least one such outcomes.
- **2+ Outcomes-based regulations:** which varies from the other regulations in that it defines eligibility in terms of shortfalls in a number of dimensions of wellbeing (or “outcome”), and requires problems attaining “some” of such outcomes.
- **Activities-based regulations:** which varies from the other regulations in that it defines eligibility in terms of problems with some (two-or more) activities of daily living.

Across the study, the evidence collected about the three draft eligibility regulations was compared against the trends observed under the current Fair Access to Care Services (FACS) regulations. It is important to note that whereas the evidence about the draft regulations is hypothetical and based on the judgements of care managers about what would be likely to happen if such criteria were to be implemented, the evidence about FACS reflects actual *observed* behaviour. Amongst other things, this leads to differences in the definition of the indicators of eligibility, which are defined in terms of “probably” or “definitely” eligible or not eligible for the draft regulations, but which report actual eligibility under FACS.

#### 4.4.1 Local authorities in the study

The study included 27 local authorities in England. Table 1 describes key characteristics in terms of the region, type and FACS threshold of the authorities in the study.

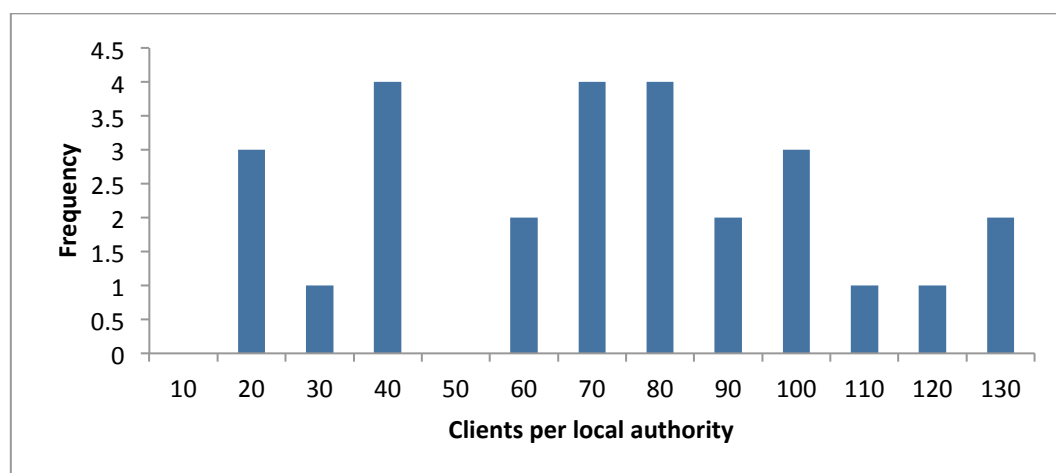
**Table 1 Characteristics of participating authorities**

By region	
East	2
East Midlands	3
London	11
North East	1
North West	3
South East	4
West Midlands	2
Yorkshire and the Humber	1
East	2

By type	
Inner London	5
Metropolitan district	4
Outer London	6
Shire County	7
Unitary Authority	5
By FACS threshold	
Critical	1
Upper substantial	1
Substantial	20
Upper moderate	1
Moderate	4
<b>Total</b>	<b>27</b>

As Figure 1 shows, the number of cases contributed to the study varied significantly across authorities.

**Figure 1 Distribution of cases per participating authority**



#### 4.4.2 Care professionals and cases in the study

Participating local authorities were asked to select a sample of care managers to respond to the survey. Selected care managers were asked to assess the draft eligibility criteria and apply them to the last ten to fifteen assessments of service users they had undertaken. Responses were collected using a Microsoft Excel-based questionnaire which participants sent back to the research team via email.

In each local authority, individual care managers were allocated to a specific client group (the client group that they deal most frequently with). Care managers were then asked to provide information about the needs, eligibility and care packages for 10 cases that they had recently assessed. Specifically, and in order to guarantee that the study collected enough evidence about the range of individuals approaching

local authorities for support, care managers were asked to stratify the cases they selected by choosing the last 5 cases they had assessed as having eligible needs, the last 4 assessed as not eligible, and one carer recently assessed for services (regardless of the outcome of the assessment). Local authorities were asked to identify a specific number of care managers per client group and version of eligibility criteria to ensure an adequate distribution of answers across user groups and regulations.

The survey was piloted with a selected group of local authorities to check the clarity and suitability of the questionnaires and processes for data collection in the study.

The survey was completed by 245 care managers. A majority of the respondents were care managers in charge of carrying out needs assessments for individuals with social care needs. The rest were professionals involved in “first contact” teams in the local authority. As mentioned above, including in the study professionals fulfilling the two types of assessments was important in order to capture the current eligibility process overall, and to cover as fully as possible the range of clients approaching local authorities.

#### 4.4.3 Sample characteristics

By its stratified nature, the study sample does not constitute a representative sample of cases in the local authorities in the study. Rather, the aim of the study was to ensure that the full range of clients approaching social care departments for support was included in the study.

Table 2 provides a breakdown of the cases in the study in terms of their client group, their FACS need classification and the draft regulation that they tested. Overall, cases were split broadly equally between the activities-based and outcomes-based regulations. In turn, outcomes-based cases were split equally between the 1+ and 2+ versions.

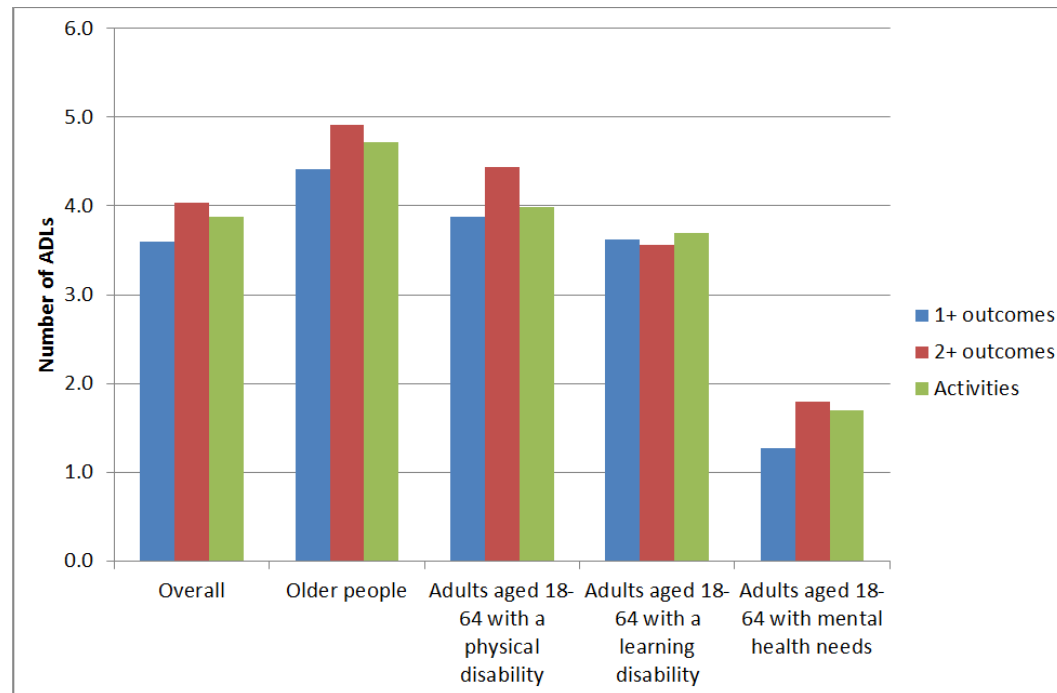
**Table 2 Distribution of cases in the survey**

<b>By client group</b>	
<b>Older people</b>	804
<b>Adults aged 18-64 with a physical disability</b>	387
<b>Adults aged 18-64 with a learning disability</b>	342
<b>Adults aged 18-64 with mental health needs</b>	230
<b>Carer</b>	185
<b>By draft regulation</b>	
<b>Activities-based regulation</b>	977
<b>Outcomes-based regulation (i)</b>	493
<b>Outcomes-based regulation (ii)</b>	395
<b>By FACS rating</b>	
<b>Critical</b>	409

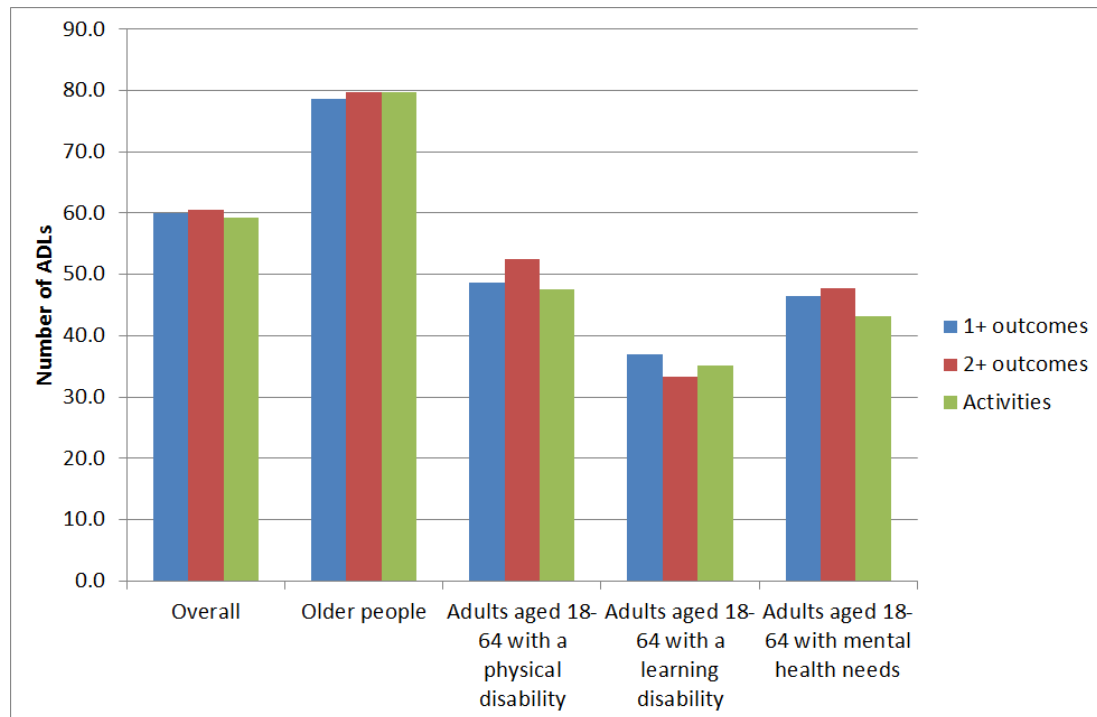
<b>Substantial</b>	687
<b>Moderate</b>	266
<b>Low</b>	276
<b>Not sure</b>	22

Because different regulations were tested in different authorities, apparent differences in the effect of regulations on eligibility could reflect possible local differences in the sampling of cases. Figure 2 to Figure 5 show average levels of dependency (as measured by the count of activities of daily living - ADLs), informal care by co-resident carers, age and gender in each of the regulation samples. The figures identify some small differences in the characteristics of the samples. However, none of the differences was found to be statistically significant at the 10% confidence level except for the difference in average age between the “2+ outcomes” and “activities” samples of people with physical disabilities.

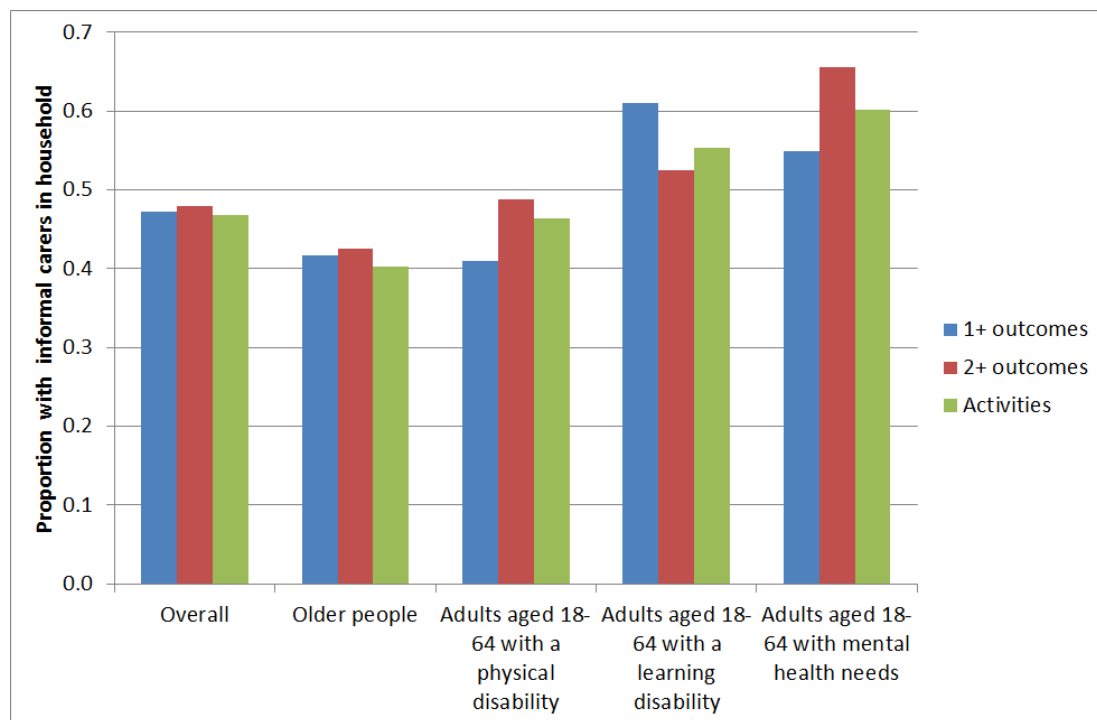
**Figure 2 Number of problems with ADLs for cases in different regulation samples**



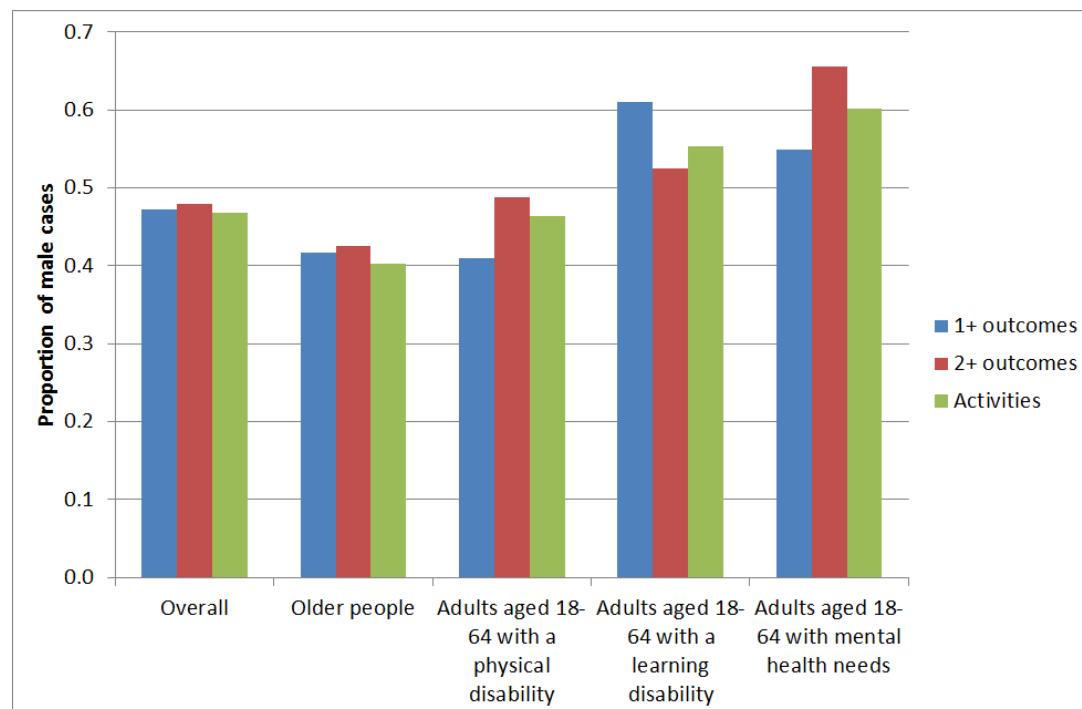
**Figure 3 Average age for cases in different regulation samples**



**Figure 4 Proportion of cases with co-resident carers**



**Figure 5 Proportion of male cases in different regulation samples**



## 5 Results of the quantitative survey

The survey results by client group are analysed in sections 5.1 to 5.5. Each section contains figures which describe:

- The distribution of the outcome of the observed assessment for the cases in the study under the FACS system.
- The likely eligibility under the draft regulations, compared against eligibility under FACS, and broken down by level of need (using FACS needs levels and ADLs for older people and younger adults with physical disabilities, and FACS needs levels for younger adults with a learning disability and for adults with a mental health need).
- The likely type of support provided to the individual following the assessment of eligibility, compared against the support received under FACS.

As noted previously, it is important to note the differences in the nature of the evidence on eligibility about FACS and the rest of regulations: whereas the data about patterns of eligibility under FACS is based on actual observed behaviour, the evidence about the 3 draft regulations is based on hypothetical judgements from professionals about the implementation of the regulations.

As a result, FACS eligibility answers are given in terms of eligible/not eligible whereas answers based on the draft regulations are expressed in terms of one of the following categories:

- definitely
- probably
- probably not
- definitely not eligible.

When comparing the patterns of eligibility between FACS and the other regulations, the discussion will consider “probably” and “definitely” eligible as “eligible” and “probably not” and “definitely not” eligible as “not eligible”.

## 5.1 Older people

Figure 6 shows that following assessment, the vast majority of older people included in the study were allocated either an ongoing care package (residential or community-based) or were assessed as not having eligible needs.

**Figure 6 Outcome of assessment for older people cases under FACS**

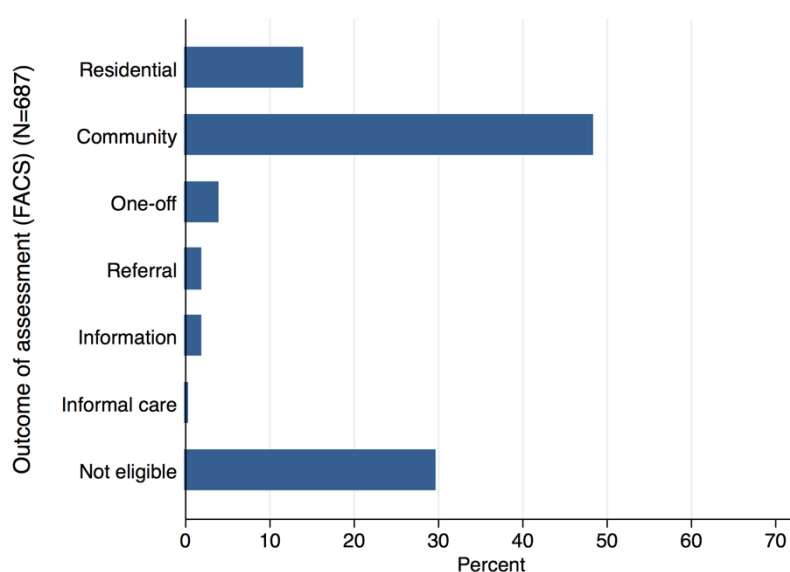


Figure 7 compares the likely eligibility under the activities-based draft regulations for older people in the study against the observed eligibility under FACS, by the need level of the individual (as measured by the FACS needs classification). The figure shows that:

- Cases assessed as having substantial or critical needs are virtually guaranteed to be assessed as eligible under both sets of regulations.
- There is a small increase under the activities-based regulations in the likely eligibility of cases with moderate needs.
- There is a very limited increase in the probability of eligibility under the activities-based regulations for cases with low needs.



**Figure 7 Outcome of assessment for older people’s cases under activities-based regulations by FACS rating**

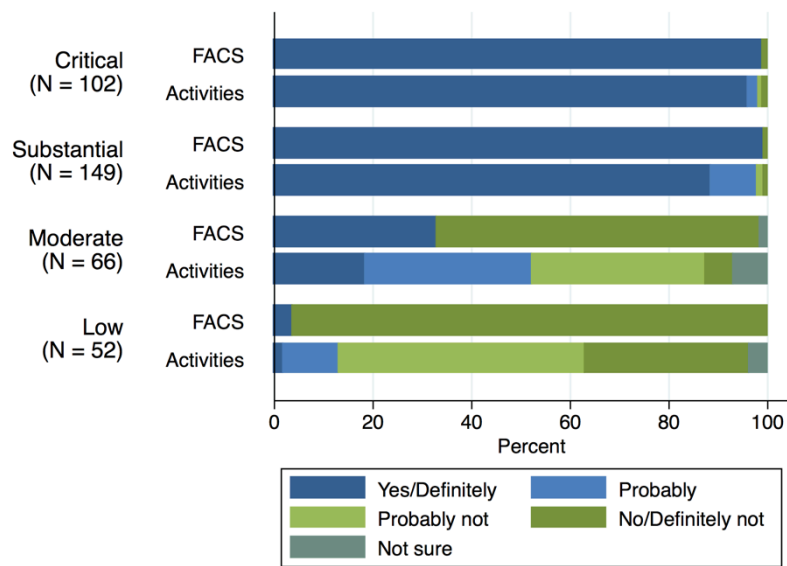


Figure 8 compares the likely eligibility under the 1+ outcomes-based draft regulations for older people in the study against the observed eligibility under FACS, by the FACS need level of the individual.

- The results for cases with substantial or critical needs are very similar to those for the activities-based regulations. Both types of clients are very likely to be assessed as eligible under any of the regulations considered.
- As in the case of the activities-based regulation, there figure shows an increase in the likely eligibility of cases with moderate needs.
- The increase in the probability of eligibility for cases with low needs is greater under the 1+ outcomes regulations than under the activities-based regulations.

**Figure 8 Outcome of assessment for older people cases under 1+ outcomes-based regulations by FACS rating**

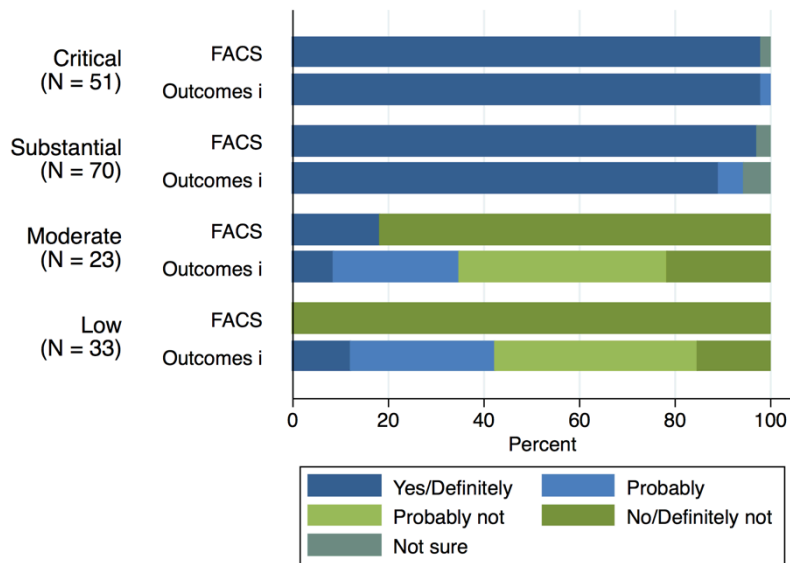


Figure 9 compares the likely eligibility under the 2+ outcomes-based draft regulations for older people in the study against the observed eligibility under FACS, by the FACS need level of the individual. The results are very similar to those observed in Figure 8 for the 1+ outcomes-based regulations for cases with critical, substantial and moderate needs. However, there is no longer a significant increase in the probability of eligibility for individuals with low needs.

**Figure 9 Outcome of assessment for older people cases under 2+ outcomes-based regulations by FACS rating**

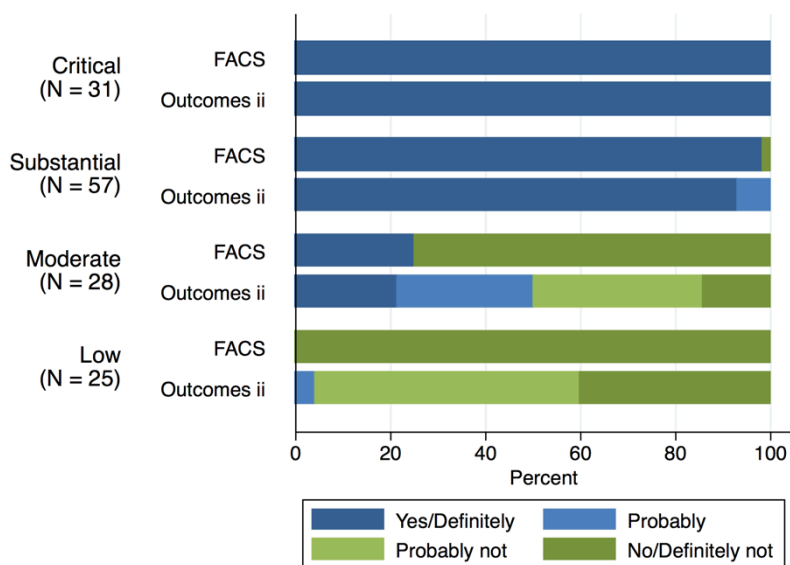
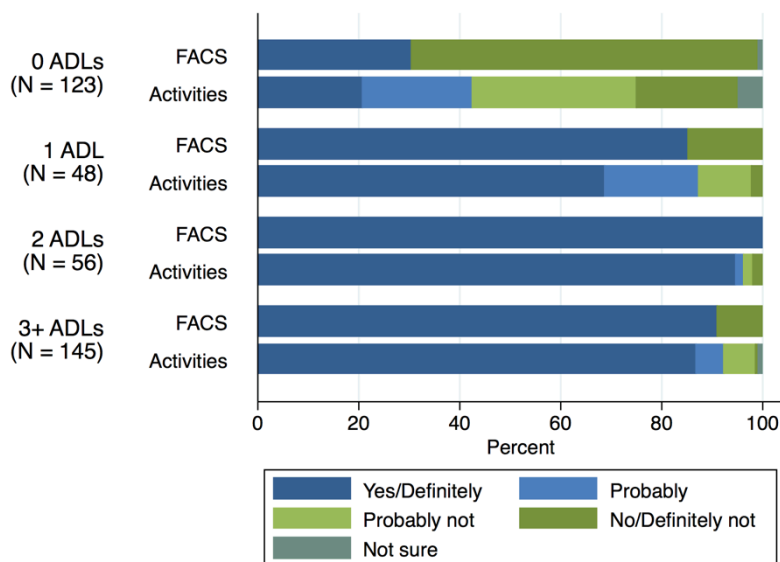


Figure 10 to Figure 12 provide the equivalent results to Figure 7 to Figure 9, but grouping cases in terms of the number of problems undertaking the following activities of daily living (ADLs): feeding; using WC/toilet; getting in and out of bed or chair; getting dressed and undressed; bathing, showering or washing all over.

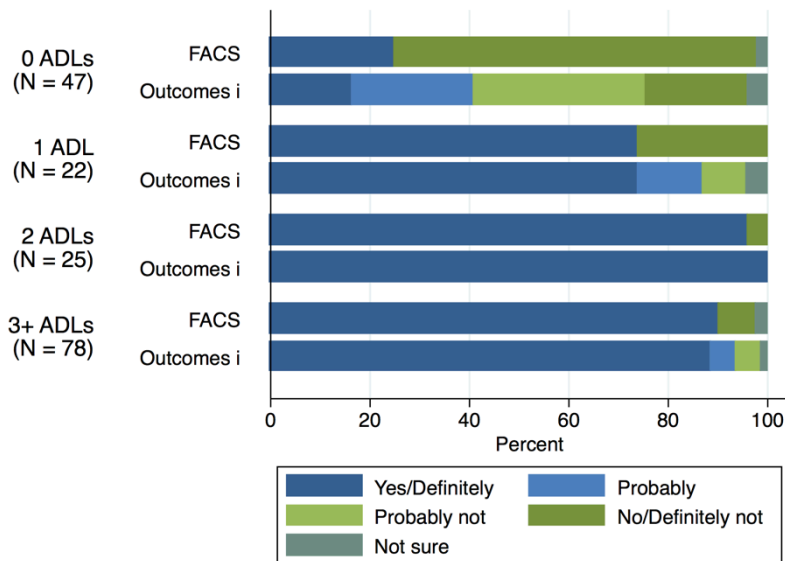
The results based on ADLs rather than FACS suggest smaller differences between FACS and the three draft regulations than using FACS needs classification. This is not surprising, and reflects the fact that FACS needs groups are actually used to determine eligibility at present.

Overall, the results suggest small increases for the three alternative regulations in the eligibility of older people who do not have problems with any of the 5 ADLs listed above. For the 1+ outcomes-based regulations, we also observe a small increase in the likelihood of eligibility for cases with 1 ADL problem.

**Figure 10 Outcome of assessment for older people’s cases under activities-based regulations by number of ADLs**



**Figure 11 Outcome of assessment for older people cases under 1+ outcomes-based regulations by number of ADLs**



**Figure 12 Outcome of assessment for older people cases under 2+ outcomes-based regulations by number of ADLs**

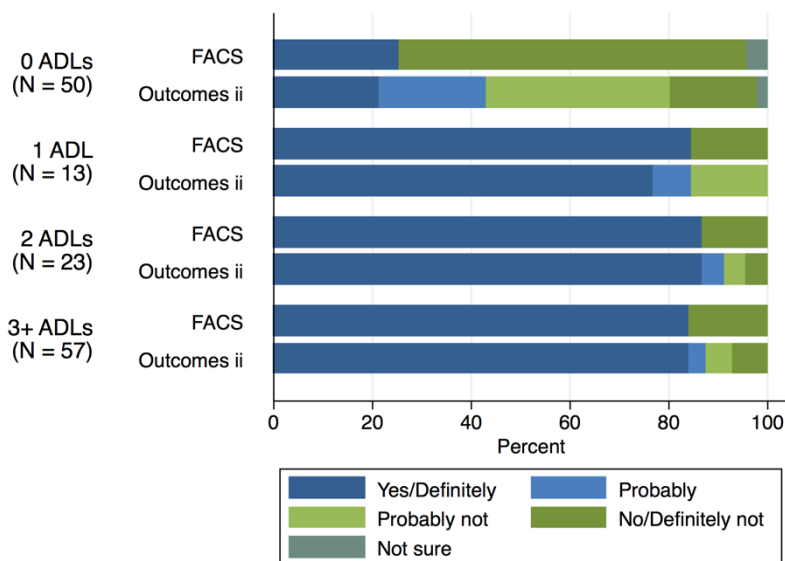
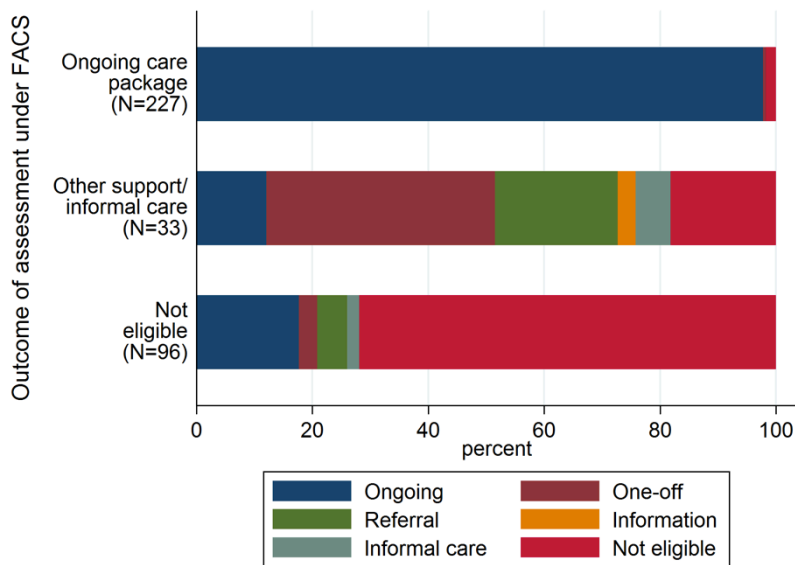


Figure 13 to Figure 15 compare the outcome of the assessment under FACS and the alternative draft regulations in terms of eligibility, the allocation of an ongoing care package, and the allocation of other forms of support (one-off support, information and advice, referral to another service, or informal care support). The results suggest that:

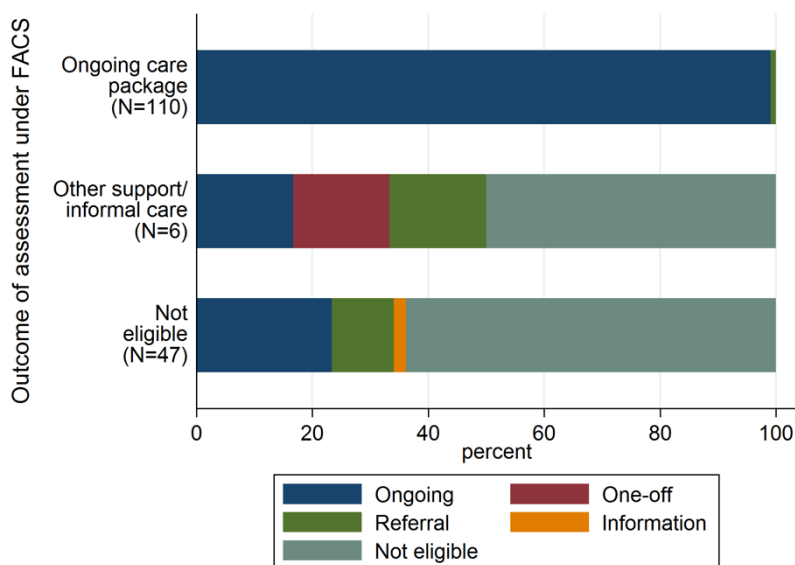
- Individuals receiving an ongoing care package under the current FACS system would continue to do so regardless of the new draft eligibility considered.

- A small minority of cases who are assessed as eligible under FACS but receive “other forms of support” would be assessed as requiring an ongoing care package under the new regulations, in particular under the outcomes-based regulations.
- A small proportion of cases assessed as not eligible under FACS would go on to receive an ongoing care package under the draft regulations. That proportion is slightly greater for the 1+ outcomes-based regulations.

**Figure 13 Comparison of the outcome of assessment between FACS and activities-based regulations: older people**



**Figure 14 Comparison of the outcome of assessment between FACS and 1+ outcome-based regulations: older people**



**Figure 15 Comparison of the outcome of assessment between FACS and 2+ outcome-based regulations: older people**

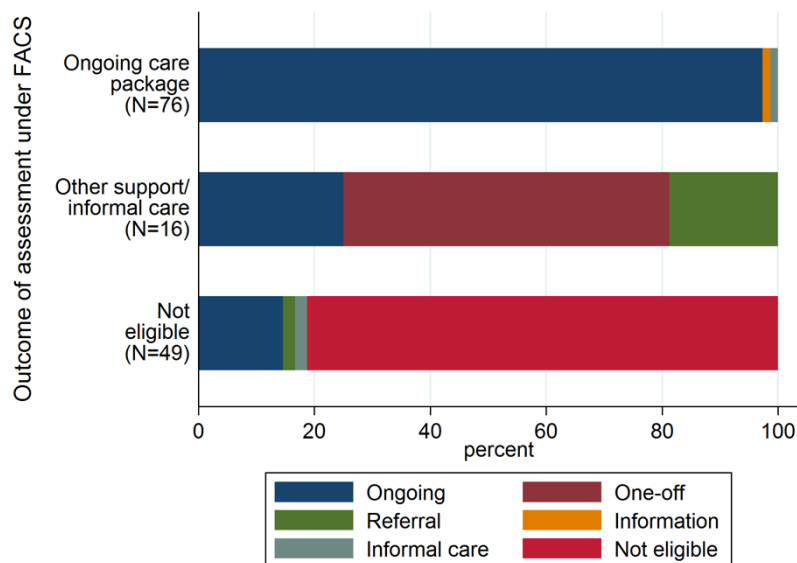


Table 3 shows the mean and median costs of care packages for cases where service costs were estimated under both FACS and the draft regulations. As the figures show, mean and median costs for existing clients remain largely unchanged under the new regulations.

As Table 4 illustrates, the estimated costs of services for newly eligible cases under the draft regulations were substantially smaller than for existing clients. This difference reflects the fact that newly eligible clients are predominantly those with moderate and low levels of need, whereas a large proportion of existing clients will have critical and substantial needs – and hence higher average care packages. Estimates of the cost of implementing draft regulations, covered later in this report, provide a breakdown of care package costs by client FACS rating.

When comparing costs across regulations, it should be noted that response rates relating to service costs – particularly for newly eligible clients – were low.

**Table 3 Mean and median care package costs – existing service users (older people)**

	FACS (Mean)	Draft regulations (Mean)	FACS (Median)	Draft regulations (Median)	Valid (N)
<b>Ongoing community care</b>					
Outcomes 1+	£293	£300	£235	£255	74
Outcomes 2+	£248	£248	£180	£178	52
Activities	£265	£275	£200	£200	161
<b>One-off services</b>					
Outcomes 1+	£293	£293	£125	£125	8
Outcomes 2+	£170	£170	£165	£165	12
Activities	£4,540	£4,716	£445	£445	29

**Note:** Table includes only cases where service costs were provided for both FACS and draft regulations.

**Table 4 Mean and median care package costs – newly eligible clients (older people)**

	Draft regulations (Mean)	Draft regulations (Median)	Valid (N)
<b>Ongoing community care</b>			
Outcomes 1+	£56	£49	11
Outcomes 2+	£33	£36	4
Activities	£56	£46	20

## 5.2 Young adults with physical disabilities

**Figure 16 Outcome of assessment for young adults with physical disabilities cases under FACS**

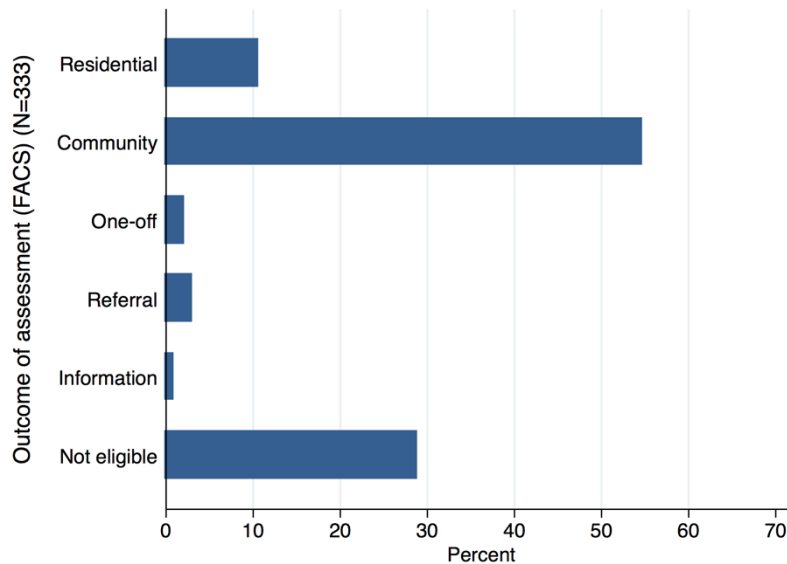


Figure 16 illustrates the outcome of the assessment process under the present FACS system for the sample of young adults with physical disabilities included in the study.

- Overall, approximately 70% of young adults with physical disabilities in the survey were eligible for support under FACS.
- Considering eligible individuals, over a half were eligible for community care, a small proportion of clients were eligible for residential care while the percentage of individuals eligible for one-off support, referrals and information services was very small.
- As mentioned earlier, it is important to note that the sample in the study is not representative of the population of service recipients or of individuals approaching local authorities as it reflects the stratification imposed by the study methodology of cases by outcome of assessment.



**Figure 17 Outcome of assessment for young adults with physical disabilities cases under activities-based regulations by FACS rating**

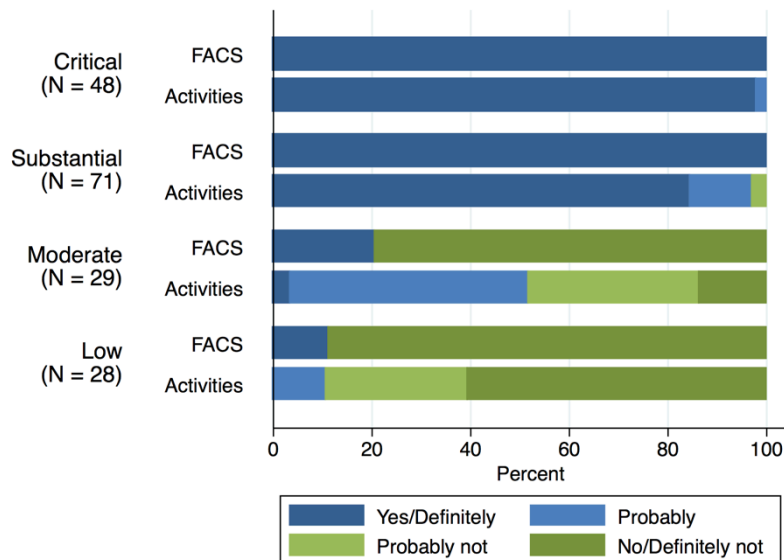


Figure 17 illustrates likely eligibility under the activities-based regulations, stratified by estimated FACS need group.

- The more dependent cases (assessed as having critical or substantial needs) were assessed as having eligible needs under both the FACS and the activities-based eligibility regulations.
- The likelihood that individuals with moderate needs would be considered eligible increased under the activities-based regulations relative to FACS.
- Surprisingly, a small percentage of individuals with low level needs were stated by care managers as eligible under FACS, although none of the participating LAs have a minimum eligibility threshold of 'low' needs. A similar proportion of individuals with low level needs were likely to remain eligible under activities-based regulations.

**Figure 18 Outcome of assessment for young adults with physical disabilities cases under 1+ outcomes-based regulations by FACS rating**

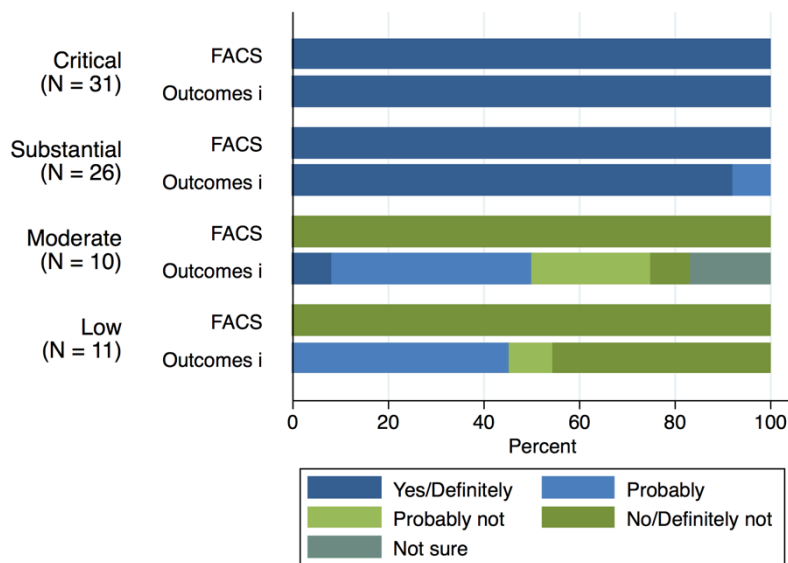


Figure 18 illustrates likely eligibility under the 1+ outcomes-based regulations, stratifying cases by their assessed FACS need group.

- As previously for the activities-based regulations, the more dependent cases (assessed as having critical and substantial needs) were assessed as having eligible needs under both the FACS and the 1+outcomes-based eligibility regulations.
- The likelihood of individuals with low and moderate needs considered eligible increases to approximately 50% under the 1+ outcomes-based regulations relative to FACS.
- These significant changes could be partially explained by the small number of cases available for analysis.

**Figure 19 Outcome of assessment for young adults with physical disabilities cases under 2+ outcomes-based regulations by FACS rating**

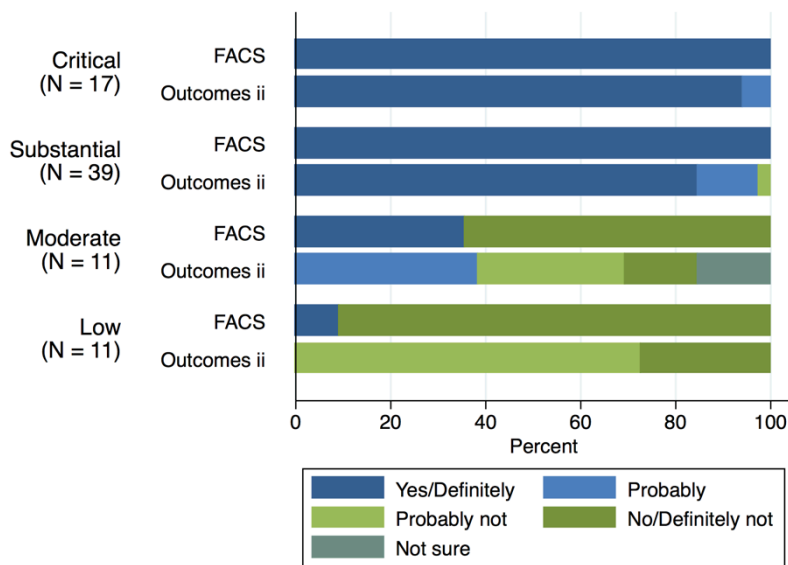


Figure 19 shows likely eligibility under the 2+outcomes-based regulations stratifying the cases by their FACS need group.

- The more dependent cases (assessed as having critical and substantial needs) are assessed as having eligible needs under both the FACS and the 2+outcomes-based eligibility regulations.
- The likelihood of individuals with moderate needs considered eligible is similar under the 2+outcomes-based regulations relative to FACS.
- Surprisingly, a small percentage of individuals with low level needs were stated by care managers as eligible under FACS, although none of the participating LAs have a minimum eligibility threshold of 'low' needs. This result could be linked to problems in the data entered by care managers when completing the survey.

**Figure 20 Outcome of assessment for young adults with physical disabilities cases under activities-based regulations by number of ADLs**

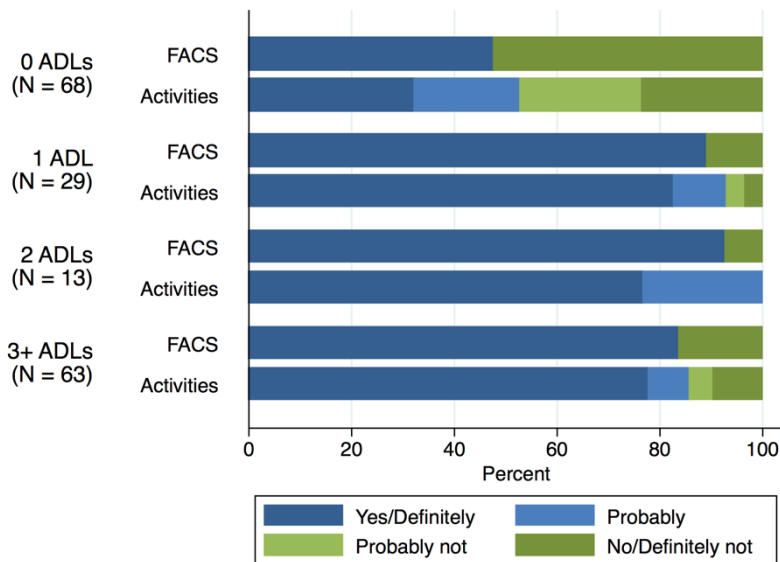


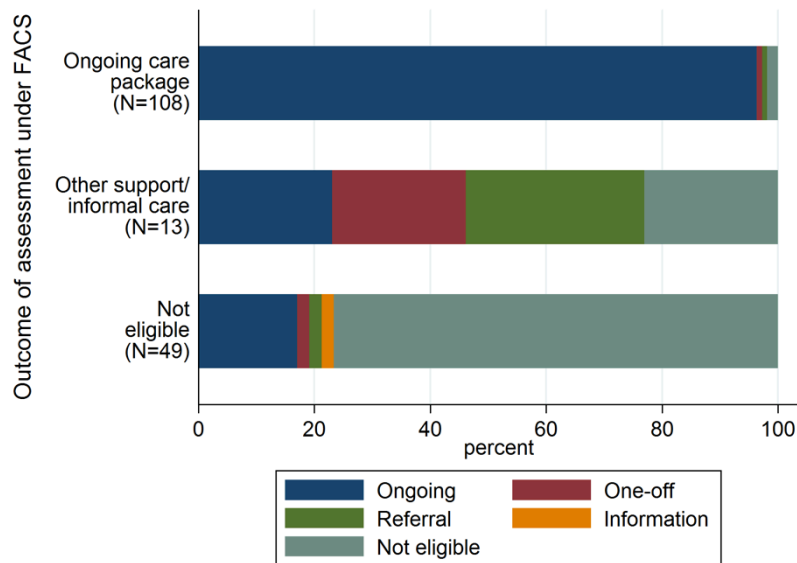
Figure 20 compares for the activities-based regulations, the patterns of eligibility for young adults with physical disabilities by ADL problems.

- Figure 20 indicates that approximately a half of the users in the survey not needing assistance with the 5 ADLs considered have eligible needs under FACS. The proportion of cases in the group eligible under the activities-based regulations is very similar.
- A large majority of users who need assistance with 1 or more ADLs were assessed as having eligible needs under FACS. and a similar proportion of these clients is likely to have eligible needs under the activities-based regulations.
- Overall, likely eligibility is very slightly higher under the activities-based regulations for all the ADL groups.

Unfortunately, the limited number of available cases does not allow for the analysis of patterns of eligibility under the 1+ and 2+ outcomes-based regulations by ADL problems.

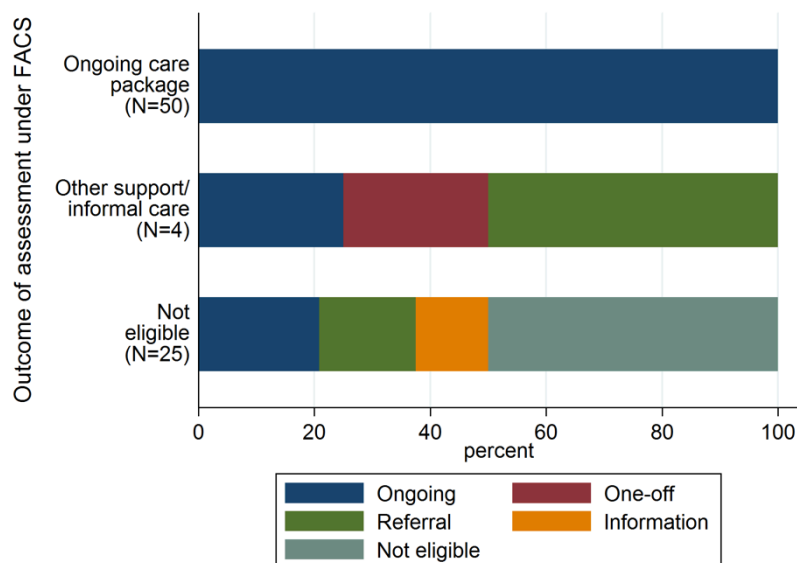
Figure 21 to Figure 23 compare the outcomes of the assessment process under FACS and the draft regulations. Given the limited number of cases receiving other support/informal care under FACS, the discussion concentrates young adults with physical disabilities assessed as either not eligible or eligible to an ongoing care package under FACS.

**Figure 21 Comparison of the outcome of assessment between FACS and activities-based regulations: young adults with physical disabilities**



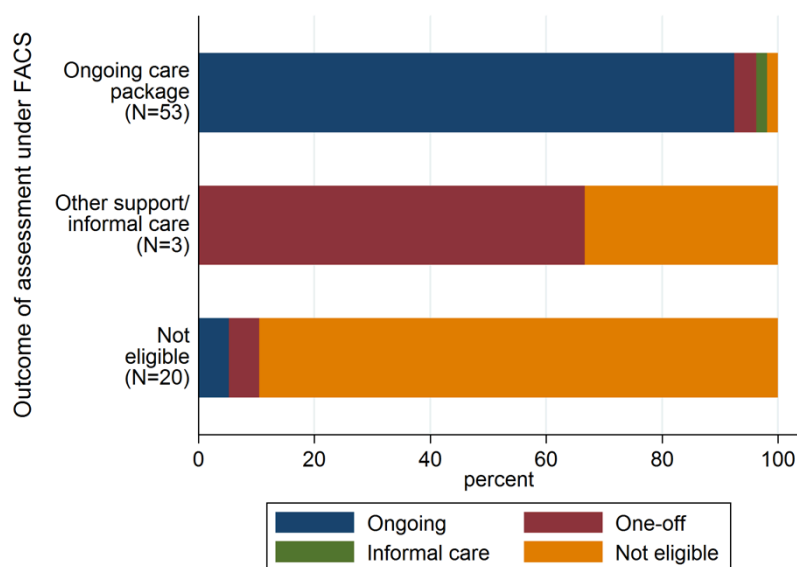
- Figure 21 shows that clients receiving an ongoing care package under FACS were also assessed as eligible to an ongoing package under the activities-based regulations.
- Approximately one fifth of cases deemed not to have eligible needs under FACS would be eligible for an ongoing care package under the activities-based regulations. A very small proportion would be eligible for information, a one off service or would be referred to another service under the activities-based regulations.

**Figure 22 Comparison of the outcome of assessment between FACS and 1+ outcome-based regulations: young adults with physical disabilities**



- Figure 22 indicates that clients receiving an ongoing care package under FACS would also be eligible for an ongoing package under the 1+ outcomes-based regulations.
- Under the 1+ outcomes-based regulations, approximately one fifth of cases deemed not to have eligible needs under FACS would be eligible to an ongoing care package, and a small proportion would be eligible for information or would be referred to another service.

**Figure 23 Comparison of the outcome of assessment between FACS and 2+ outcome-based regulations: young adults with physical disabilities**



- As in previous regulations, Figure 23 suggests that cases receiving an ongoing care package under FACS would continue to do so under the 2+ outcomes-based regulations.
- A very small proportion of cases deemed not to have eligible needs under FACS would be eligible for an ongoing care package or for one-off service under the 2+ outcomes-based regulations.

In keeping with the corresponding results for older people, care packages for existing clients are largely unchanged under the draft regulations (Table 5). Observed disparities in costs between versions of the draft regulations were due to differences in the characteristics of cases within each sample. Mean values were particularly sensitive to the effects of outliers with high care packages, whereas median service costs were more stable across samples.

Average costs of care packages (Table 6) were substantially lower than for existing clients, reflecting the comparatively low level of needs (newly eligible clients comprising solely of those with moderate or low levels of need).

**Table 5 Mean and median care package costs – existing service users (young adults with physical disabilities)**

	FACS (Mean)	Draft regulations (Mean)	FACS (Median)	Draft regulations (Median)	Valid (N)
<b>Ongoing community care</b>					
Outcomes 1+	£3,216	£3,217	£312	£312	51
Outcomes 2+	£373	£383	£250	£250	45
Activities	£432	£431	£235	£245	67
<b>One-off services</b>					
Outcomes 1+	£940	£940	£800	£800	5
Outcomes 2+	-	-	-	-	0
Activities	£4,993	£4,993	£1,375	£1,375	6

Note: Includes only cases where service costs were estimated for both FACS and draft regulations

**Table 6 Mean and median care package costs – newly eligible clients (young adults with physical disabilities)**

	Draft regulations (Mean)	Draft regulations (Median)	Valid (N)
<b>Ongoing community care</b>			
Outcomes 1+	£65	£60	9
Outcomes 2+	-	-	-
Activities	£85	£65	7

### 5.3 Young adults with learning disabilities

**Figure 24 Outcome of assessment for young adults with learning disabilities cases under FACS**

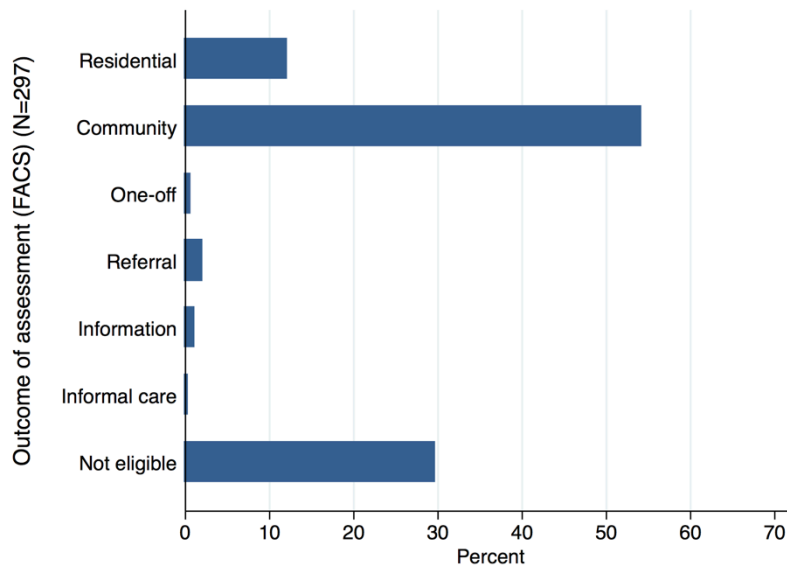
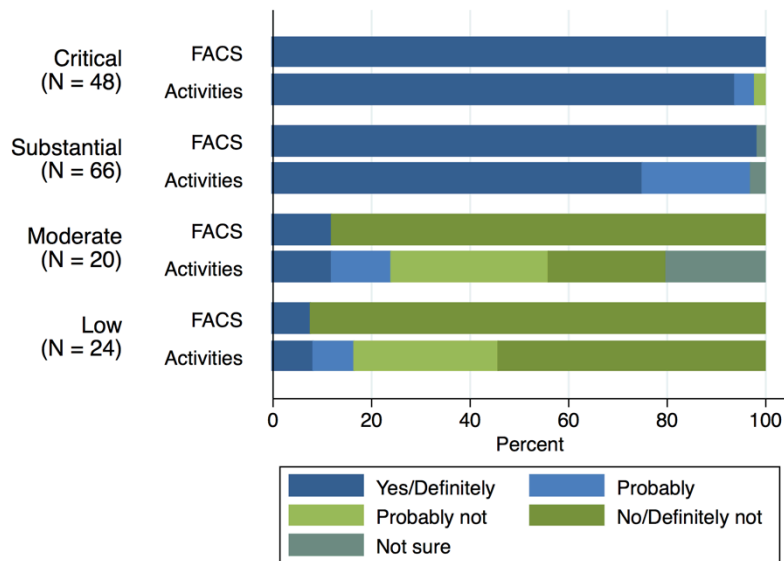


Figure 24 illustrates the outcome of the assessment process under the present FACS system for the young adults with learning disabilities included in the study.

- Overall, approximately 70% of young adults with learning disabilities in the survey were eligible for support under FACS.
- Considering eligible individuals, 55% were eligible for community care and 12% for residential care, while the percentage of individuals eligible for one-off support, referrals and information services was very small.
- As noted above, it is important to note that the sample in the study is not representative of the population of service recipients or of individuals approaching local authorities as it reflects the stratification of cases imposed by the study methodology.



**Figure 25 Outcome of assessment for young adults with learning disabilities cases under activities-based regulations by FACS rating**



- Figure 25 compares the likely eligibility under the FACS and activities-based regulations, stratified by assessed FACS need group.
- The more dependent cases (assessed as having critical and substantial needs) were assessed as having eligible needs under both the FACS and the activities-based eligibility regulations.
- The likely eligibility of individuals with low and moderate needs increased to a limited extent under the activities-based regulations relative to FACS.
- Surprisingly, a small percentage of individuals with low level needs were stated by care managers as eligible under FACS, although none of the participating LAs have a minimum eligibility threshold of 'low' needs.

**Figure 26 Outcome of assessment for young adults with learning disabilities cases under 1+ outcomes-based regulations by FACS rating**

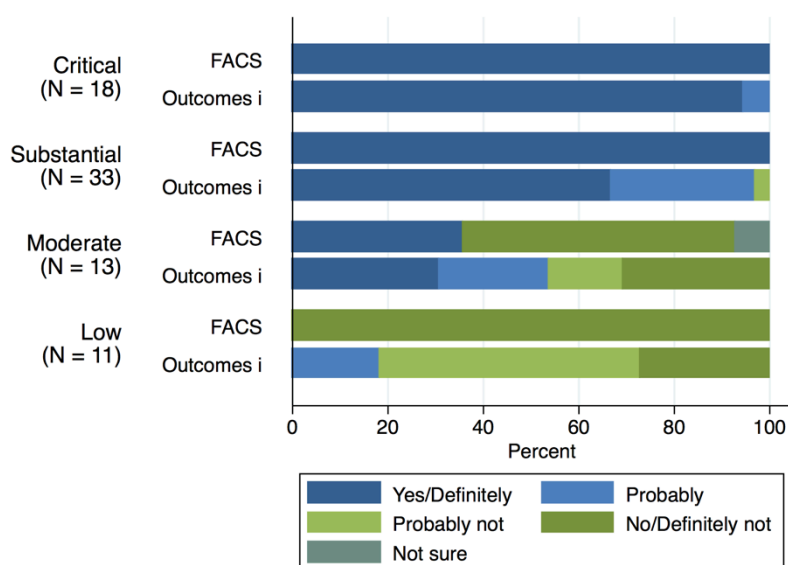


Figure 26 illustrates likely eligibility under the 1+ outcomes-based regulations stratified by estimated FACS need group.

- As in all previous examples, cases with critical and substantial needs were assessed as eligible for services under both the 1+ outcomes-based and FACS.
- The proportion of individuals with moderate needs considered eligible increases somewhat from approximately 38% under FACS<sup>1</sup> to about a half under the 1+ outcomes-based regulations.
- There is a small increase in eligibility for individuals with low-level needs under the 1+ outcomes-based regulations.

<sup>1</sup> The percentages of individuals eligible for services under FACS are different in graphs for the different versions of regulations (i.e. the activities-based regulations, the 1+ outcomes and the 2+ outcomes-based regulations) which reflects the fact that different LAs in the sample were rating different types of regulations.

**Figure 27 Outcome of assessment for young adults with learning disabilities cases under 2+ outcomes-based regulations by FACS rating**

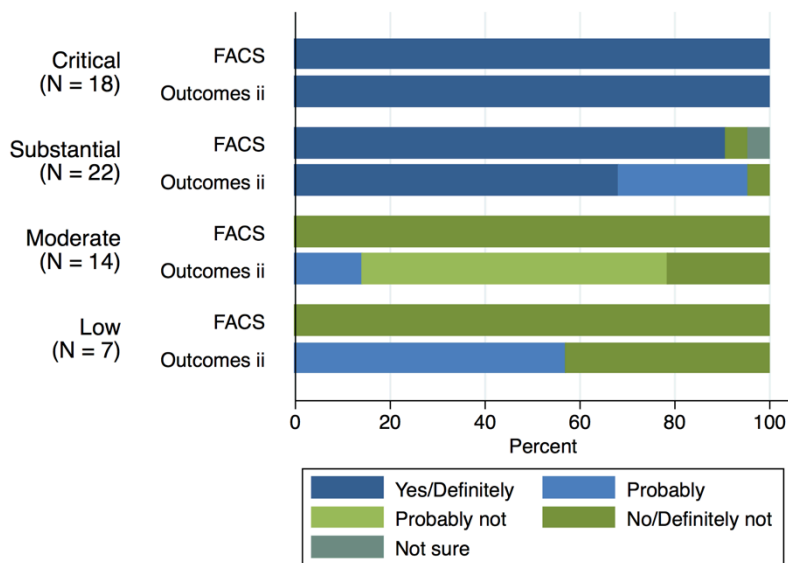


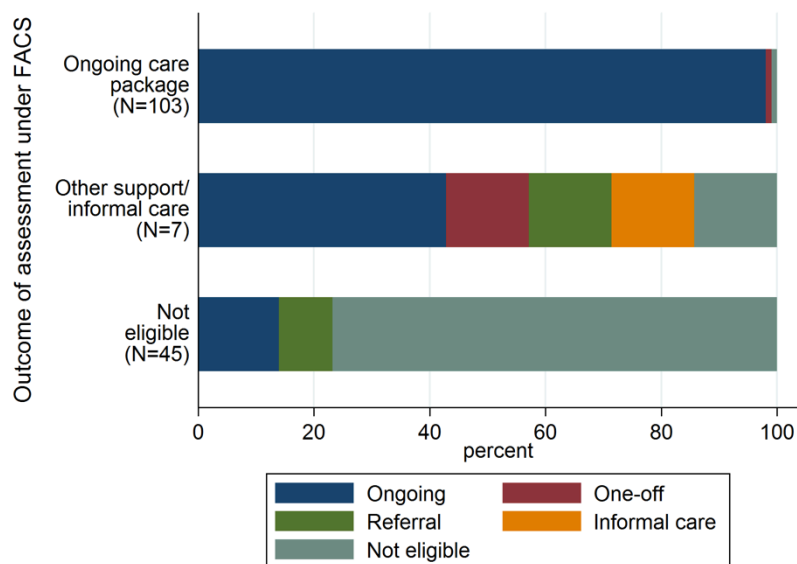
Figure 27 compares the likely eligibility under FACS and the 2+ outcomes-based regulations, stratified by the assessed FACS need group.

- Critical and substantial cases would be assessed as requiring ongoing care packages under both the 2+ outcomes-based and FACS regulations.
- The proportion of individuals with moderate needs considered eligible increases slightly under the 2+outcomes-based regulations.
- There is a significant increase in the likely eligibility for individuals with low level needs under the 2+outcomes-based regulations. However, this result should be interpreted with caution given the small number of cases available.
- As could be expected, a significantly higher proportion of individuals with moderate needs are likely to be eligible based on the 1+outcomes-based regulations compared to the 2+outcomes-based regulations and to the activities-based regulations.
- Surprisingly, there is a higher likelihood of individuals with low level needs eligible under the 2+outcomes-based regulations compared with the 1+ outcomes and the activities-based regulations. As mentioned above, these results should be interpreted with caution given the small number of cases available for carrying out the comparison.

Figure 28 to Figure 30 provide a breakdown of the outcomes of the assessment for the sample of young adults with learning disabilities in the study, broken down by the type of support received under the current FACS system. Given the limited number of cases receiving other support/informal care under FACS, we will

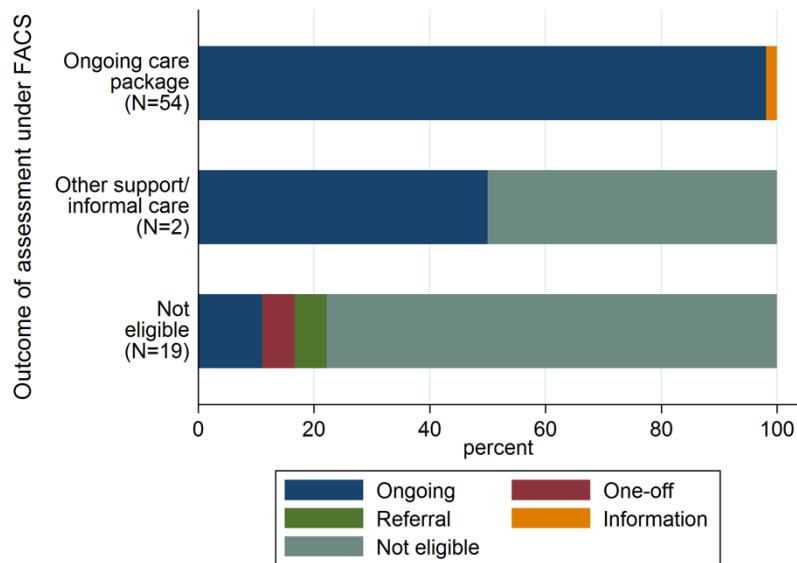
concentrate our analysis on cases that were assessed as either not eligible or eligible to an ongoing care package under FACS.

**Figure 28 Comparison of the outcome of assessment between FACS and activities-based regulations: young adults with learning disabilities**



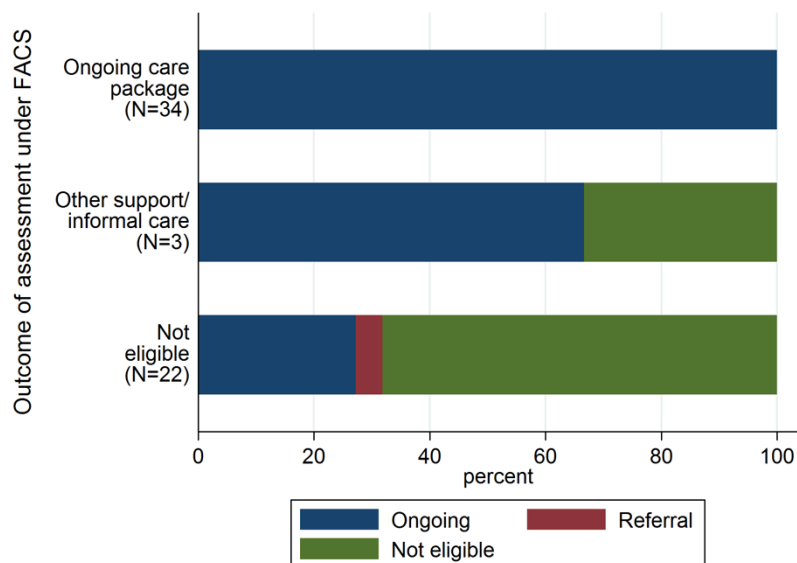
- Figure 28 implies that the young adults with learning disabilities in the study that were allocated an ongoing care package under FACS would also receive ongoing packages under the activities-based regulations.
- Approximately one in six cases deemed not to have eligible needs under FACS would be assessed as eligible for an ongoing care package under the activities-based regulations. A small proportion would be referred to another service.

**Figure 29 Comparison of the outcome of assessment between FACS and 1+ outcome-based regulations: young adults with learning disabilities**



- As in the case of the activities-based regulations, Figure 29 illustrates that a young adults with learning disabilities allocated an ongoing care package under FACS would also receive ongoing packages under the 1+ outcomes-based regulations.
- Approximately one fifth of the cases in the study assessed as not having eligible needs would be likely to receive some form of support i.e. an ongoing care package (approximately one in ten), one-off service or referral.

**Figure 30 Comparison of the outcome of assessment between FACS and 2+ outcome-based regulations: young adults with learning disabilities**



- Figure 30 shows that yet again young adults with learning disabilities allocated an ongoing care package under FACS would also receive ongoing packages under the 2+ outcomes-based regulations.
- Approximately one third of the cases in the study assessed as not having eligible needs under FACS would be likely to receive some support under the 2+ outcomes-based regulations, mostly as an ongoing care package or referral.
- Surprisingly, a higher proportion of not-eligible individuals under FACS would be eligible under the 2+outcomes-based regulations compared to the 1+outcomes-based regulations and activities-based regulations. This result could be associated with differences in the nature of the individuals with learning disabilities in the study associated with the different regulations.

Average care package are unaffected for existing service users (Table 7). Results show that clients that are likely to become newly eligible under the draft criteria (Table 8) are likely to have substantially smaller average costs of care services. This is largely a reflection of their low need levels relative to existing service users.

**Table 7 Comparison of the mean and median care package costs – existing service users (young adults with learning disabilities)**

	FACS (Mean)	Draft regulations (Mean)	FACS (Median)	Draft regulations (Median)	Valid (N)
<b>Ongoing community care</b>					
Outcomes 1+	£5,935	£5,930	£250	£250	40
Outcomes 2+	£806	£817	£550	£550	28
Activities	£680	£672	£452	£452	98
<b>One-off services</b>					
Outcomes 1+	-	-	-	-	0
Outcomes 2+	-	-	-	-	0
Activities	£718	£718	£300	£300	7

Note: Includes only cases where service costs were estimated for both FACS and draft regulations

**Table 8 Comparison of the mean and median care package costs – newly eligible clients (young adults with learning disabilities)**

	Draft regulations (Mean)	Draft regulations (Median)	Valid (N)
<b>Ongoing community care</b>			
Outcomes 1+	-	-	-
Outcomes 2+	£160	£144	3
Activities	£281	£281	2

## 5.4 People with mental health problems

**Figure 31 Outcome of assessment for young adults with mental health problems cases under FACS**

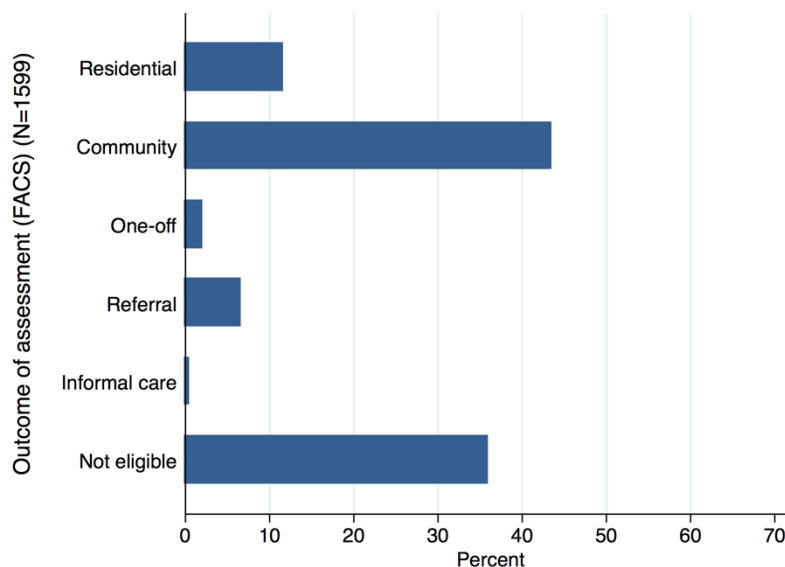


Figure 31 illustrates the outcome of the assessment process under the present FACS system for people with mental health problems included in the study.

- Overall, approximately 64% of people with mental health problems in surveyed local authorities were eligible for support under FACS.
- Considering eligible individuals, approximately 43% were eligible for community care, 12% for residential care and 7% for referrals while the percentage of individuals eligible for one-off support and information services was very small.
- As mentioned earlier, it is important to note that the sample in the study is not representative of the population of service recipients or of individuals approaching local authorities as it reflects the stratification imposed by the study methodology of cases by outcome of assessment.

**Figure 32 Outcome of assessment for young adults with mental health problems cases under activities-based regulations by FACS rating**

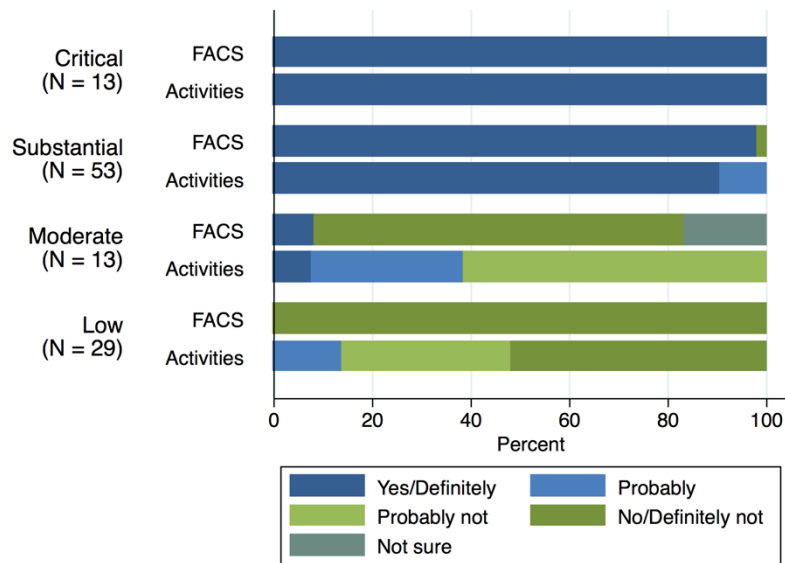


Figure 32 compares the likely eligibility of people with mental health problems in the study under FACS and the activities-based regulations, stratified by FACS need group.

- The most dependent cases (with critical and substantial needs) are assessed as having eligible needs under both the FACS and the activities-based eligibility regulations.
- The likelihood of individuals with low and moderate needs considered eligible increased under the activities-based regulations relative to FACS.



**Figure 33 Outcome of assessment for young adults with mental health problems cases under 1+ outcomes-based regulations by FACS rating**

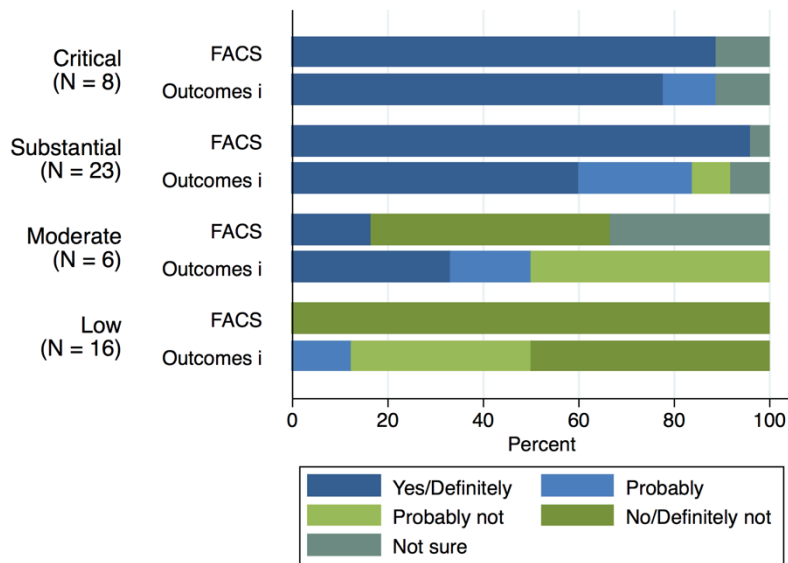


Figure 33 illustrates the likely eligibility of people with mental health problems under FACS and the 1+ outcomes-based, stratified by their FACS need group. Whereas the results are slightly different than the result for previous client groups, these differences could be due to the smaller number of cases available for the analysis.

- The likely eligibility under the 1+ outcomes-based and FACS regulations is similar for critical cases. Surprisingly, one care manager was unsure about the eligibility under FACS of a case with critical needs.
- The likely eligibility of cases with substantial need under the 1+ outcomes-based regulations is somewhat smaller than under FACS.
- The proportion of individuals with moderate needs considered eligible increases from approximately one fifth under FACS to about a half under the 1+ outcomes-based regulations, and among adults with low level needs from zero to just under one fifth.

**Figure 34 Outcome of assessment for young adults with mental health problems cases under 2+ outcomes-based regulations by FACS rating**

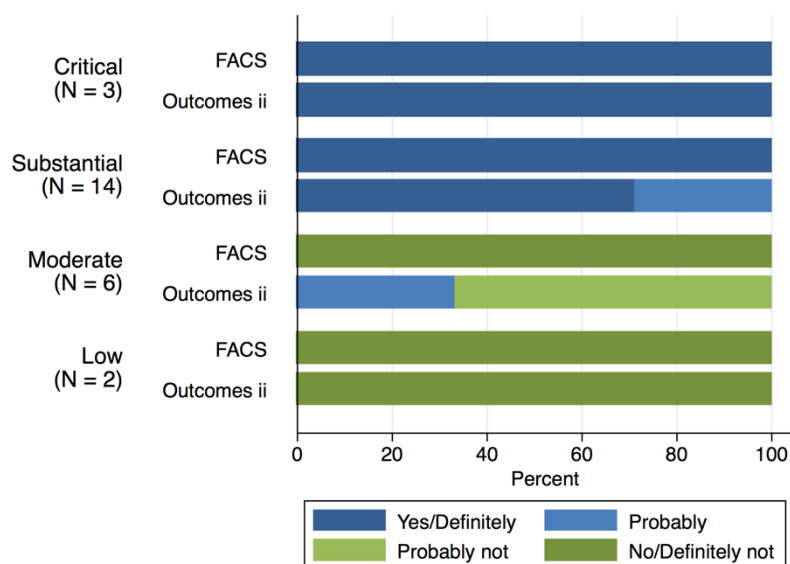
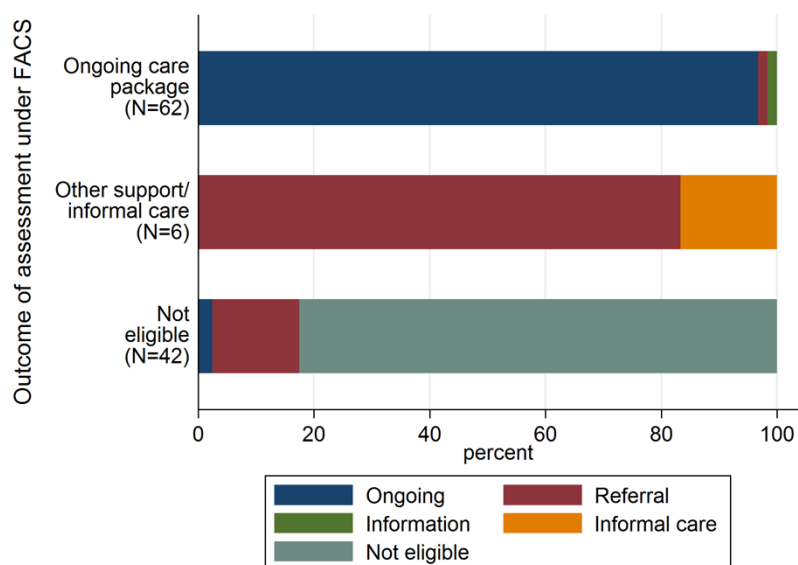


Figure 34 shows the likely eligibility of people with mental health problems under FACS and the 2+ outcomes-based, stratified by their FACS need group. These results should be interpreted with caution given the small number of cases available for the analysis.

- Under the 2+ outcomes-based regulations, all cases with critical and substantial needs are assessed as having probably or definitely eligible needs.
- The likely eligibility of individuals with moderate needs increases under the 2+ outcomes-based regulations relative to FACS. However, the number of cases available for the comparison is very low and so caution is needed when interpreting the results.
- Among adults with low level needs, the eligibility likelihood remains similar under the 2+ outcomes based regulations as under FACS.

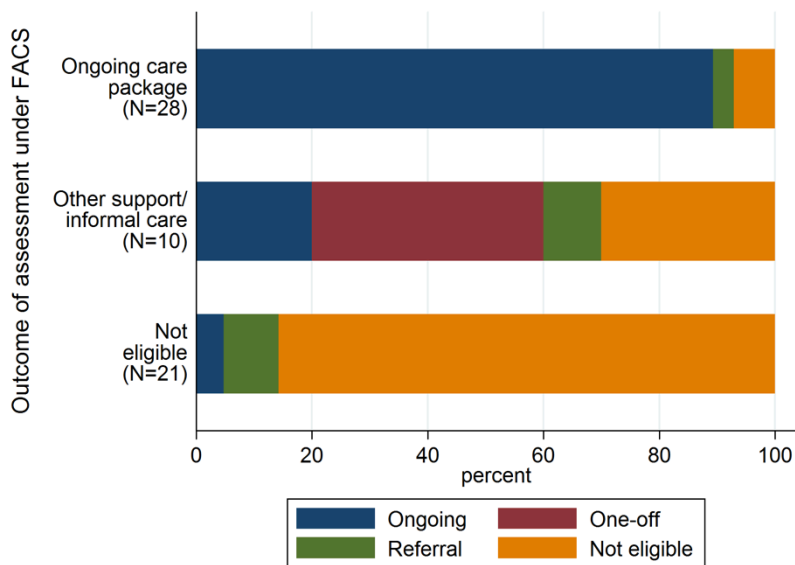
Figure 35 to Figure 37 provide a breakdown of the outcomes of the assessment for the sample of young adults with mental health needs in the study, broken down by the type of support received under the current FACS system. Given the limited number of cases receiving other support/informal care under FACS, we concentrate our analysis on cases that were assessed as either not eligible or eligible to an ongoing care package under FACS.

**Figure 35 Comparison of the outcome of assessment between FACS and activities-based regulations: young adults with mental health problems**



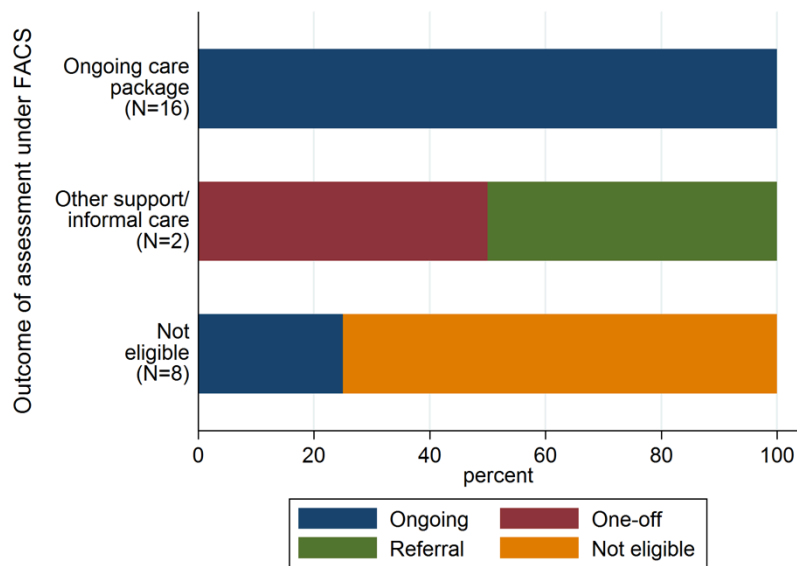
- Figure 35 implies that clients receiving an ongoing care package under FACS are also likely to be eligible to an ongoing care package under the activities-based regulations.
- Under the activities-based regulations, a small proportion of the cases deemed not to have eligible needs under FACS would be referred to another service and a very small number would be assessed as eligible for an ongoing care package.

**Figure 36 Comparison of the outcome of assessment between FACS and 1+ outcome-based regulations: young adults with mental health problems**



- Figure 36 suggests that a small proportion of cases receiving an ongoing care package under FACS would not be eligible for support or would be referred to other services under the 1+ outcome-based regulations. The reliability of this finding, however, is limited due to the number of cases in the analysis.
- Less than one fifth of the cases in the study assessed as not having eligible needs under FACS would receive some form of support i.e. an ongoing care package or would be referred to other services. The proportion allocated an ongoing care package would be very small.

**Figure 37 Comparison of the outcome of assessment between FACS and 2+ outcome-based regulations: young adults with mental health problems**



- Figure 37 suggests that cases assessed as requiring an ongoing care package under FACS would also be allocated a care package under the 2+ outcomes-based regulations.
- Approximately a quarter of cases deemed not to have eligible needs under FACS would be assessed as eligible for an ongoing care package under the activities-based regulations.
- However, the reliability of these patterns is limited by the small number of cases in the analysis.

Care package costs under draft regulations are comparable to those under FACS for existing service users (Table 9). Costs for newly eligible clients have not been included due to low number of cases available. However, the evidence across other client groups suggests that clients eligible under draft regulations but not under FACS are likely to have lower average levels of need than existing clients, and therefore substantially reduced costs of care.

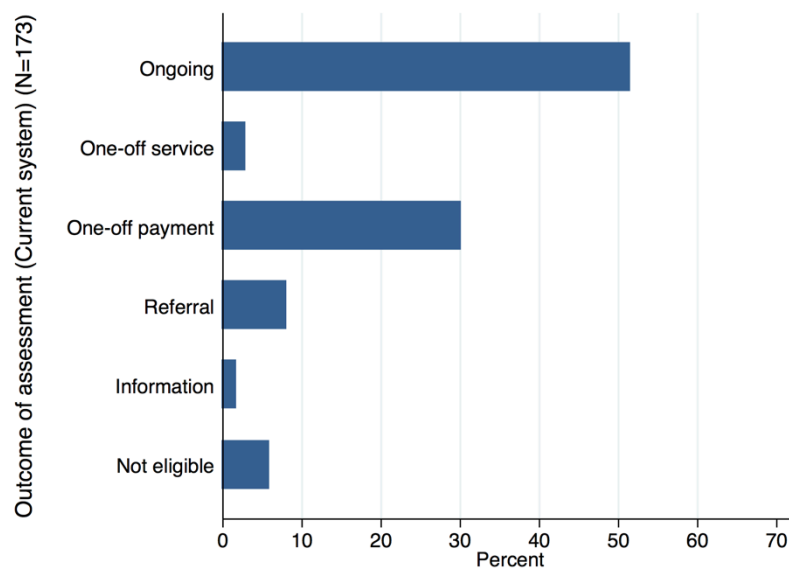
**Table 9 Comparison of the mean and median care package costs – existing service users (young adults with mental health problems)**

	FACS (Mean)	Draft regulations (Mean)	FACS (Median)	Draft regulations (Median)	Valid (N)
<b>Ongoing community care</b>					
Outcomes 1+	£351	£370	£80	£81	16
Outcomes 2+	£1,822	£1,683	£1,375	£820	8
Activities	£227	£259	£132	£167	44
<b>One-off services</b>					
Outcomes 1+	£3,550	£3,550	£3,550	£3,550	2
Outcomes 2+	£1,623	£1,623	£1,623	£1,623	1
Activities	-	-	-	-	0

Note: Includes only cases where service costs were estimated for both FACS and draft regulations

## 5.5 Carers

**Figure 38 Outcome of assessment for carers cases under FACS**

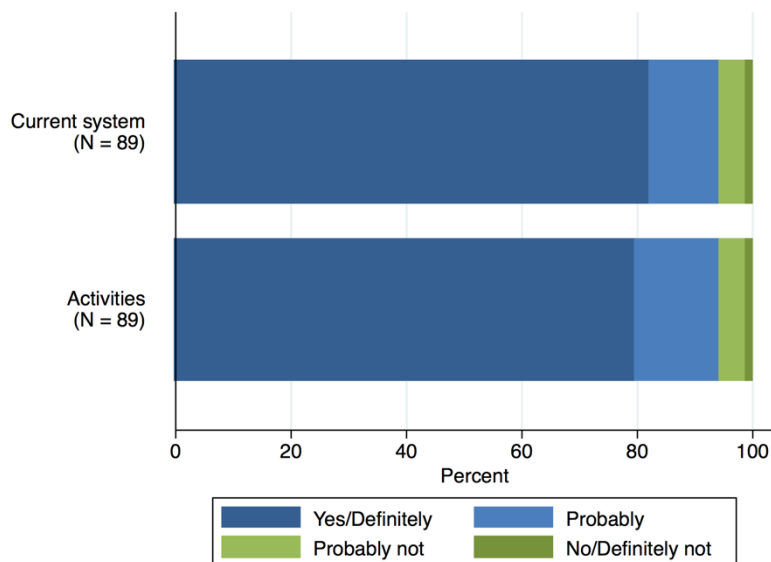


- Figure 38 illustrates the outcome of the assessment process under the current system for carers included in the study.
- Overall, over 90% of carers in the survey were eligible for support under the current system.

- Considering eligible individuals, over half were eligible for an ongoing care package, two fifths for one-off payments (a greater proportion than for any of the user groups) and fewer than 10% were referred to other services.
- A very small proportion of carers were only given information and advice.
- As noted several times for other client groups, it is important to note that the sample of carers in the study is not representative of the population of carers or of the carers approaching local authorities.

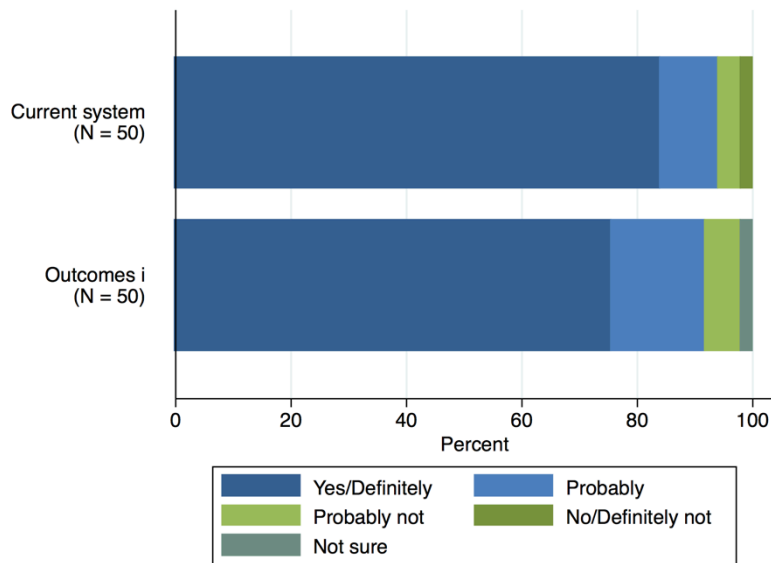
In contrast with service users, care managers were not asked to rate carers' needs in terms of the FACS classification, given that such classification is not used for that purpose. The figures are therefore not stratified by FACS need group.

**Figure 39 Comparison of the outcome of assessment between FACS and activities-based regulations: carers**



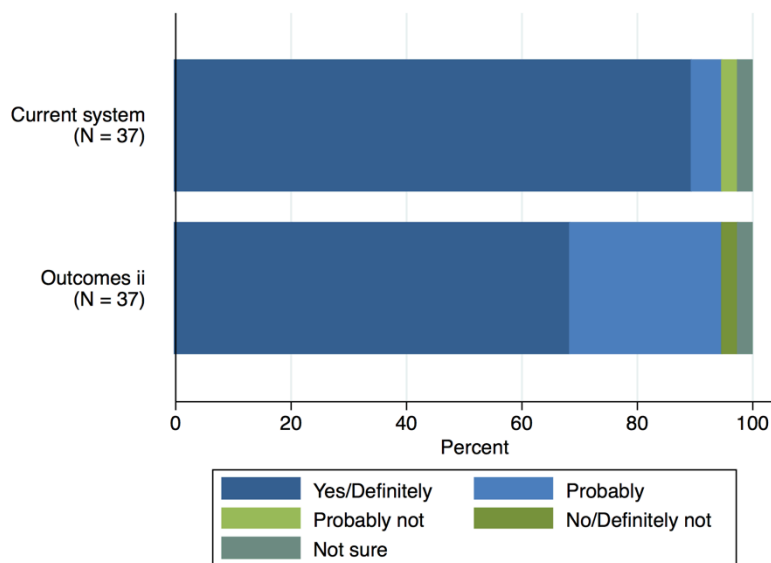
- Figure 39 illustrates likely eligibility under the activities-based regulations and under current regulations.
- The likely eligibility for carers under the activities-based regulations is very similar to the eligibility under the current FACS system.

**Figure 40 Comparison of the outcome of assessment between FACS and 1+ outcome-based regulations: carers**



- Figure 40 illustrates likely eligibility for carers under the 1+ outcomes-based regulations and under current guidelines.
- As noted for the activities-based regulations, the likely eligibility of carers under the 1+ outcomes-based regulations remains broadly unchanged relative to the current system.

**Figure 41 Comparison of the outcome of assessment between FACS and 2+ outcome-based regulations: carers**

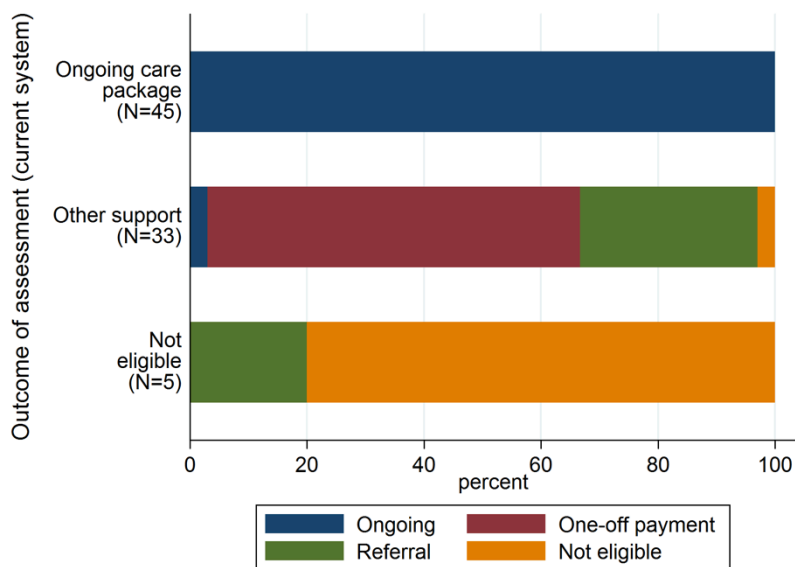




- Figure 41 illustrates likely eligibility for carers under the 2+ outcomes-based regulations and under current regulations.
- The pattern of eligibility under the 2+outcomes-based regulations is very similar to the current eligibility levels.

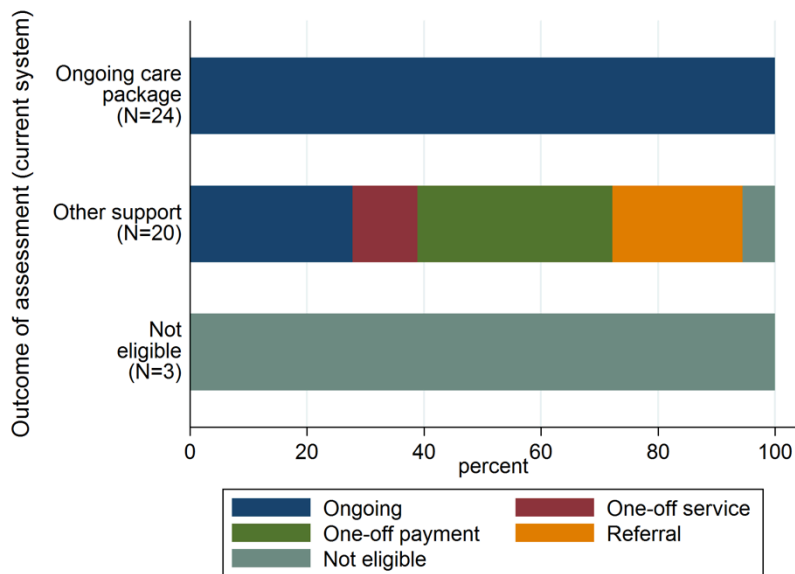
Given the limited number of cases not eligible in the survey, we will concentrate our analysis of differences in the outcomes of assessment for carers on cases that were assessed as either eligible for an ongoing care package or as eligible for other support under the current system.

**Figure 42 Comparison of the outcome of assessment between FACS and activities-based regulations: carers**



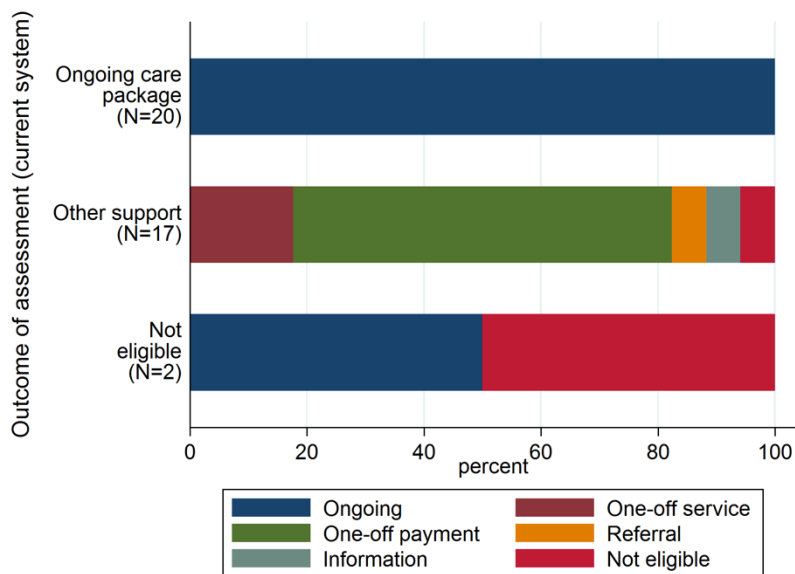
- Figure 42 implies carers provided with an ongoing care package in the current system would also be likely to receive an ongoing care package under the activities-based regulations.
- A vast majority of carers eligible for other support under the current system would receive some form of support i.e. one-off payment or a referral to other services under the activities-based regulations. Approximately a quarter of those would receive an ongoing care package.

**Figure 43 Comparison of the outcome of assessment between FACS and 1+ outcome-based regulations: carers**



- Figure 43 suggests that carers receiving an ongoing care package under the current system are also likely to receive an ongoing care packages under the 1+outcomes-based regulations.
- About a quarter of carers eligible for other support under the current system were assessed as requiring an ongoing care package under the 1+outcomes-based regulations.

**Figure 44 Comparison of the outcome of assessment between FACS and 2+ outcome-based regulations: carers**



- As previously, Figure 44 implies that carers receiving an ongoing care package under current system would continue to do so under the new regulation, in this case the 2+outcomes-based regulations.
- None of the carers eligible for other support under the current system would receive an ongoing package of care under the 2+outcomes-based regulations.

In keeping with results for adult service users, Table 10 shows that care package costs under the draft regulations would be very similar to the care package costs under the current regulations for currently eligible carers.

**Table 10 Comparison of the mean and median care package costs – existing service users (carers)**

	Current system (Mean)	Draft regulations (Mean)	Current system (Median)	Draft regulations (Median)	Valid (N)
<b>Ongoing community care</b>					
Outcomes 1+	£1,628	£1,570	£202	£135	19
Outcomes 2+	£214	£217	£110	£120	15
Activities	£271	£370	£169	£200	32
<b>One-off services</b>					
Outcomes 1+	£100	£100	£100	£100	2
Outcomes 2+	£1,026	£1,026	£1,026	£1,026	2
Activities	£6,100	£6,100	£6,100	£6,100	2
<b>One-off payments</b>					
Outcomes 1+	£815	£857	£250	£250	10
Outcomes 2+	£260	£260	£200	£200	5
Activities	£576	£591	£225	£225	20

Note: Includes only cases where service costs were estimated for both FACS and draft regulations

## 5.6 Factors associated with increased eligibility

This section explores which factors are associated with an increased probability of eligibility under the new regulations. It does so by focusing exclusively on those cases assessed as not having eligible needs under the FACS system.

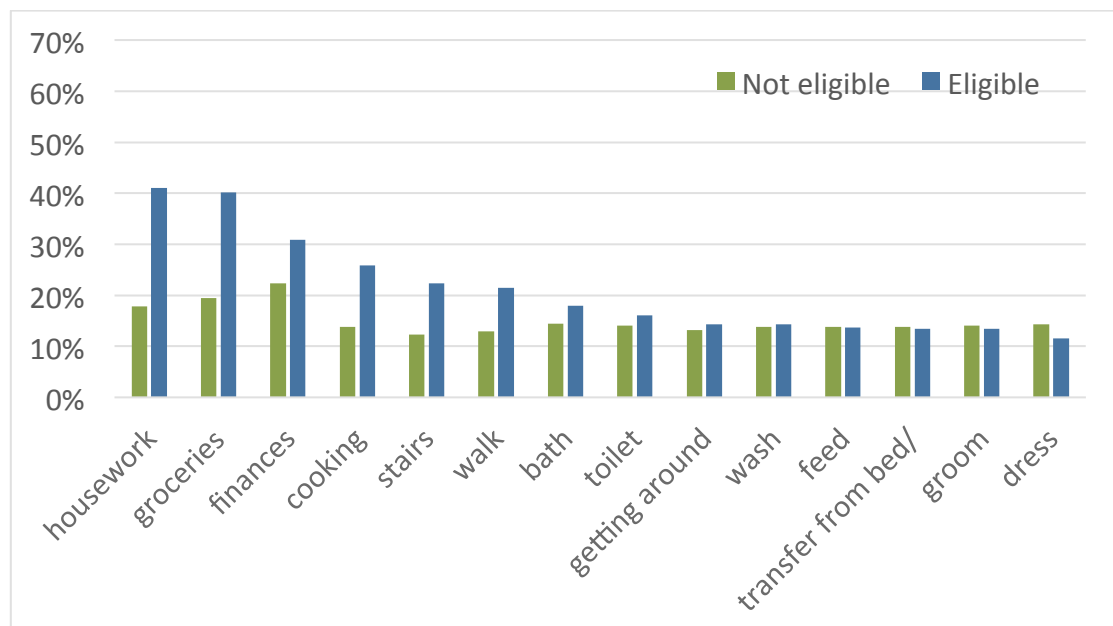
Given the available number of cases for the analysis, the data is first presented by client group but grouped across all versions of the new regulations (Figure 45 to Figure 49). The evidence is then disaggregated by regulation type, but aggregated across all user groups (Figure 50 to Figure 52).

Overall, the aim of the analysis is to identify factors particularly prevalent amongst cases deemed not eligible under FACS but eligible under the new regulations (indicated by the red columns in the graph) relative to cases not eligible in either (indicated by the blue columns in the graph).

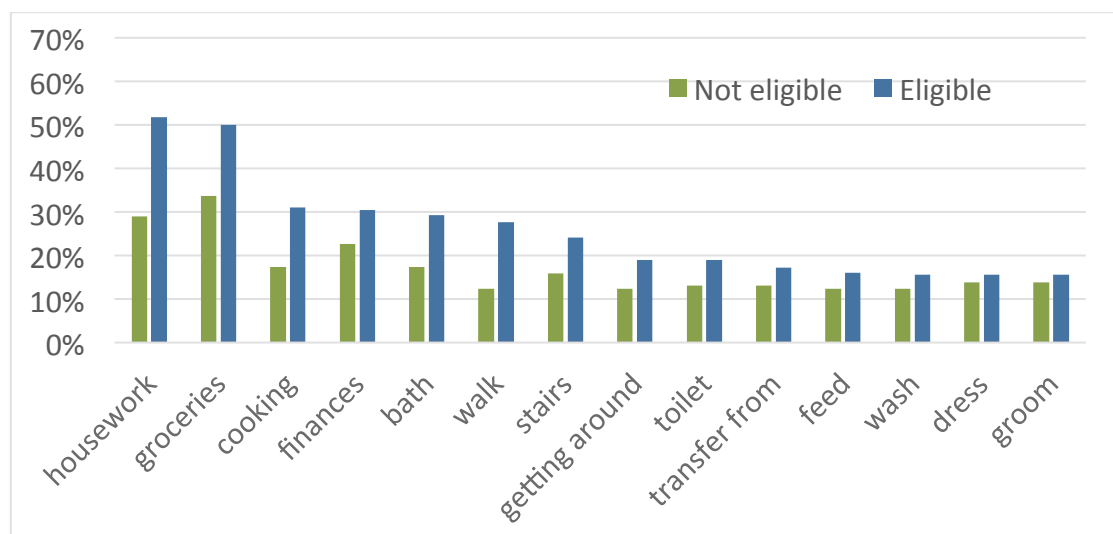
Consistently, the results appear to indicate that it is factors such as house-work, help with finances and groceries are associated with significant increases in the likely eligibility of cases under the new regulations for cases that would have been deemed as not eligible under the current FACS system.

This finding is compatible with the comments made care managers in the context of the workshops help with local authority professionals, and summarised below.

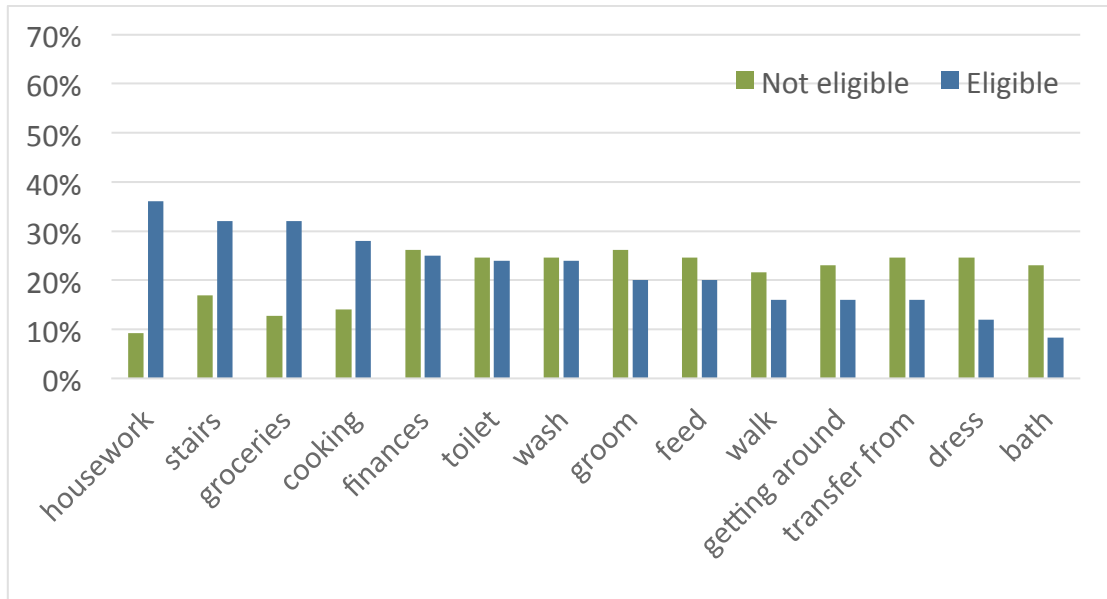
**Figure 45 Prevalence of needs amongst cases not eligible under FACS by whether eligible under new regulations: all clients and any new regulations**



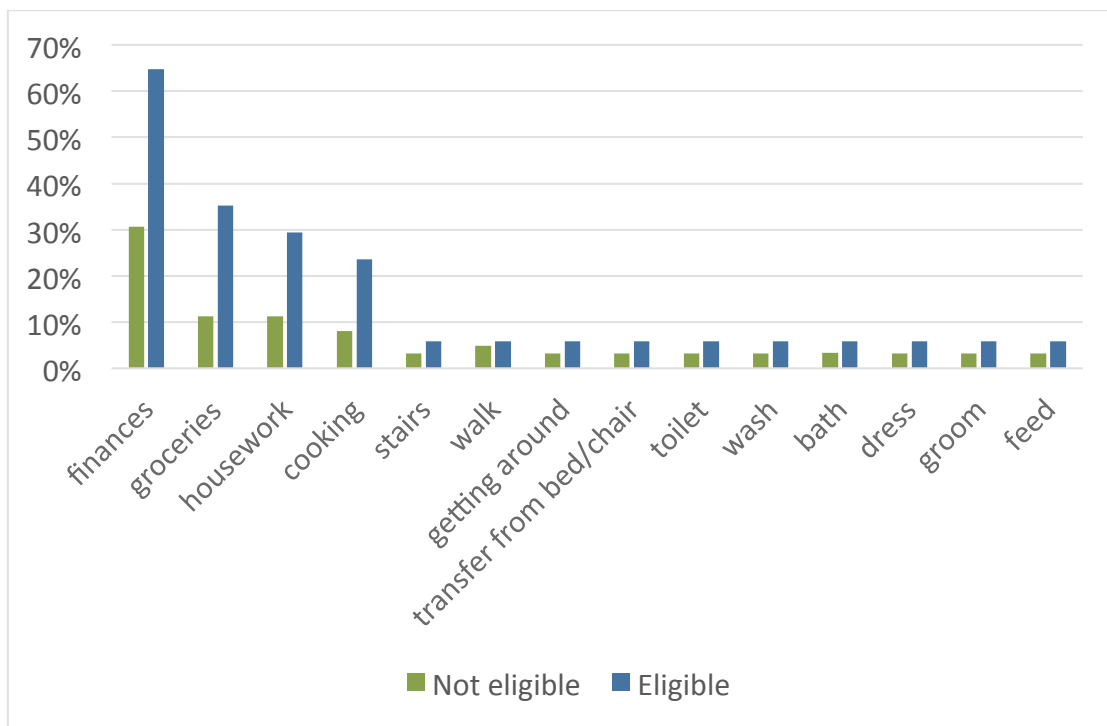
**Figure 46 Prevalence of needs amongst cases not eligible under FACS by whether eligible under new regulations: older people and any new regulations**



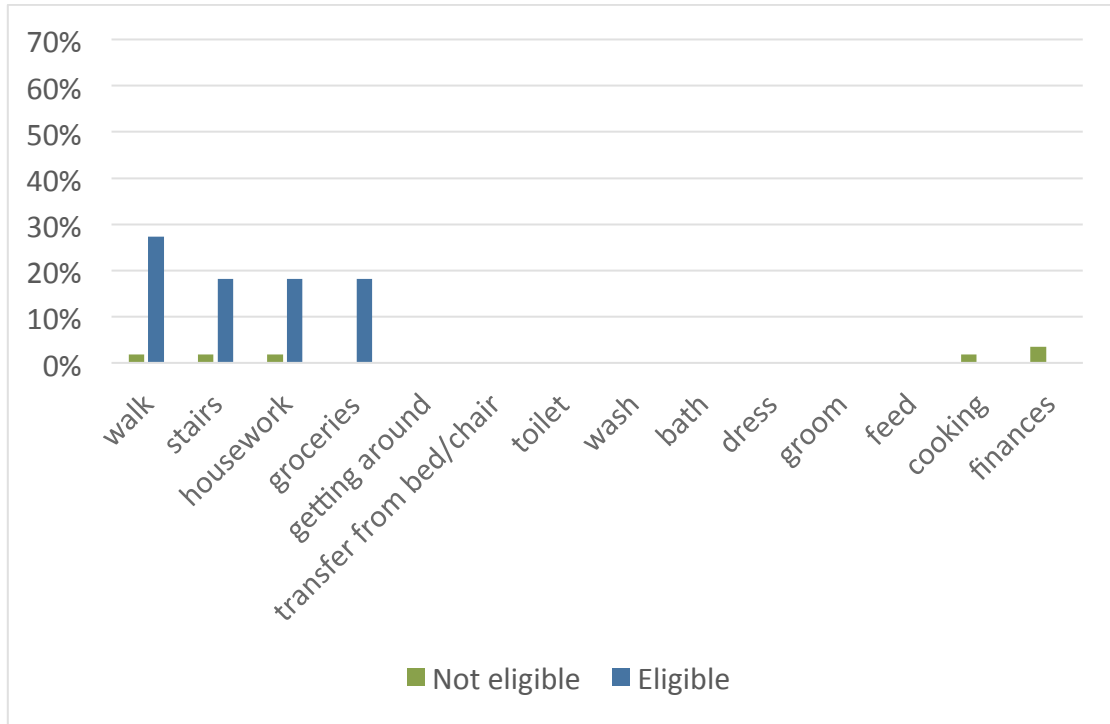
**Figure 47 Prevalence of needs amongst cases not eligible under FACS by whether eligible under new regulations: adults with a physical disability and any new regulations**



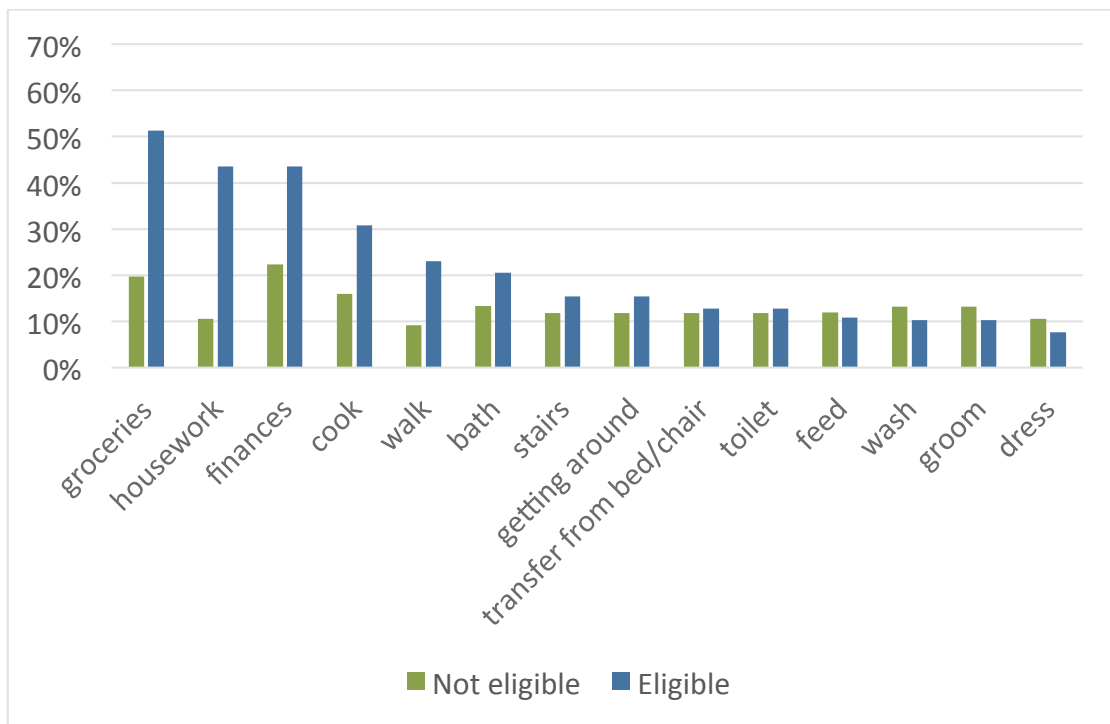
**Figure 48 Prevalence of needs amongst cases not eligible under FACS by whether eligible under new regulations: adults with a learning disability and any new regulations**



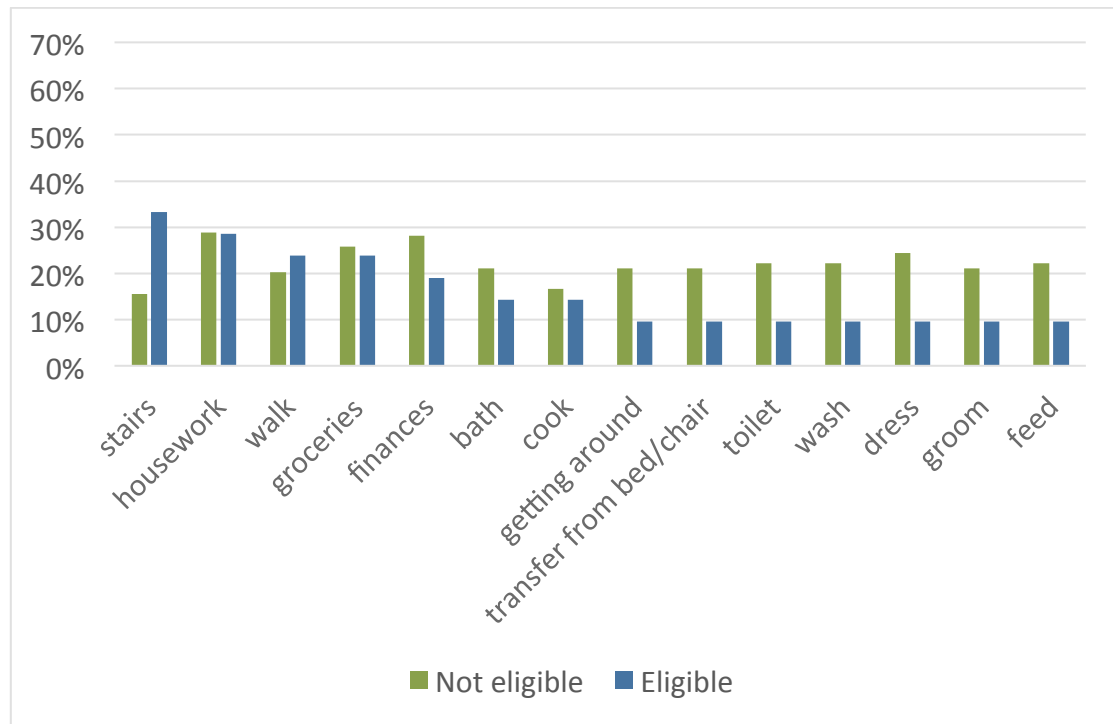
**Figure 49 Prevalence of needs amongst cases not eligible under FACS by whether eligible under new regulations: cases with mental health needs and any new regulations**



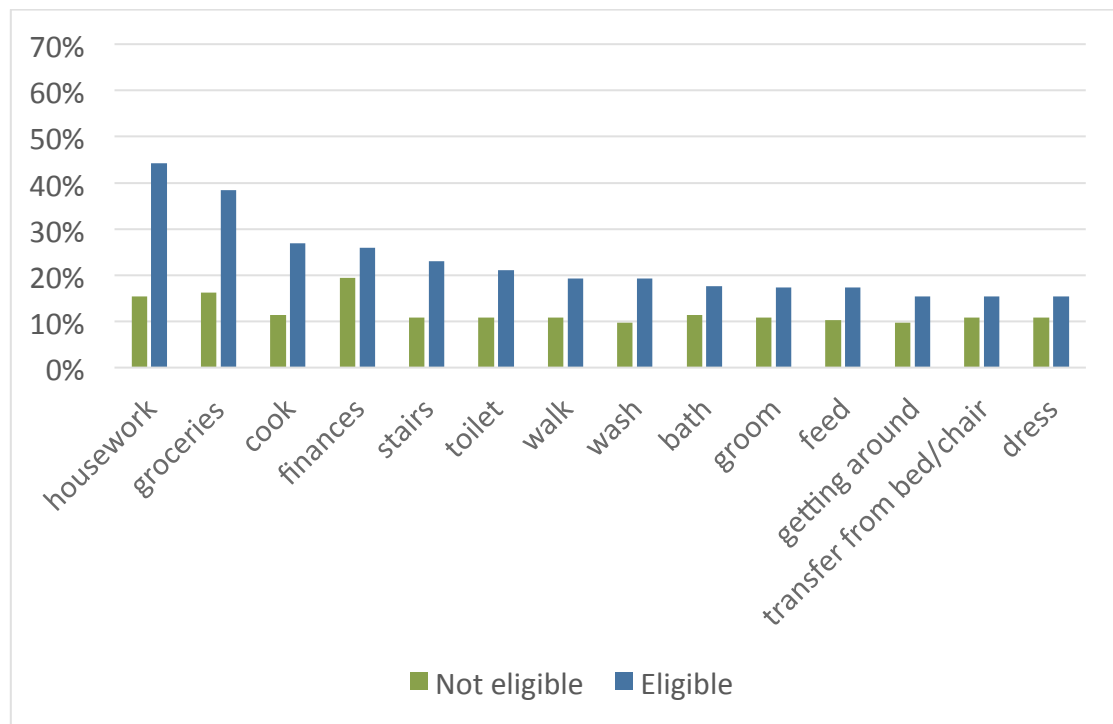
**Figure 50 Prevalence of needs amongst cases not eligible under FACS by whether eligible under new regulations: all cases and 1+ Outcomes-based regulations**



**Figure 51 Prevalence of needs amongst cases not eligible under FACS by whether eligible under new regulations: all cases and 2+ Outcomes-based regulations**



**Figure 52 Prevalence of needs amongst cases not eligible under FACS by whether eligible under new regulations: all cases and Activities-based regulations**



## 5.7 Modelling factors associated with eligibility

As noted above, the fact that different regulations were evaluated on the basis of evidence collected from particular authorities (i.e. that regulations were stratified by authorities) means that some of the differences observed in the patterns of eligibility across regulations could respond to differences in the nature of the cases recruited by different authorities.

In the present section, we use multivariate regression methods in order to standardised for need-related characteristics, and therefore to estimate the impact of the different regulations on the likely eligibility of cases, *ceteris paribus*.

Unfortunately, the limitations in the number of cases in the study means that this analysis could only be performed for all cases overall (see Table 11 and Figure 53), and for older people (see Table 12 and Figure 54).

Overall, the results for all client groups combined and for older people are broadly compatible:

- Individuals with the highest levels of disability (with critical and substantial needs) would be very likely to be eligible for services under any of the regulations considered.
- The likely eligibility of cases with moderate needs is lower under FACS than under the three draft eligibility criteria evaluated.
- The likely eligibility of cases with low needs is very low under FACS and the activities-based and 2+ outcomes-based regulations, but higher under the 1+ outcomes based regulations.

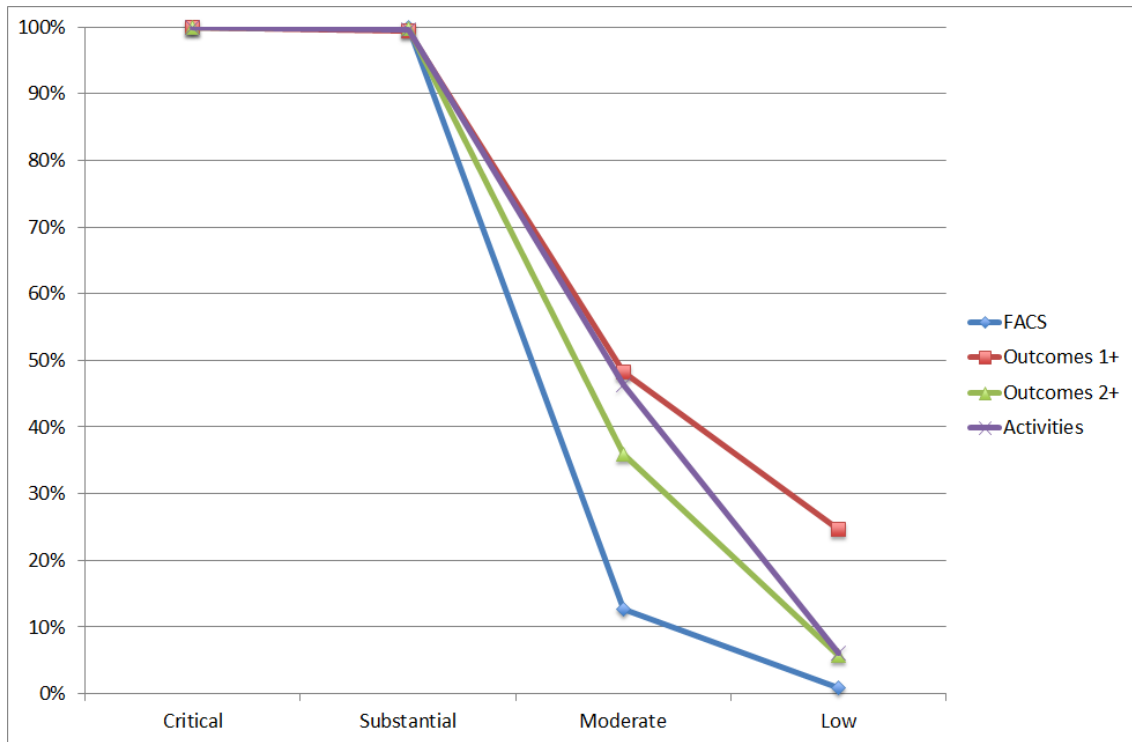


**Table 11 Factor linked to probability of eligibility: all client groups**

	Coef	Std Err	z	P> z	[95% conf	interval]
<b>ADL count</b>	0.72	0.11	6.66	0.000	0.51	0.93
<b>ADL count 2</b>	-0.05	0.01	-5.89	0.000	-0.07	-0.03
<b>Regulation 1</b>	15.70	8,581.29	0.00	0.999	-16,803.33	16,834.73
<b>Regulation 2</b>	16.63	10,518.13	0.00	0.999	-20,598.53	20,631.80
<b>Regulation 3</b>	-2.01	1.38	-1.46	0.144	-4.71	0.69
<b>FACS rating 2</b>	-1.92	1.43	-1.35	0.179	-4.73	0.88
<b>FACS rating 3</b>	-10.02	1.49	-6.71	0.000	-12.95	-7.10
<b>FACS rating 4</b>	-12.30	1.60	-7.67	0.000	-15.45	-9.16
<b>FACS rating 5</b>	-8.94	1.66	-5.38	0.000	-12.20	-5.69
<b>Regulation # FACS rating 1 2</b>	-17.41	8,581.29	0.00	0.998	-16,836.44	16,801.62
<b>Regulation # FACS rating 1 3</b>	-13.84	8,581.29	0.00	0.999	-16,832.87	16,805.19
<b>Regulation # FACS rating 1 4</b>	-12.16	8,581.29	0.00	0.999	-16,831.19	16,806.87
<b>Regulation # FACS rating 1 5</b>	-39.52	61,054.02	0.00	0.999	-119,703.20	119,624.20
<b>Regulation # FACS rating 2 2</b>	-17.35	10,518.13	0.00	0.999	-20,632.51	20,597.82
<b>Regulation # FACS rating 2 3</b>	-15.28	10,518.13	0.00	0.999	-20,630.44	20,599.88
<b>Regulation # FACS rating 2 4</b>	-14.77	10,518.13	0.00	0.999	-20,629.94	20,600.39
<b>Regulation # FACS rating 2 5</b>	-14.05	10,518.13	0.00	0.999	-20,629.22	20,601.11
<b>Regulation # FACS rating 3 2</b>	0.66	1.58	0.42	0.677	-2.45	3.77
<b>Regulation # FACS rating 3 3</b>	3.79	1.43	2.65	0.008	0.99	6.60
<b>Regulation # FACS rating 3 4</b>	3.95	1.48	2.67	0.008	1.05	6.85
<b>Regulation # FACS rating 3 5</b>	2.47	1.90	1.30	0.195	-1.26	6.19
<b>LA FACS threshold 2</b>	4.78	0.97	4.91	0.000	2.87	6.69
<b>LA FACS threshold 3</b>	6.46	1.06	6.07	0.000	4.38	8.55
<b>Client group 2</b>	0.13	0.30	0.44	0.658	-0.46	0.72
<b>Client group 3</b>	0.06	0.31	0.19	0.846	-0.55	0.68
<b>Client group 4</b>	-0.28	0.38	-0.75	0.456	-1.02	0.46
<b>Constant</b>	2.06	1.31	1.57	0.116	-0.51	4.64

Likelihood test of rho=0:  $\chi^2(01)=12.08$  Prob  $\geq \chi^2=0$

**Figure 53 Modelled probability of eligibility by eligibility framework: all clients groups**

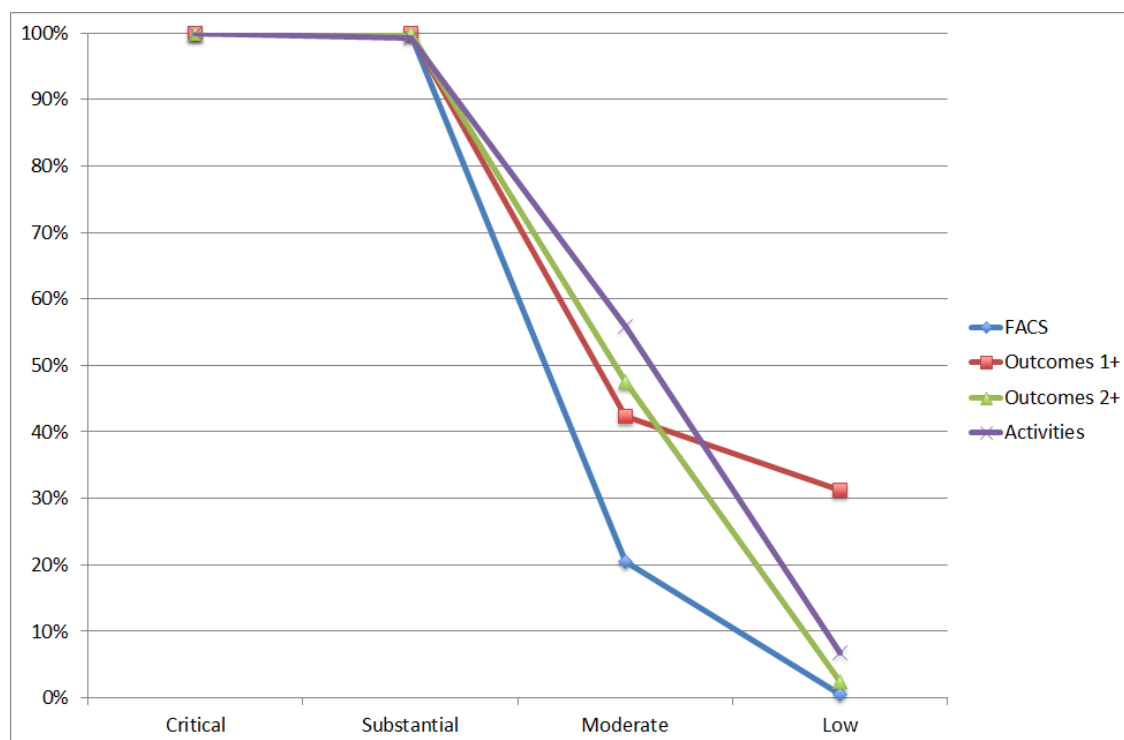


**Table 12 Factors linked to probability of eligibility: older people**

	Coef	Std Err	z	P> z	[95% conf	interval]
<b>ADL count</b>	0.76	0.15	5.14	0.000	0.47	1.05
<b>ADL count 2</b>	-0.05	0.01	-4.47	0.000	-0.07	-0.03
<b>Regulation 1</b>	14.96	10,352.05	0.00	0.999	-20,274.67	20,304.60
<b>Regulation 2</b>	15.68	13,472.94	0.00	0.999	-26,390.79	26,422.15
<b>Regulation 3</b>	-1.16	1.50	-0.77	0.439	-4.10	1.78
<b>FACS rating 2</b>	-2.27	1.72	-1.32	0.186	-5.64	1.10
<b>FACS rating 3</b>	-8.97	1.86	-4.82	0.000	-12.62	-5.32
<b>FACS rating 4</b>	-12.26	2.11	-5.80	0.000	-16.41	-8.12
<b>FACS rating 5</b>	-9.42	2.38	-3.96	0.000	-14.09	-4.76
<b>Regulation # FACS rating 1 2</b>	2.14	13,753.22	0.00	1.000	-26,953.68	26,957.96
<b>Regulation # FACS rating 1 3</b>	-13.91	10,352.05	0.00	0.999	-20,303.55	20,275.72
<b>Regulation # FACS rating 1 4</b>	-10.56	10,352.05	0.00	0.999	-20,300.20	20,279.07
<b>Regulation # FACS rating 1 5</b>	-	-	-	-	-	-
<b>Regulation # FACS rating 2 2</b>	3.33	16,620.77	0.00	1.000	-32,572.77	32,579.43
<b>Regulation # FACS rating 2 3</b>	-14.42	13,472.94	0.00	0.999	-26,420.89	26,392.05
<b>Regulation # FACS rating 2 4</b>	-14.20	13,472.94	0.00	0.999	-26,420.67	26,392.27
<b>Regulation # FACS rating 2 5</b>	-11.77	13,472.94	0.00	0.999	-26,418.24	26,394.71
<b>Regulation # FACS rating 3 2</b>	-0.15	1.84	-0.08	0.936	-3.75	3.45
<b>Regulation # FACS rating 3 3</b>	2.76	1.57	1.75	0.080	-0.33	5.84
<b>Regulation # FACS rating 3 4</b>	3.73	1.78	2.10	0.036	0.25	7.21
<b>Regulation # FACS rating 3 5</b>	1.43	2.54	0.56	0.573	-3.55	6.41
<b>LA FACS threshold 2</b>	5.19	1.31	3.97	0.000	2.63	7.75
<b>LA FACS threshold 3</b>	6.51	1.40	4.64	0.000	3.76	9.25
<b>Constant</b>	0.95	1.36	0.70	0.485	-1.72	3.62

Likelihood test of rho=0: chibar2(01)=2.88 Prob >= chibar2=0.045

**Figure 54 Modelled probability of eligibility by eligibility framework: older people**



## 5.8 Caveats and Limitations

One of the main strengths of the use in the study of information about real cases assessed by local authorities is that care manager responses were based on the full knowledge of the characteristics of the clients. There are, nonetheless, a number of important caveats to bear in mind when interpreting the results of the study.

It should be noted that care managers had only limited experience in applying the draft regulations. They had not undergone, for instance, formal training in their application in the way they are likely to have received for the current FACS regulations.

Previous studies have shown variability in the application of FACS, which is used to present many of the results of the study (Fernandez and Snell 2012). The relationship between needs and FACS ratings could be expected therefore to change somewhat across local authorities in the study. Also, Figure 2 to Figure 5 illustrated some small differences in the characteristics of cases available to evaluate the different versions of the regulations (almost all services proved not to be statistically significant at the 10% level).

The survey collected summary client data including age, gender, ethnicity, sensory impairment, informal care availability and ability to perform each of 14 Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs). While this allows us to analyse the impact of the draft regulations for groups of adults with

different combinations of characteristics, the analysis might not be able to control for all differences in the characteristics of cases across regulation samples. This issue could be more significant for adults with a learning disability and adults with mental health needs, because of the available need indicators in the study are arguably less appropriate for them than for older people and young people with physical disabilities.

In order to provide as broad a sample of cases as possible, care managers were asked to select the last five cases they had assessed as eligible under FACS, and the last four they had found not to be eligible. A number of care managers reported having only assessed eligible cases in recent months. In such cases, and where possible, additional cases were sought from screening teams.

## 6 Costing the changes in eligibility criteria

This section provides estimates of the cost of implementing the three eligibility criteria tested in the study. Estimates were derived separately for older people and for younger adult client groups<sup>2</sup>.

The estimates of expenditure in the analysis include care package costs, but exclude assessment and care planning costs. Although some increases in assessment costs could be expected following the implementation of new eligibility criteria, these are difficult to estimate, as it is likely that a number of newly eligible cases already undergo an assessment of their needs under the current system.

The analysis excludes any implementation costs that might be required to roll-out the eligibility criteria, (e.g. the cost of training courses, the development of professional guides, and new processes for assessment). Also, the estimates ignore possible “behavioral” effects, such as changes in the interpretation of the eligibility criteria through time.

The analysis assumes that local authorities currently supporting clients below the need levels implied by the draft national eligibility criteria would continue to do so under new eligibility criteria. In other words, the analysis does not assume a “convergence to the bottom” of eligibility thresholds across local authorities in England.

### 6.1 Methods

The changes in expenditure following the implementation of new eligibility regulations could be summarized as follows:

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<sup>2</sup> Limitations in the number of cases for the younger client groups did not allow for estimates to be calculated separately by individual younger adult client group.

$$\Delta E^i = E^f - E^i$$

Where  $\Delta E$  represents change in expenditure following the implementation of eligibility regulations  $i$ ,  $E^f$  represents expenditure under the FACS regulations, and  $E^i$  represents expenditure under eligibility regulations  $i$ .

We also have that:

$$E^i = \sum_j N_j^i \times C_j^i$$

Where  $N_j^i$  represents the number of eligible individuals with characteristics  $j$  under eligibility regulations  $i$  and  $C_j^i$  represents the average care package cost of individuals with characteristics  $j$  under eligibility criteria  $i$ .

In line with the findings of the survey, we assume that the cost of the care packages for individuals already in the system would not be affected by the new eligibility criteria. This means that the changes in expenditure following the implementation of a new set of eligibility criteria  $i$  can be defined as:

$$\Delta E^i = \sum_j \Delta N_j^i \times C_j^i$$

Where  $\Delta N_j^i$  represents the change in the number of eligible individuals with characteristics  $j$  following the implementation of eligibility criteria  $i$ . For sake of simplicity, the analysis used the FACS eligibility need level as the indicator of individual characteristics.

We considered two scenarios for the estimates of care package costs  $C_j^i$ .

- In the **high unit cost scenario**, we assumed that care package costs for the additional cases would be equal to the average care package cost of existing users of identical FACS need level (based on ASCS cost data, grossed to PSS EX1 figures).
- In the **low unit cost scenario**, we assumed that the package cost would be equal to the estimated average care package costs of newly eligible users (of identical FACS rating) based on the survey responses. Survey estimates were only available for moderate need cases for younger adults and for moderate and low need cases for older people. For the rest of need groups, the scenario assumed that the care packages for newly eligible cases would be reduced by the same proportional amount.

The two sets of estimates of care package costs  $C_j^i$  under the new regulations are presented in Table 13.

**Table 13 Care package costs (£/year) assumptions**

	Critical	Substantial	Moderate	Low
<b>Older people</b>				
High cost scenario	£8,364	£6,207	£4,529	£3,458
Low cost scenario	£6,273	£4,655	£3,397	£2,593
<b>Young adult clients</b>				
High cost scenario	£12,186	£9,479	£5,574	£4,087
Low cost scenario	£7,312	£5,687	£3,344	£2,452

The results of the survey suggest that a proportion of individuals with long and moderate needs would receive services following the implementation of the new eligibility criteria. This effect is likely to lead to increases in expenditure in authorities with critical and substantial FACS eligibility thresholds. Furthermore, the small number of authorities with Critical FACS needs thresholds would also see an increase in the number of eligible cases with substantial needs. In general, we have that the changes in the number of eligible clients are given by:

$$\Delta N_j^i = \Delta p_j^i \times P_j$$

Where  $\Delta p_j^i$  represents the change in the probability of eligibility for the group of individuals with need level  $j$  under eligibility criteria  $i$ , and  $P_j$  represents the population of individuals with need level  $j$ .

Estimates of the changes in in the probability of eligibility  $\Delta p_j^i$  were derived from the results of the survey, stratified by client age group, draft regulation type, local authority FACS policy and FACS needs rating.

Estimates of  $P_j$ , the population of individuals with need levels  $j$ , were derived from a combination of sources, including the Adult Social Care Survey (ASCS) and PSS Referrals, Assessments and Packages of Care (RAP) data<sup>3</sup>. The analysis applied the following process for deriving the estimates of  $P_j$ :

1. The distribution of social care clients by need levels for different local authorities was established from ASCS, and aggregated to England levels using RAP data. The results for older people and younger adults are reported in Table 14 and Table 15, respectively.
2. The underlying population of clients with substantial, moderate and low needs in areas that do not provide services to such groups was then estimated as follows:
  - a. For people with substantial needs in LAs with critical eligibility thresholds, the analysis assumed that the rate per capita (per population 85 plus for older people and population 18-64 for young

<sup>3</sup> A summary of the data sources used is provided in Text Box 1.

adult clients) of critical and substantial people in the community would be the same across areas.

- b. The population of clients in the community with moderate and low needs in areas with substantial and critical needs thresholds was assumed to be proportional to the number of existing clients, and in line with the ratios observed in the rest of LAs.
3. These assumptions were made in order to anchor the estimates of underlying populations of individuals with different needs against large, observed quantities, and to account for the problems of potential differences of interpretation of FACS need groups across different authorities.

**Table 14 Distribution of community older clients by FACS needs and local FACS eligibility thresholds**

Clients needs					
LA FACS threshold	Critical	Substantial	Moderate	Low	Total
<b>ASCS estimates</b>					
Critical	1,795	456	91	16	2,358
Substantial	3,629	10,189	748	707	15,273
Moderate	363	1,510	644	82	2,599
Low	37	27	151	207	422
<b>National estimates (RAP inflated)</b>					
Critical	12,100	3,100	600	100	15,900
Substantial	81,800	229,600	16,900	15,900	344,200
Moderate	7,600	31,600	13,500	1,700	54,400
Low	300	200	1,200	1,600	3,300
<b>National estimates of underlying population</b>					
Critical	12,100	<b>6,200</b>	<b>6,300</b>	<b>8,600</b>	33,200
Substantial	81,800	229,600	<b>107,100</b>	<b>146,800</b>	565,200
Moderate	7,600	31,600	13,500	<b>18,500</b>	71,200
Low	300	200	1,200	1,600	3,200

Source: ASCS 2012, RAP

**Table 15 Distribution of community younger adult clients by FACS needs and local FACS eligibility thresholds**

Clients needs					
LA FACS threshold	Critical	Substantial	Moderate	Low	Total
<b>ASCS estimates</b>					
Critical	1,275	208	34	7	1,524
Substantial	2,462	7,050	591	378	10,481
Moderate	277	807	460	45	1,589
Low	62	43	103	80	288
<b>National estimates (RAP inflated)</b>					



<b>Critical</b>	10,100	1,600	300	100	12,100
<b>Substantial</b>	55,300	158,400	13,300	8,500	235,500
<b>Moderate</b>	6,900	20,100	11,500	1,100	39,600
<b>Low</b>	400	300	700	600	2,000
<b>National estimates of underlying population</b>					
<b>Critical</b>	10,100	1,600	<b>5,000</b>	<b>3,900</b>	20,600
<b>Substantial</b>	55,300	158,400	<b>90,700</b>	<b>70,500</b>	374,900
<b>Moderate</b>	6,900	20,100	11,500	<b>8,900</b>	47,400
<b>Low</b>	400	300	700	600	2,000

**Source:** ASCS 2012, RAP

#### **Text Box 1 Data sources used for the estimation of expenditure implications**

##### **ONS mid-year population estimates 2012**

Population size by LA FACS threshold

##### **PSSRU eligibility survey 2014**

Probability of eligibility under FACS and draft national eligibility criteria by FACS group and LA FACS threshold

Average care package cost by FACS group and eligibility regulations

##### **Adult Social Care Survey 2012**

Distribution of existing clients by FACS group and LA FACS threshold

Care package cost by FACS group

##### **PSS Referrals, Assessments and Packages of Care 2012/13**

Number of existing clients by LA FACS threshold

##### **PSS EX1 2012/13**

Total current gross expenditure for existing clients (home care, day care, direct payments, equipment and adaptations, meals)

Total current net expenditure for existing clients (home care, day care, direct payments, equipment and adaptations, meals)

##### **English Longitudinal Study of Ageing waves 3-5 (PSSRU weighted)**

Assessable income of clients eligible under FACS by ADL count

Estimated care package of clients eligible under FACS by ADL count

## **6.2 Change in client numbers, gross and net expenditure**

The tables below present, for each regulation in turn, estimates of the changes in the number of eligible cases and of levels of gross and net social care expenditure.

Separate estimates are presented for older people and for younger adults. The available data did not allow for results to be disaggregated at the individual younger client group level. They are therefore provided for the all the younger client groups together.

Net expenditure figures are only provided for older people. It is expected that user contributions for younger client groups would be negligible and therefore gross and net expenditure would be very similar<sup>4</sup>.

In order to estimate net expenditure for older people, ELSA data were analysed to compare average assessable income against the average care package costs for care users with different levels of dependency<sup>5</sup>. In the absence of information in ELSA about FACS thresholds, dependency was based upon counts of ADL failures and aligned with FACS. Table 16 summarises the estimated proportional contributions of older people with different levels of dependency.

**Table 16 Average user contribution by ADL level**

0 ADLs	1 ADL	2-3 ADLs	4-5 ADLs
33%	28%	18%	6%

**Source:** modelling of ELSA data

### 6.2.1 Older people: outcomes 1+ regulations

Table 17 presents the estimated additional number of older clients under the Outcomes 1+ draft regulations. Across all local authorities, the results suggest a 19% increase in client numbers. The increase in client numbers is particularly pronounced in critical authorities, which see an estimated 37% increase in eligible clients.

**Table 17 Outcomes 1+ regulations: additional older clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional clients (critical)	Additional clients (substantial)	Additional clients (moderate)	Additional clients (low)	Additional clients (total)	Proportional change in client numbers
<b>Critical</b>	0	3,100	1,700	4,100	8,900	+ 37%
<b>Substantial</b>	0	0	28,200	70,700	98,800	+ 21%
<b>Moderate</b>	0	0	0	3,100	3,100	+ 4%

<sup>4</sup> Indicators of user contributions to community care packages for younger clients groups in EX1 returns suggest that user charges account approximately for 5% of gross expenditure.

<sup>5</sup> Average care package by ADL was estimated on the basis of ASCS.

<b>Low</b>	0	0	0	0	0	+ 0%
<b>Total</b>	0	3,100	29,800	77,900	110,800	+ 19%

The impact on gross expenditure on both unit cost scenarios is more limited because of the relatively low needs and hence care packages of the newly eligible clients. As a result, the implementation of the outcomes 1+ eligibility regulations is estimated to lead to an increase in overall gross expenditure across England (relative to total community, care home and nursing home expenditure) of 4% and 5% under the low and high unit cost scenarios, respectively (Table 18). Net expenditure across England is estimated to increase by 3% and 4% under the low and high unit cost scenarios, respectively (Table 19). This is equivalent to an increase of £219m and £294m.

For authorities with critical eligibility thresholds, the increase in gross and net expenditure for older people in the low unit cost scenario is 7% (Table 19), a much lower value than the increase in the number of eligible clients. This difference is due to the much smaller care packages for newly eligible cases.

**Table 18 Outcomes 1+ regulations: additional gross expenditure on older clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional gross expenditure (critical clients) (£000s)	Additional gross expenditure (substantial clients) (£000s)	Additional gross expenditure (moderate clients) (£000s)	Additional gross expenditure (low clients) (£000s)	Additional gross expenditure (all clients) (£000s)	Change in gross expenditure
<b>High unit cost assumptions</b>						
<b>Critical</b>	£0	£19,300	£7,500	£14,300	£41,100	+ 10%
<b>Substantial</b>	£0	£0	£127,600	£244,400	£372,000	+ 5%
<b>Moderate</b>	£0	£0	£0	£10,600	£10,600	+ 1%
<b>Low</b>	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£19,300	£135,100	£269,300	£423,700	+ 5%
<b>Low unit cost assumptions</b>						
<b>Critical</b>	£0	£14,400	£5,600	£10,700	£30,800	+ 7%
<b>Substantial</b>	£0	£0	£95,700	£183,300	£279,000	+ 4%
<b>Moderate</b>	£0	£0	£0	£8,000	£8,000	+ 1%
<b>Low</b>	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£14,400	£101,300	£202,000	£317,800	+ 4%

**Table 19 Outcomes 1+ regulations: additional net expenditure on older clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional net expenditure (critical clients) (£000s)	Additional net expenditure (substantial clients) (£000s)	Additional net expenditure (moderate clients) (£000s)	Additional net expenditure (low clients) (£000s)	Additional net expenditure (all clients) (£000s)	Change in net expenditure
<b>High unit cost assumptions</b>						
Critical	£0	£15,800	£5,400	£9,600	£30,800	+ 10%
Substantial	£0	£0	£91,600	£164,000	£255,600	+ 5%
Moderate	£0	£0	£0	£7,100	£7,100	+ 1%
Low	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	<b>£0</b>	<b>£15,800</b>	<b>£97,000</b>	<b>£180,800</b>	<b>£293,500</b>	<b>+ 4%</b>
<b>Low unit cost assumptions</b>						
Critical	£0	£10,800	£4,000	£7,200	£22,000	+ 7%
Substantial	£0	£0	£68,700	£123,000	£191,700	+ 3%
Moderate	£0	£0	£0	£5,400	£5,400	+ 1%
Low	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	<b>£0</b>	<b>£10,800</b>	<b>£72,800</b>	<b>£135,600</b>	<b>£219,100</b>	<b>+ 3%</b>

### 6.2.2 Older people: outcomes 2+ regulations

The increase in the number of older clients and in social care expenditure under the outcomes 2+ regulations is significantly smaller than under the 1+ outcomes regulations. Overall, the number of additional clients is estimated at 6% across England, and 19% in authorities with a critical FACS need threshold (Table 20).

**Table 20 Outcomes 2+ regulations: additional older clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional clients (critical)	Additional clients (substantial)	Additional clients (moderate)	Additional clients (low)	Additional clients (total)	Change in clients %
Critical	0	3,100	1,200	400	4,700	+ 19%
Substantial	0	0	20,400	6,400	26,800	+ 6%
Moderate	0	0	0	800	800	+ 1%
Low	0	0	0	0	0	+ 0%
<b>Total</b>	<b>0</b>	<b>3,100</b>	<b>21,600</b>	<b>7,600</b>	<b>32,300</b>	<b>+ 6%</b>

Levels of net expenditure under the Outcomes 2+ regulations are expected to grow by 1% and 2% in England and by 5% and 7% in areas with critical needs thresholds under the low and high unit cost scenarios, respectively (Table 22). This is equivalent to an increase in net expenditure among older people of £77m and £104m in England, of which approximately £14 and £21m would correspond to authorities with critical needs thresholds.

**Table 21 Outcomes 2+ regulations: additional gross expenditure on older clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional gross expenditure (critical clients) (£000s)	Additional gross expenditure (substantial clients) (£000s)	Additional gross expenditure (moderate clients) (£000s)	Additional gross expenditure (low clients) (£000s)	Additional gross expenditure (all clients) (£000s)	Change in gross expenditure %
<b>High unit cost assumptions</b>						
Critical	£0	£19,300	£5,400	£1,300	£26,000	+ 6%
Substantial	£0	£0	£92,400	£22,100	£114,400	+ 2%
Moderate	£0	£0	£0	£2,800	£2,800	+ 0%
Low	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£19,300	£97,800	£26,100	£143,200	+ 2%
<b>Low unit cost assumptions</b>						
Critical	£0	£14,400	£4,100	£1,000	£19,500	+ 5%
Substantial	£0	£0	£69,300	£16,500	£85,800	+ 1%
Moderate	£0	£0	£0	£2,100	£2,100	+ 0%
Low	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£14,400	£73,300	£19,600	£107,400	+ 1%

**Table 22 Outcomes 2+ regulations: additional net expenditure on older clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional net expenditure (critical clients) (£000s)	Additional net expenditure (substantial clients) (£000s)	Additional net expenditure (moderate clients) (£000s)	Additional net expenditure (low clients) (£000s)	Additional net expenditure (all clients) (£000s)	Change in net expenditure %
<b>High unit cost assumptions</b>						
Critical	£0	£15,800	£3,900	£900	£20,500	+ 7%
Substantial	£0	£0	£66,300	£14,800	£81,100	+ 1%
Moderate	£0	£0	£0	£1,900	£1,900	+ 0%
Low	£0	£0	£0	£0	£0	+ 0%

<b>Total</b>	£0	£15,800	£70,200	£17,500	£103,500	+ 2%
<b>Low unit cost assumptions</b>						
<b>Critical</b>	£0	£10,800	£2,900	£700	£14,300	+ 5%
<b>Substantial</b>	£0	£0	£49,700	£11,100	£60,900	+ 1%
<b>Moderate</b>	£0	£0	£0	£1,400	£1,400	+ 0%
<b>Low</b>	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£10,800	£52,700	£13,200	£76,600	+ 1%

### 6.2.3 Older people: activities-based regulations

Table 23 indicates that the implementation of the activities-based regulations are estimated to lead to an increase of 9% in the number of social care older clients across England (Table 23). As previously, the proportional increases are particularly high in areas with critical needs thresholds, which are expected to experience an increase of 24% in the number of older clients.

**Table 23 Activities-based regulations: additional older clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional clients (critical)	Additional clients (substantial)	Additional clients (moderate)	Additional clients (low)	Additional clients (total)	Change in clients %
<b>Critical</b>	0	3,100	2,400	400	5,900	+ 24%
<b>Substantial</b>	0	0	37,900	6,500	44,400	+ 9%
<b>Moderate</b>	0	0	0	5,000	5,000	+ 7%
<b>Low</b>	0	0	0	0	0	+ 0%
<b>Total</b>	0	3,100	40,300	12,000	55,400	+ 9%

**Table 24 Activities-based regulations: additional gross expenditure on older clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional gross expenditure (critical clients) (£000s)	Additional gross expenditure (substantial clients) (£000s)	Additional gross expenditure (moderate clients) (£000s)	Additional gross expenditure (low clients) (£000s)	Additional gross expenditure (all clients) (£000s)	Change in gross expenditure %
<b>High unit cost assumptions</b>						
<b>Critical</b>	£0	£19,300	£10,800	£1,500	£31,500	+ 8%
<b>Substantial</b>	£0	£0	£171,600	£22,600	£194,200	+ 3%
<b>Moderate</b>	£0	£0	£0	£17,400	£17,400	+ 2%
<b>Low</b>	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£19,300	£182,400	£41,500	£243,100	+ 3%
<b>Low unit cost assumptions</b>						
<b>Critical</b>	£0	£14,400	£8,100	£1,100	£23,600	+ 6%

<b>Substantial</b>	£0	£0	£128,700	£17,000	£145,700	+ 2%
<b>Moderate</b>	£0	£0	£0	£13,000	£13,000	+ 1%
<b>Low</b>	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£14,400	£136,800	£31,100	£182,400	+ 2%

The estimates of changes in net expenditure in Table 25 suggest increases of 2% and 3% across England in net social care expenditure for older people under the low and high unit cost scenarios, respectively. This is equivalent to £130m and £175m additional expenditure, under the low and high unit cost scenarios, respectively.

**Table 25 Activities-based regulations: additional net expenditure on older clients by groups of local authorities (by FACS eligibility threshold)**

<b>LA FACS eligibility threshold</b>	<b>Additional net expenditure (critical clients) (£000s)</b>	<b>Additional net expenditure (substantial clients) (£000s)</b>	<b>Additional net expenditure (moderate clients) (£000s)</b>	<b>Additional net expenditure (low clients) (£000s)</b>	<b>Additional net expenditure (all clients) (£000s)</b>	<b>Change in net expenditure %</b>
<b>High unit cost assumptions</b>						
<b>Critical</b>	£0	£15,800	£7,700	£1,000	£24,500	+ 8%
<b>Substantial</b>	£0	£0	£123,200	£15,200	£138,400	+ 2%
<b>Moderate</b>	£0	£0	£0	£11,700	£11,700	+ 2%
<b>Low</b>	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£15,800	£131,000	£27,800	£174,600	+ 3%
<b>Low unit cost assumptions</b>						
<b>Critical</b>	£0	£10,800	£5,800	£700	£17,300	+ 6%
<b>Substantial</b>	£0	£0	£92,400	£11,400	£103,800	+ 2%
<b>Moderate</b>	£0	£0	£0	£8,800	£8,800	+ 1%
<b>Low</b>	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£10,800	£98,200	£20,900	£129,900	+ 2%

#### 6.2.4 Younger adults client groups: outcomes 1+ regulations

The results of the modelling of the impact of the three sets of draft regulations on the numbers of clients and levels of expenditure for younger clients groups are similar to the results for older people. Overall, the increases in the number of clients and levels of expenditure are significantly greater under the outcomes 1+ scenario than under either the outcomes 2+ or the activities-based regulations.

Under the outcomes 1+ regulations, the number of younger clients in England is expected to increase by 14% (Table 26). Expenditure is expected to increase by 2% and 3% under the low and high unit cost scenarios, respectively (Table 27).

**Table 26 Outcomes 1+ regulations: additional younger clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional clients (critical)	Additional clients (substantial)	Additional clients (moderate)	Additional clients (low)	Additional clients (total)	Change in clients %
<b>Critical</b>	0	0	1,500	900	2,400	+ 17%
<b>Substantial</b>	0	0	27,900	15,900	43,800	+ 16%
<b>Moderate</b>	0	0	0	3,000	3,000	+ 7%
<b>Low</b>	0	0	0	0	0	+ 0%
<b>Total</b>	0	0	29,400	19,800	49,200	+ 14%

**Table 27 Outcomes 1+ regulations: additional gross expenditure on younger clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional gross expenditure (critical clients) (£000s)	Additional gross expenditure (substantial clients) (£000s)	Additional gross expenditure (moderate clients) (£000s)	Additional gross expenditure (low clients) (£000s)	Additional gross expenditure (all clients) (£000s)	Change in gross expenditure %
<b>High unit cost assumptions</b>						
<b>Critical</b>	£0	£0	£8,500	£3,600	£12,100	+ 4%
<b>Substantial</b>	£0	£0	£155,600	£65,000	£220,600	+ 4%
<b>Moderate</b>	£0	£0	£0	£12,100	£12,100	+ 1%
<b>Low</b>	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£0	£164,100	£80,700	£244,800	+ 3%
<b>Low unit cost assumptions</b>						
<b>Critical</b>	£0	£0	£5,100	£2,100	£7,300	+ 2%
<b>Substantial</b>	£0	£0	£93,300	£39,000	£132,400	+ 2%
<b>Moderate</b>	£0	£0	£0	£7,300	£7,300	+ 1%
<b>Low</b>	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£0	£98,500	£48,400	£146,900	+ 2%



## 6.2.5 Younger adults client groups: outcomes 2+ regulations

Table 28 shows that the number of younger clients eligible for social care support is expected to increase by 7% under the outcomes 2+ regulations (Table 28).

Expenditure is expected to increase by 1%, assuming the low and high unit costs scenarios (Table 29).

**Table 28 Outcomes 2+ regulations: additional younger clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional clients (critical)	Additional clients (substantial)	Additional clients (moderate)	Additional clients (low)	Additional clients (total)	Change in clients %
Critical	0	0	700	400	1,100	+ 8%
Substantial	0	0	12,100	8,100	20,200	+ 7%
Moderate	0	0	0	1,000	1,000	+ 2%
Low	0	0	0	0	0	+ 0%
<b>Total</b>	<b>0</b>	<b>0</b>	<b>12,800</b>	<b>9,600</b>	<b>22,300</b>	<b>+ 7%</b>

**Table 29 Outcomes 2+: additional gross expenditure on younger clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional gross expenditure (critical clients) (£000s)	Additional gross expenditure (substantial clients) (£000s)	Additional gross expenditure (moderate clients) (£000s)	Additional gross expenditure (low clients) (£000s)	Additional gross expenditure (all clients) (£000s)	Change in gross expenditure %
<b>High unit cost assumptions</b>						
Critical	£0	£0	£3,700	£1,800	£5,500	+ 2%
Substantial	£0	£0	£67,400	£33,100	£100,500	+ 2%
Moderate	£0	£0	£0	£4,200	£4,200	+ 0%
Low	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	<b>£0</b>	<b>£0</b>	<b>£71,100</b>	<b>£39,100</b>	<b>£110,200</b>	<b>+ 1%</b>
<b>Low unit cost assumptions</b>						
Critical	£0	£0	£2,200	£1,100	£3,300	+ 1%
Substantial	£0	£0	£40,400	£19,900	£60,300	+ 1%
Moderate	£0	£0	£0	£2,500	£2,500	+ 0%
Low	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	<b>£0</b>	<b>£0</b>	<b>£42,700</b>	<b>£23,500</b>	<b>£66,100</b>	<b>+ 1%</b>

## 6.2.6 Younger adults client groups: activities-based regulations

The impact on numbers of clients and levels of expenditure under the activities-based regulations is slightly greater than under the outcomes 2+ regulations. Overall, the number of clients is expected to increase by 8% across England (Table 30). Expenditure is expected to increase by 1% and 2% assuming the low and high unit costs scenarios, respectively (Table 31).

**Table 30 Activities-based regulations: additional younger clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional clients (critical)	Additional clients (substantial)	Additional clients (moderate)	Additional clients (low)	Additional clients (total)	Change in clients %
<b>Critical</b>	0	0	1,100	300	1,400	+ 10%
<b>Substantial</b>	0	0	20,900	4,800	25,700	+ 9%
<b>Moderate</b>	0	0	0	900	900	+ 2%
<b>Low</b>	0	0	0	0	0	+ 0%
<b>Total</b>	0	0	22,100	5,900	28,000	+ 8%

**Table 31 Activities-based regulations: additional gross expenditure on younger clients by groups of local authorities (by FACS eligibility threshold)**

LA FACS eligibility threshold	Additional gross expenditure (critical clients) (£000s)	Additional gross expenditure (substantial clients) (£000s)	Additional gross expenditure (moderate clients) (£000s)	Additional gross expenditure (low clients) (£000s)	Additional gross expenditure (all clients) (£000s)	Change in gross expenditure %
<b>High unit cost assumptions</b>						
<b>Critical</b>	£0	£0	£6,400	£1,100	£7,500	+ 2%
<b>Substantial</b>	£0	£0	£116,700	£19,500	£136,200	+ 2%
<b>Moderate</b>	£0	£0	£0	£3,600	£3,600	+ 0%
<b>Low</b>	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£0	£123,100	£24,200	£147,300	+ 2%
<b>Low unit cost assumptions</b>						
<b>Critical</b>	£0	£0	£3,800	£600	£4,500	+ 1%

<b>Substantial</b>	£0	£0	£70,000	£11,700	£81,700	+ 1%
<b>Moderate</b>	£0	£0	£0	£2,200	£2,200	+ 0%
<b>Low</b>	£0	£0	£0	£0	£0	+ 0%
<b>Total</b>	£0	£0	£73,800	£14,500	£88,400	+ 1%

## 7 Key messages from care manager workshops

### 7.1 Clarity of language, easiness of interpreting and applying new regulations

The draft regulations were reported to be clearer and easier to understand relative to FACS by care managers and by professionals working in initial screening teams. In two LAs it was reported that regulations related to users were easier to understand than carers' equivalent. On the other hand, care managers pointed out that certain phrases in the regulations are unclear. The phrase 'significant impact on wellbeing' was thought to be vague by some care managers as 'significant' and 'wellbeing' were reported to be very subjective and open to interpretation, particularly in the context of personalization where it is up to the client to define these words.

Informant [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... the term 'significant' is very vague...I will feel quite confident to be able to argue a lot of cases that they have 'a significant impact on adult's wellbeing' given that it is us who will be doing assessment, it is us who are going to be criticised when somebody makes a challenge and says 'well it has a significant impact on x, y, z for these reasons'. I think it needs to be tightened up a bit. [LA3]

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.

It's a subjective word. [LA 5]

I: I think that comes back to significant wellbeing and how somebody can argue that whatever they want will have a significant impact on their wellbeing.

I: and I think that lowers the bar

I: That needs more definition. [LA 7]

Conversely, some informants found it easy to interpret the concept of “significant impact on wellbeing”. In one LA it was reported to be equivalent to their current definition of substantial needs under the FACS regulations.

Care managers also brought up the following issues with regards to understanding and applying draft regulations:

- It was pointed out in one LA that ‘significantly’ in the phrase ‘takes significantly longer’ (4d) is vague and difficult to apply in assessing people’s needs.
- There was some uncertainty about the remit of managing the household and what that could encompass (e.g. getting a handyman, paying the bills, dealing with correspondence).
- In one LA it was underlined that regulations need more clarity for clients about the fact that the availability of community and/or informal care and support will be taken into account when assessing eligible needs.
- In three LAs care managers were uncertain whether eligibility under draft regulations is depended on formal diagnosis of physical/mental impairment or illness.
- In one LA care managers reported that currently under FACS there is a degree of ambiguity about responsibilities between health and social care services and pointed out that new regulations need to help to resolve that ambiguity.
- The word ‘some’ was understood as equal to two or more by the vast majority of respondents with exception of one care manager who interpreted as equal to one or more.

## 7.2 Impact on the targeting of cases

In five out of six LAs care managers considered that the new regulations will increase the existing level of access to care and support due to the following reasons:

- The inclusion of a new dimension of need related to household maintenance was believed by professionals from three LAs to increase the numbers of eligible individuals.
- Uncertainties in the interpretation of certain phrases (e.g. significant, see point 7.1 above) were thought by staff from three LAs to lead to increases in eligible cases and legal challenges.
- A lack of a clear cutoff point (in contrast with FACS) that defines eligibility was thought by staff from four LAs to increase difficulty in defending ineligibility (and possibly lead to more legal challenges).

I:...with FACS criteria, moderate and low needs...you are not eligible, so it's pretty clear... unfortunately, you are not eligible for funded care, you can say that. So we can signpost, but this one [new regulations] I'm not very sure whether that possibility is there or not.

Researcher [R]: To turn people away and signpost them you mean?

I: Yeah, yeah. [LA4]

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]

It was furthermore pointed out that whereas FACS allowed the system to target people with higher needs due to the classification of needs, the lack of such classification in the new regulations could lead to diversion of resources from people with higher level of needs to those who have less severe needs, particularly if LAs need to provide services for more people within the same budgets (see also point below). However, in four LAs care managers also expressed the view that new regulations, particularly the outcomes-based version, are aligned with the prevention agenda because they focus on individuals with lower needs and may prevent the future escalation of needs.

### 7.3 Financial implications of implementing new regulations

Beliefs that new regulations may increase the number of eligible people led to anxieties about the need for further financial resources. Greater anxiety about the financial implications of the new regulations was expressed in LAs where the financial pressures were reported to be already high. Consequently in these LAs the potential impact of new regulations on the number of eligible individuals was often perceived as a threat, and was related to expressed disadvantages of new regulations:

I: This is so wide, the new regulations, and where is the threshold...there has to be a benchmark to say, you are eligible for service or you are not eligible for service...and as a social worker, if there was enough money I would go with these, meeting people's needs. So I will not argue with this [new regulations] but there has to be realistically a cut-off point [LA2].

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]

In two LAs concerns were voiced that since an eligibility assessment automatically generates a budget figure it may be problematic to signpost potentially new eligible people to other services:

I: If you say somebody is eligible they will be going straight into our personal budget calculator to generate a budget...

I: ...when somebody knows that they have potential budget it is very, very difficult to say, 'however, you do not need to spend that money, because you can get that for free' because that is where people hang on

to idea of finances and they say ‘I have a £20 budget so maybe I can do this or that with it’...this is going to bankrupt us. [LA 3]

Consequently, some care managers suggested that the new regulations would need to be tightened, and apart from specifying the terminology and introduction of a clearer eligibility benchmark it was suggested that focusing exclusively on individuals with permanent/long-term disability may be useful:

I: what is clear under FACS is they have to have permanent or substantial disability, so that is what is missing from new guidance [LA1].

Conversely, in two LAs care managers reported that the introduction of new regulations is unlikely to impact their budgets significantly. In one LA, informants thought that explicit carers’ assessment may increase financial needs, however they believed that potentially eligible carers may be signposted to non-statutory services.

#### 7.4 Groups of users identified as missing

Care managers identified that the following groups of users may be wrongly excluded based on the new regulations:

- Individuals who are unable to meet only one of the basic care outcomes/activities (rather than ‘some or more’) but to such an extent that it has a severely detrimental effect on their wellbeing.

I: and we know we have people who cannot do only one thing.

I: and it should be one, because e.g. if you cannot maintain your personal hygiene.

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]

There was a concern that the requirement for ‘some or more’ basic care outcomes/activities may exclude particular groups of individuals e.g. with brain injuries who tend to have difficulties with one dimension of needs only (i.e. managing correspondence, bills but do not tend to have problems with other activities) however it can lead to severe problems (such as electricity cut offs etc., or risk of eviction).

I:...having reviewed somebody with brain injury...all he needed was help with correspondence because he cannot get his head around this, but he is not eligible (under FACS)... whether you look at the old or new regulations it does not address vulnerable people like that client and we have them quite a lot... So if it is just one area like for people with brain injury that they do not manage and they are coping with other areas.

I: it causes a lot of problems when people are not managing, responding to things timely and it was causing a lot of issues, outcomes of that put people at risk of eviction [LA1].

- Socially isolated individuals who need assistance with meeting their social needs (see point 7.5 below for more details).
- It was pointed out that if a formal diagnosis of impairment or illness is needed this may impact eligibility of people with dementia (sometimes without a formal diagnosis) or substance misusers.
- There were concerns that the requirement that needs have to stem from physical/mental impairment or illness could exclude people with autism or substance misusers.

## 7.5 Dimensions of outcomes

The following dimensions of outcomes were identified as missing from the draft regulations:

- Housing needs
  - I...if we met housing needs more...then much more people would be able to carry on with life without us getting involved [LA3]
- Managing social interactions/social relationships was reported to be missing or at least not clearly covered based on point 2b and 2d (accessing recreational facilities or services) and could impact eligibility for socially isolated individuals.
- Managing financial matters/bills/correspondence was reported to be missing (or not clearly covered) and there were concerns that this could impact older people who are particularly vulnerable to financial abuse or people with brain injuries.
- Medication support.
- It was pointed out that the need to access public transport excludes people who need non-public forms of transport:
  - I: Eligibility should be about using transport not only public transport, some people cannot use public transport at all, they may be very paranoid, they think people are looking at them, staring at them, and a lot of people cannot cope with that, and there is a risk of them becoming aggressive and they need a different way of transport, so I think the public transport needs to be changed [LA 7]

Conversely, some care managers questioned whether accessing and engaging in work, training, education and volunteering should be social care services' responsibilities, others expressed that NHS should be responsible for making their services more accessible rather than adult social care services (points 2d and 4vi):

‘so if all the agencies are reading this, now they will think ‘well adult social care can do this’ and that is our responsibility now’ [LA 3]. Some also expressed that NHS should be responsible for making their services more accessible rather than adult social care services (points 2d and 4vi). It was highlighted that the new regulations would benefit from clarifying the extent of collaboration that would be required between various agencies to meet identified needs. Moreover, it was pointed out that it should be made clearer for clients that identified 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...

I: 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, so it opens it up for people expecting that they may use community network. [LA 7]

However, these opinions were related to respondents’ concerns over budgetary pressures stemming from new regulations, and in two LAs where no budgetary concerns were expressed care managers were pleased that such aspects as access to facilities and services, engaging in work etc. were included in the regulations.

Care managers across various LAs appreciated the inclusion of household maintenance in new regulations and reported that the inability to keep the house clean can severely impact individuals’ wellbeing. The inclusion of carrying out caring responsibilities the adult has for a child was also considered as an important point to be included in new regulations however it was highlighted that it may place additional burden on children’s services.

## 7.6 Outcomes versus activities

Informants expressed different opinions regarding the advantages and disadvantages of activities- and outcomes-focused draft regulations. Some care managers thought that outcomes-based regulations are more person-centered and focused on enabling individuals to maintain better quality of life. Outcomes were also reported to allow practitioners to consider a wider variety of needs, for example, ‘managing nutrition’ could include being able to access food/shopping and to prepare meals as well as eating and drinking, whereas ‘eating and drinking’ is much narrower in scope:

I:...Somebody can eat and drink, physically eat and drink, but that doesn’t mean they can maintain their, um, manage their nutrition safely, and adequately...So, that would be my argument on that [in favour of outcomes-based regulations]... [LA 5]



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, how they make use of the cooker, what they are like on the stairs. [LA 6]

I: Somebody with dementia can get up and get dressed but they may get dressed in something completely inappropriate...whereas in the Outcomes 1+f it is about being appropriately clothed, it incorporates different difficulties that people have...managing toilet needs and toileting are different. I think activities could probably screen people out... [LA 3]

Consequently, some respondents believed that activities-based regulations are more likely to exclude certain groups of people who are able to perform an activity though cannot achieve an outcome, for example, individuals with dementia, mental health problems or learning disabilities. Even care managers who thought that outcomes-based regulations were better relative to activities-based, often admitted that subjectivity of such words as 'adequately' and 'appropriately' could be problematic and that mental capacity of the user is an important factor in applying the outcomes-based regulations. Conversely, the subjectivity was not always seen as a problem, and some care managers expressed the view that it is impossible to avoid subjectivity with the current FACS system.

Some care managers expressed concerns that outcome-based regulations may lead to enforcement of 'appropriate standards' and put pressure on users to perform an outcome, while activities-based regulations were perceived by them 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 seem likes it is putting pressure on service users to perform.

I: Some outcomes cannot be measured, activities are more pure, simpler... 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.

I: I think if it is outcomes the LAs will find it easier to say no [to say that an individual is not eligible]. Because how are we gonna measure these, what are the outcomes? That is going to be quite difficult for us to measure. [LA 2]

In one LA it was highlighted that activities are easier to measure relative to outcomes and consequently it may be easier to provide evidence for eligibility based on activities rather than on outcomes. However, this seems to be related to the extent of flexibility and professional judgment care managers are allowed to exercise in the assessment process as higher constraints imposed on care managers could translate into anxiety around measurement to prove eligibility.

## 7.7 Flexibility, transparency and risk of legal challenge

Overall, care managers thought that the new regulations provide sufficient flexibility to exercise professional judgment, nonetheless, some expressed that there is too much flexibility and not enough transparency, which, in turn, could make practitioners and LAs subject to more legal challenges.

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

I:... with the wording, if we are trying to argue that it does not have a significant impact, when you have people with learning difficulties you can have family members 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.

I: We are quite lucky that our LA is quite appreciative of our personal autonomy, and this [new regulations] gives you a lot of professional autonomy saying whether somebody is eligible or not. The difficulty is that it also will be open to legal challenges. [LA 3]

The beliefs regarding transparency of new regulations were aligned with perceptions of the potential threat that the new regulations posed to the budgets. Where no immediate threat to the budget was reported in two LAs, the care managers saw the new regulations as much more transparent than FACS. In such authorities, care managers did not foresee any particular legal challenges based on the new regulations, and some even believed that there may be fewer legal challenges as the new regulations are clearer than FACS and more person-centered:

I: I would say there would be less legal risk because this is less rigid than current FACS criteria.

I: I think the new regulation are more specific, it comes back to the fact that a person has 2 or more needs, so it is easy to work it out and say to people 'you have x amount of needs in this area which means that under the eligibility criteria you qualify for a service or not', but with FACS it is not specific... [LA6]

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. I think it's when they're in a ticked box and they feel that they're not being listened to... [LA 5]

## 7.8 Carers

Overall care managers were satisfied with the explicit inclusion of carers' into regulations and highlighted the importance of acknowledging carers' roles. In all but one LA care managers nonetheless pointed out that this will most likely lead to an increase in people eligible for services. Some care managers were also not certain what services carers would be eligible to receive. Concerns around lack of a clear eligibility threshold and unclear meaning of 'significant impact on wellbeing' were also voiced in relation to carers' regulations, although in one LA care managers thought that the term 'significant impact on wellbeing' was easier to interpret in relation to users than to carers and in another LA respondents thought that overall the regulations regarding carers were less clear than regarding users. Some care managers pointed out that there should be a clearer definition of who is a "carer", which is particularly important for assessing eligibility when there are multiple carers for one adult. There were also uncertainties about whether the new regulations apply, or 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]

Conversely, in some LAs care managers pointed out that only carers of eligible users should be eligible for assessment:

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]

## 7.9 Guidance

In one LA care managers reported that the guidance provided with new regulations was helpful in interpreting the meaning of the phrase 'significant impact on wellbeing', particularly the case studies in the guidance. Overall where clarity was expressed to be missing regarding the regulations as reported earlier, care managers asked for more guidance. Consequently, it was reported that terms such as 'significant'; 'wellbeing' but also 'appropriate'; 'adequate' in relation to outcomes-based regulations should be defined more clearly, which would be helpful for practitioners but also for users and would enable users and carers to understand the assessment process and their rights. In one LA care managers reported that 'illness' should be specified more clearly and whether a formal diagnosis is needed or not.

## 8 Policy implications

In all three versions of the draft regulations, the results imply a likely increase in levels of eligibility for some service users. Findings are broadly aligned with those reported in the earlier PSSRU vignette-based analysis of the June 2013 draft regulations (Fernandez & Snell, 2014). Some increases in eligibility are observed among users with moderate or low needs, whereas cases with critical or substantial levels of need are estimated to be eligible under both FACS and the draft regulations. Overall, the increases in likely eligibility linked to the June 2014 regulations are smaller than those associated with the June 2013 draft regulations.

## 9 References

- Fernandez, J.-L., & Snell, T. (2012). *Survey of Fair Access to Care Services (FACS) Assessment Criteria Among Local Authorities in England. Framework* (pp. 1–72). London: PSSRU discussion paper 2825.
- Fernandez, J.-L., & Snell, T. (2013). *Implications on expenditure and numbers of social care clients of minimum needs eligibility criteria in England*. London: PSSRU Discussion Paper 2856.
- Fernandez, J.-L., & Snell, T. (2014). *Impact of the June 2013 draft eligibility regulations on social care in England: a vignette-based study of care managers assessments*. PSSRU discussion paper DP2872.
- Fernandez, J.-L., Snell, T., Forder, J., & Wittenberg, R. (2013). *Implications of setting eligibility criteria for adult social care services in England at the moderate needs level* (p. 38). London: PSSRU discussion paper 2851.

## 10 Appendices

### 10.1 Eligibility regulations evaluated

#### 10.1.1 Activities-based regulations

*Draft Regulations laid before Parliament under section 125(4)(a) of the Care Act 2014, for approval by resolution of each House of Parliament.*

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## DRAFT STATUTORY INSTRUMENTS

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**2014 No. XXX**

### **SOCIAL CARE, ENGLAND**

#### The Care and Support (Eligibility Criteria) Regulations 2014

<i>Made</i>	--	-	-	***
<i>Coming into force</i>	-	-		***

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 13(7) and (8) and 125(7) and (8) of the Care Act 2014(a).

A draft of this instrument has been laid before and approved by a resolution of each House of Parliament in accordance with section 125(4)(a) of that Act.

#### **Citation and commencement**

1. These Regulations may be cited as the Care and Support (Eligibility Criteria) Regulations 2014 and shall come into force on 1st April 2015.

#### **Needs which meet the eligibility criteria: adults who need care and support**

2.—(1) An adult's needs meet the eligibility criteria if—

- (a) the adult's needs are caused by a physical or mental impairment or illness;
- (b) as a result of the adult's needs the adult is unable to achieve an outcome specified in paragraph (2); and
- (c) as a consequence there is, or is likely to be, a significant impact on the adult's well-being.

(2) The specified outcomes are—

- (a) carrying out some or all basic care activities;
- (b) maintaining family or other significant personal relationships;

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(a) 2014 c. 23; see section 125(1) for the power to make regulations.

- (c) accessing and engaging in work, training, education or volunteering;
- (d) accessing necessary facilities or services in the local community including medical services, public transport, educational facilities, and recreational facilities or services;
- (e) carrying out any caring responsibilities the adult has for a child.

(3) In this regulation, “basic care activities” means essential care tasks that a person carries out as part of normal daily life including—

- (a) eating and drinking;
- (b) maintaining personal hygiene;
- (c) toileting;
- (d) getting up and dressed;
- (e) getting around one’s home;
- (f) preparing meals; and
- (g) the cleaning and maintenance of one’s home.

(4) For the purposes of this regulation an adult is to be regarded as being unable to achieve an outcome if the adult—

- (a) is unable to achieve it without assistance;
- (b) is able to achieve it without assistance but doing so causes the adult significant pain, distress or anxiety;
- (c) is able to achieve it without assistance but doing so endangers or is likely to endanger the health or safety of the adult, or of others; or
- (d) is able to achieve it without assistance but takes significantly longer than would normally be expected.

(5) Where the effects of an adult’s needs fluctuate, in determining whether the adult’s needs meet the eligibility criteria, the local authority must take into account the adult’s circumstances over such period as it considers necessary to establish an accurate indication of the adult’s level of need.

### **Needs which meet the eligibility criteria: carers**

3.—(1) A carer’s needs meet the eligibility criteria if—

- (a) the needs arise as a consequence of providing care for an adult; and
- (b) paragraph (2) or (3) applies.

(2) This paragraph applies if the effect of the carer’s needs is that the carer is unable to provide some of the necessary care to the adult needing care.

(3) This paragraph applies if—

- (i) the effect of the carer’s needs is that any of the circumstances specified in paragraph (4) apply to the carer; and
- (ii) as a consequence of that fact there is, or is likely to be, a significant impact on the carer’s well-being.

(4) The circumstances specified in this paragraph are as follows—

- (a) the carer’s physical or mental health is, or is at risk of, deteriorating;
- (b) the carer is unable to achieve any of the following outcomes—
  - (i) carrying out some or all basic household activities in the carer’s home (whether or not this is also the home of the adult needing care);

- (ii) carrying out any caring responsibilities the carer has for a child;
- (iii) providing care to other persons for whom the carer provides care;
- (iv) maintaining family or other significant personal relationships;
- (v) engaging in work, training, education or volunteering;
- (vi) making use of necessary facilities or services in the local community including medical services and educational facilities;
- (vii) engaging in recreational activities.

(5) In this regulation, “basic household activities” means essential household tasks that a person carries out as part of normal daily life including preparing meals and the cleaning and maintenance of one’s home.

(6) For the purposes of paragraph (2) a carer is to be regarded as being unable to provide the necessary care if the carer—

- (a) requires assistance to complete any task in relation to the provision of care;
- (b) is able to provide the care without assistance but doing so—
  - (i) causes or is likely to cause either the carer or the adult needing care significant pain, distress or anxiety; or
  - (ii) endangers or is likely to endanger the health or safety of the carer or the adult needing care.

(7) Where the effects of a carer’s needs fluctuate, in determining whether the carer’s needs meet the eligibility criteria, the local authority shall take into account the carer’s circumstances over such period as it considers necessary to establish an accurate indication of the carer’s level of need.

Signed by authority of the Secretary of State for Health.

*Name*

Date

Department of Health

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations specify the eligibility criteria for the purposes of Part 1 of the Care Act 2014 (“the Act”).

When an adult is found to have care and support needs following a needs assessment under section 9 of the Act (or in the case of a carer, support needs following a carer’s assessment under section 10), the local authority must determine whether those needs are at a level sufficient to meet the “eligibility criteria” under section 13 of the Act. Sections 18 and 20 of the Act set out the duty of local authorities to meet those of an adult’s needs for care and support and those of a carer’s needs for support which meet the eligibility criteria.

Regulation 2 sets out the eligibility criteria for adults who need care and support, and regulation 3 sets out the eligibility criteria for carers who need support.

## 10.1.2 Outcomes-based 1+ regulations

*Draft Regulations laid before Parliament under section 125(4)(a) of the Care Act 2014, for approval by resolution of each House of Parliament.*

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### DRAFT STATUTORY INSTRUMENTS

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**2014 No. XXX**

## **SOCIAL CARE, ENGLAND**

The Care and Support (Eligibility Criteria) Regulations 2014

*Made* - - - - **\*\*\***

*Coming into force* - - **\*\*\***

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 13(7) and (8) and 125(7) and (8) of the Care Act 2014<sup>(6)</sup>.

A draft of this instrument has been laid before and approved by a resolution of each House of Parliament in accordance with section 125(4)(a) of that Act.

### **Citation and commencement**

1. These Regulations may be cited as the Care and Support (Eligibility Criteria) Regulations 2014 and shall come into force on 1st April 2015.

### **Needs which meet the eligibility criteria: adults who need care and support**

2.—(1) An adult's needs meet the eligibility criteria if—

- (a) the adult's needs are caused by a physical or mental impairment or illness;
- (b) as a result of the adult's needs the adult is unable to achieve an outcome specified in paragraph (2); and
- (c) as a consequence there is, or is likely to be, a significant impact on the adult's well-being.

(2) The specified outcomes are—

- (a) meeting one or more basic care outcomes;
- (b) maintaining family or other significant personal relationships;
- (c) accessing and engaging in work, training, education or volunteering;
- (d) accessing necessary facilities or services in the local community including medical services, public transport, educational facilities, and recreational facilities or services;
- (e) carrying out any caring responsibilities the adult has for a child.

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<sup>(6)</sup> 2014 c. 23; see section 125(1) for the power to make regulations.



(3) In this regulation, “basic care outcomes” means care outcomes that enable a person to lead a normal day-to-day life including—

- (a) managing and maintaining nutrition;
- (b) maintaining personal hygiene;
- (c) managing toilet needs;
- (d) being appropriately clothed;
- (e) being able to make use of the home safely; and
- (f) keeping one’s home adequately clean and maintained.

(4) For the purposes of this regulation an adult is to be regarded as being unable to achieve an outcome if the adult—

- (a) is unable to achieve it without assistance;
- (b) is able to achieve it without assistance but doing so causes the adult significant pain, distress or anxiety;
- (c) is able to achieve it without assistance but doing so endangers or is likely to endanger the health or safety of the adult, or of others; or
- (d) is able to achieve it without assistance but takes significantly longer than would normally be expected.

(5) Where the effects of an adult’s needs fluctuate, in determining whether the adult’s needs meet the eligibility criteria, the local authority must take into account the adult’s circumstances over such period as it considers necessary to establish an accurate indication of the adult’s level of need.

#### **Needs which meet the eligibility criteria: carers**

3.—(1) A carer’s needs meet the eligibility criteria if—

- (a) the needs arise as a consequence of providing care for an adult; and
- (b) paragraph (2) or (3) applies.

(2) This paragraph applies if the effect of the carer’s needs is that the carer is unable to provide some of the necessary care to the adult needing care.

(3) This paragraph applies if—

- (i) the effect of the carer’s needs is that any of the circumstances specified in paragraph (4) apply to the carer; and
- (ii) as a consequence of that fact there is, or is likely to be, a significant impact on the carer’s well-being.

(4) The circumstances specified in this paragraph are as follows—

- (a) the carer’s physical or mental health is, or is at risk of, deteriorating;
- (b) the carer is unable to achieve any of the following outcomes—
  - (i) meeting some or all basic household Outcomes 1+n the carer’s home (whether or not this is also the home of the adult needing care);
  - (ii) carrying out any caring responsibilities the carer has for a child;
  - (iii) providing care to other persons for whom the carer provides care;
  - (iv) maintaining family or other significant personal relationships;
  - (v) engaging in work, training, education or volunteering;
  - (vi) making use of necessary facilities or services in the local community including medical services and educational facilities;
  - (vii) engaging in recreational activities.

(5) In this regulation, “basic household outcomes” means household outcomes that enable a person to live a normal day-to-day life including managing and maintaining nutrition, and keeping one’s home adequately clean and maintained.

(6) For the purposes of paragraph (2) a carer is to be regarded as being unable to provide the necessary care if the carer—

- (a) requires assistance to complete any task in relation to the provision of care;
- (b) is able to provide the care without assistance but doing so—
  - (i) causes or is likely to cause either the carer or the adult needing care significant pain, distress or anxiety; or
  - (ii) endangers or is likely to endanger the health or safety of the carer or the adult needing care.

(7) Where the effects of a carer’s needs fluctuate, in determining whether the carer’s needs meet the eligibility criteria, the local authority shall take into account the carer’s circumstances over such period as it considers necessary to establish an accurate indication of the carer’s level of need.

(8)  
Signed by authority of the Secretary of State for Health.

*Name*

Date

Department of Health

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations specify the eligibility criteria for the purposes of Part 1 of the Care Act 2014 (“the Act”).

When an adult is found to have care and support needs following a needs assessment under section 9 of the Act (or in the case of a carer, support needs following a carer’s assessment under section 10), the local authority must determine whether those needs are at a level sufficient to meet the “eligibility criteria” under section 13 of the Act. Sections 18 and 20 of the Act set out the duty of local authorities to meet those of an adult’s needs for care and support and those of a carer’s needs for support which meet the eligibility criteria.

Regulation 2 sets out the eligibility criteria for adults who need care and support, and regulation 3 sets out the eligibility criteria for carers who need support.

### **10.1.3 Outcomes-based 2+ regulations**

*Draft Regulations laid before Parliament under section 125(4)(a) of the Care Act 2014, for approval by resolution of each House of Parliament.*

**2014 No. XXX**

**SOCIAL CARE, ENGLAND**

The Care and Support (Eligibility Criteria) Regulations 2014

*Made* - - - - \*\*\*

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The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 13(7) and (8) and 125(7) and (8) of the Care Act 2014<sup>(7)</sup>.

A draft of this instrument has been laid before and approved by a resolution of each House of Parliament in accordance with section 125(4)(a) of that Act.

**Citation and commencement**

4. These Regulations may be cited as the Care and Support (Eligibility Criteria) Regulations 2014 and shall come into force on 1st April 2015.

**Needs which meet the eligibility criteria: adults who need care and support**

5.—(1) An adult’s needs meet the eligibility criteria if—

- (a) the adult’s needs are caused by a physical or mental impairment or illness;
- (b) as a result of the adult’s needs the adult is unable to achieve an outcome specified in paragraph (2); and
- (c) as a consequence there is, or is likely to be, a significant impact on the adult’s well-being.

(2) The specified outcomes are—

- (a) meeting some or all basic care outcomes;
- (b) maintaining family or other significant personal relationships;
- (c) accessing and engaging in work, training, education or volunteering;
- (d) accessing necessary facilities or services in the local community including medical services, public transport, educational facilities, and recreational facilities or services;
- (e) carrying out any caring responsibilities the adult has for a child.

(3) In this regulation, “basic care outcomes” means care outcomes that enable a person to lead a normal day-to-day life including—

- (a) managing and maintaining nutrition;
- (b) maintaining personal hygiene;
- (c) managing toilet needs;
- (d) being appropriately clothed;
- (e) being able to make use of the home safely; and
- (f) keeping one’s home adequately clean and maintained.

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<sup>(7)</sup> 2014 c. 23; see section 125(1) for the power to make regulations.

- (4) For the purposes of this regulation an adult is to be regarded as being unable to achieve an outcome if the adult—
- (a) is unable to achieve it without assistance;
  - (b) is able to achieve it without assistance but doing so causes the adult significant pain, distress or anxiety;
  - (c) is able to achieve it without assistance but doing so endangers or is likely to endanger the health or safety of the adult, or of others; or
  - (d) is able to achieve it without assistance but takes significantly longer than would normally be expected.
- (5) Where the effects of an adult’s needs fluctuate, in determining whether the adult’s needs meet the eligibility criteria, the local authority must take into account the adult’s circumstances over such period as it considers necessary to establish an accurate indication of the adult’s level of need.

**Needs which meet the eligibility criteria: carers**

- 6.—(1) A carer’s needs meet the eligibility criteria if—
- (a) the needs arise as a consequence of providing care for an adult; and
  - (b) paragraph (2) or (3) applies.
- (2) This paragraph applies if the effect of the carer’s needs is that the carer is unable to provide some of the necessary care to the adult needing care.
- (3) This paragraph applies if—
- (i) the effect of the carer’s needs is that any of the circumstances specified in paragraph (4) apply to the carer; and
  - (ii) as a consequence of that fact there is, or is likely to be, a significant impact on the carer’s well-being.
- (4) The circumstances specified in this paragraph are as follows—
- (a) the carer’s physical or mental health is, or is at risk of, deteriorating;
  - (b) the carer is unable to achieve any of the following outcomes—
    - (i) meeting some or all basic household Outcomes 1+n the carer’s home (whether or not this is also the home of the adult needing care);
    - (ii) carrying out any caring responsibilities the carer has for a child;
    - (iii) providing care to other persons for whom the carer provides care;
    - (iv) maintaining family or other significant personal relationships;
    - (v) engaging in work, training, education or volunteering;
    - (vi) making use of necessary facilities or services in the local community including medical services and educational facilities;
    - (vii) engaging in recreational activities.
- (5) In this regulation, “basic household outcomes” means household outcomes that enable a person to live a normal day-to-day life including managing and maintaining nutrition, and keeping one’s home adequately clean and maintained.
- (6) For the purposes of paragraph (2) a carer is to be regarded as being unable to provide the necessary care if the carer—
- (a) requires assistance to complete any task in relation to the provision of care;
  - (b) is able to provide the care without assistance but doing so—
    - (i) causes or is likely to cause either the carer or the adult needing care significant pain, distress or anxiety; or

- (ii) endangers or is likely to endanger the health or safety of the carer or the adult needing care.

(7) Where the effects of a carer's needs fluctuate, in determining whether the carer's needs meet the eligibility criteria, the local authority shall take into account the carer's circumstances over such period as it considers necessary to establish an accurate indication of the carer's level of need.

(8)

Signed by authority of the Secretary of State for Health.

*Name*

Date

Department of Health

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations specify the eligibility criteria for the purposes of Part 1 of the Care Act 2014 ("the Act").

When an adult is found to have care and support needs following a needs assessment under section 9 of the Act (or in the case of a carer, support needs following a carer's assessment under section 10), the local authority must determine whether those needs are at a level sufficient to meet the "eligibility criteria" under section 13 of the Act. Sections 18 and 20 of the Act set out the duty of local authorities to meet those of an adult's needs for care and support and those of a carer's needs for support which meet the eligibility criteria.

Regulation 2 sets out the eligibility criteria for adults who need care and support, and regulation 3 sets out the eligibility criteria for carers who need support.

## **10.2 Survey questionnaire**

### **Question 1**

Age at assessment

### **Question 2**

Gender

### **Question 3**

Ethnic group

### **Question 4**

Does this person need help to... (Yes/Sometimes/No/Not sure )

- Get up and down stairs or steps
- Go out of doors and walk down the road

- Get around indoors (except steps)
- Get in and out of bed (or chair)
- Use WC/toilet
- Wash hands and face
- Bath, shower or wash all over
- Get dressed and undressed
- Grooming (i.e. washing own hair)
- Feed him/herself
- Cooking/food preparation
- Carry out housework (laundry, cleaning etc)
- Go shopping for groceries
- Manage finances and paperwork (bills, etc)

#### Question 5

Does this person have any of the following sensory impairments?

- Hearing impairment
- Visual impairment
- Dual sensory loss

#### Question 6

Does this person receive help from friends or relatives in performing any of the tasks in question 4?

(Tick all that apply)

- Yes - receives informal care from someone in the household
- Yes - receives informal care from someone outside in the household

#### Question 7

Which of the following best describes this person's accommodation?

- Private household
- Care home or nursing home
- Hospital
- Sheltered housing
- Other (please specify in comments box)

#### Question 8

Who else (if anyone) lives with this person?

- Lives alone
- Lives with partner
- Lives with parents
- Lives with others, but none of the above
- Not applicable (e.g. care home)
- Eligibility under FACS

#### Question 9

What FACS rating was given during assessment, according to this person's highest need?

- Critical
- Substantial
- Moderate
- Low
- Not sure (please give details in comments box)

#### Question 10

Do these needs meet the FACS eligibility criteria currently in place in your local authority?

- Yes
- No
- Not sure (please give details in comments box)

#### Question 11

How do you think this person's care needs would be met under FACS? Tick all that apply.

For ongoing or one-off services, please provide an estimate of the cost of the care package they would receive

- Ongoing local authority care package (community) costing £ per week
- Ongoing local authority care package (care home)
- One-off services (e.g. equipment) costing £
- Referral to voluntary sector organisations
- Information or advice
- Unpaid care from family or friends

#### Question 12

Based on the draft national eligibility regulations, do you think this person's needs are eligible for support?

- Definitely
- Probably
- Probably not
- Definitely not
- Not sure (please give details in comments box)

#### Question 13

How do you think this person's care needs would be met under the draft regulations? Tick all that apply. For ongoing or one-off services, please provide an estimate of the cost of the care package they would receive

- Ongoing local authority care package (community) costing £ per week
- Ongoing local authority care package (care home)
- One-off services (e.g. equipment) costing £
- Referral to voluntary sector organisations
- Information or advice
- Unpaid care from family or friends

#### Question 14

If you felt the person described would be eligible according to the draft criteria, Which of the outcomes (based on section 2:2 of the draft regulations) do you feel the person is unable to achieve?

- carrying out some or all basic care activities
- maintaining family or other significant personal relationships
- accessing and engaging in work, training, education or volunteering
- accessing necessary facilities or services in the local community including medical
- services, public transport, educational facilities, and recreational facilities or services
- carrying out any caring responsibilities the adult has for a child

### Question 15

If you felt the person described would be eligible according to the draft criteria, which of the following basic care activities (based on section 2:3 of the draft regulations) do you feel the person is unable to carry out?

- eating and drinking
- maintaining personal hygiene
- toileting
- getting up and dressed
- getting around one's home
- preparing meals
- the cleaning and maintenance of one's home

## 10.3 Types of LAs and informants involved in focus groups

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
<b>LA 4</b>	A Non-Metropolitan County	Telephone interview with a manager from the initial access team
<b>LA 5</b>	Metropolitan Borough	Participants: Informant 2: learning disabilities
<b>LA6</b>	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).
<b>LA 7</b>	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

#### 10.4 Focus Group Question guide

1. Explanation of the process
2. Ethical Issues
3. Introduction to the topic

##### Questions

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?