

Comparison of FACs 2010 Moderate Risk to Independence with The Care Act 2015

National Eligibility Criteria

Basic premise comparison

1. **FACs 2010** eligible needs are based on risks to independence. It defines 4 bandings low, moderate, substantial and critical risk to independence. It is focused on identifying needs rather than outcomes.

Moderate needs are eligible only if,
'there is clear evidence that meeting these needs would prevent deterioration in the next 2-3 months or where some time-limited support is needed to promote independence from formal help'.

2. The eligibility threshold in the **Care and Support (Eligibility Criteria) Regulations 2014** is based on how a person's needs affect their ability to achieve relevant outcomes **and** how this impacts on their wellbeing.

These needs must stem from a physical or mental impairment or illness.

Their needs will be eligible if;

- they are unable to achieve **two or more** outcomes from a list of outcomes
- **AND**, as a consequence **there is or is likely to be**, a significant impact on the adult's well-being.

So under the Care and Support (Eligibility Criteria) regulations, if someone is not able to access or engage in work and is not able to make use of facilities in the local community, for example, but doesn't want to anyway, this may not have a significant impact on their well-being and so are not eligible for support in these areas. Under FACs they may be identified needs but not eligible if they did not put that person's independence at risk.

FACS 2010	Care and Support (Eligibility Criteria Regulations 2014)
<p>Moderate Risk to Independence.</p> <ul style="list-style-type: none"> • There is, or will be an inability to carry out several personal care or domestic routines; and/or • Involvement in several aspects of work, education or learning cannot or will not be sustained and/or • Several social systems and relationships cannot be or will not be sustained; and/or • Several family and other social roles and responsibilities cannot or will not be undertaken. 	<p>Person is;</p> <ul style="list-style-type: none"> • unable to achieve without assistance • able to achieve w/out assistance but causes significant pain, distress or anxiety • able to achieve w/out assistance but it takes significantly longer than would be normally expected <p>TWO of outcomes below AND there is, or is likely to be a significant impact on the adult's well-being</p>
<p>Safety – You have a need for someone to check on you regularly because you are at continuing risk of harm</p>	<p><i>Able to achieve outcome</i> (ADLS, personal care, maintaining home/family relationships/caring responsibilities /work / training / education / volunteering /accessing and using community / recreational facilities) <i>but doing so endangers or is likely to endanger the health and safety of the adult and or others</i></p> <p>Being unable to make use of the adult's home safely – <i>(guidance includes managing steps, accessing kitchen/bathroom and immediate environment outside the home i.e. access in and out of property)</i></p>
<p>Health - You have an illness which is at risk of deteriorating to the extent that your safety or the safety of others will be at risk in the next 2-3 months if support is not provided</p>	
<p>Your mental health - You have a diagnosed mental health problem which can limit your insight into your ability to cope and this poses a moderate risk to health, safety or independence over the medium term (2-3 months)</p>	
<p>You need help with your personal care/activities of daily living</p> <p>You have some difficulty with managing some essential daily activities e.g. maintaining personal hygiene, or have lost your confidence in managing these tasks</p> <p>You are not able to carry out regular domestic routines such</p>	<p>Unable or difficulty meeting outcomes of</p> <p>Maintaining personal hygiene – <i>(guidance includes ability to launder clothes)</i></p> <p>Managing toilet needs;</p> <p>Being appropriately clothed – <i>(guidance includes ability to dress self and dress appropriately for weather to maintain health);</i></p>

<p>as shopping or laundry, and assistance is not otherwise available to you</p> <p>You need support to develop skills which you will need in order to look after yourself</p>	<p>Maintaining a habitable home environment – <i>(guidance includes keeping home clean and safe, also maintaining amenities gas, electricity, water).</i></p> <p>Managing and maintaining nutrition [does this include shopping or ordering food?]</p>
<p>You need community care services to maintain your employment or improve your chances of getting a job</p> <p>You are finding it very difficult to access or maintain your principal daytime activity e.g. working or learning, without some assistance. In many cases responsibility for assisting you to maintain employment will rest with your employer or with the Department of Work and Pensions</p> <p>You require time-limited assistance to take up, or continue with, job related training or education or learning opportunities</p>	<p>Accessing and engaging in work, training, education or volunteering <i>(guidance includes physical access and support to take part in activity).</i></p>
<p>You need help to retain your support networks</p> <p>You are isolated and need help to access or maintain any social support systems or relationships.</p>	<p>Developing and maintaining family or other personal relationships <i>(Guidance includes if s/user is lonely or isolated because of their needs)</i></p>
<p>You need help to maintain essential family responsibilities</p> <p>You are sometimes unable to care for dependants</p>	<p>Carrying out caring responsibilities the adult has for a child.</p>
	<p>Making use of necessary facilities or services in the local community including public transport and recreational facilities or services <i>(guidance includes transport to attend health care appointments but not access to patient transport which is an NHS service)</i></p>

Differences and Potential Impact

Physical and Mental Health Needs

FACs 2010 highlights physical and mental health as eligible needs if they are likely to deteriorate and this poses a moderate risk to their safety, independence or safety of others in the next 2-3 months without support.

Maintaining physical and mental health, are not specified as required outcomes in the Care and Support (eligibility criteria) Regulations. However the most likely reason for someone not being able to achieve two or more of the 10 specified outcomes is deterioration in physical or mental health. And a person will only be considered under the national eligibility criteria, if their needs arise from or are related to 'a physical or mental impairment or illness'. Therefore I do not think this change will impact on service-users who meet this moderate need criteria under FACs 2010 not being eligible under the National minimum eligibility criteria.

Language to describe degree of difficulty

The Care Act definition of being 'unable' includes someone being able to manage an outcome independently if doing so;

- causes them 'significant pain, distress and anxiety',
- endangers or is likely to endanger the health or safety of themselves or others or
- it takes them significantly longer than would normally be expected
- AND has a 'significant' impact on wellbeing.

Moderate need under FACs 2010 uses the following phrases 'you have some difficulty with' 'you are finding it very difficult to', 'you are sometimes unable to' to encompass people who may be able to meet a need independently but have difficulty with this (for example due to pain, distress, anxiety, it taking a long time which causes problems or it puts the person or someone else at risk). The 'difficulty' was not as clearly defined as in the Care Act 2014 so this may be an area where some eligible under FACs with a moderate need, may not be eligible.

The term 'significant' will be open to interpretation and is likely to be subjective from the point of view of the assessor and the service-user and carer. This however also applies to the terminology of 'difficulty' in FACs 2010 so challenges on this basis are as likely under either system.

Caring for Dependents

FACs 2010 takes account of difficulties caring for 'dependents' which could include dependent adults.

The Care and Support (Eligibility Criteria) Regulations only covers caring responsibilities 'an adult has for a child'. The assumption here is that the child is someone under 18 and therefore not another adult (so does not necessarily include and dependent adult son or daughter).

If someone was eligible for support under FACs 2010 for help to support an adult dependent, they may not be eligible under the new criteria but they would still be able to seek support in the role of carer, particularly as the definition of a carer in the Care Act 2014 is no longer time or task dependent. Therefore it's unlikely any support provided in these circumstances would be withdrawn.

Accessing and using community and recreational facilities

This outcome is in the new eligibility criteria but not in FACS 2010 which could potentially contribute to some people becoming eligible if this outcome and one other had a significant impact on their wellbeing, whilst under FACS 2010 they would not. It may be difficult to assess how many more people may become eligible under this outcome if the issues of access to recreational and community facilities are not registered in past assessments or decisions on eligibility.

It may however increase the number of people who are eligible for social care support.