The policies and procedure database holds the most recent and approved version of this policy or guidance. Staff must ensure they are using the most recent guidance.

### RELATED REFERENCE DOCUMENTATION:

- Care Act 2014 s37-38
- The Care & Support (Continuity of Care) Regulations 2014
- Care & Support Statutory Guidance including Guidance re Promoting Wellbeing; Reducing and Preventing or Delaying needs; and Information and Advice

_Luton Council Policies_

Ordinary Residence Policy
### Document Tracking

<table>
<thead>
<tr>
<th>Prepared By</th>
<th>Jacqueline Casson, Policy Advisor</th>
<th>3/3/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultation With</td>
<td>Marcia Richards, ASC Managers, Legal, ASC DMT</td>
<td>24th April 2015</td>
</tr>
<tr>
<td>Approved by</td>
<td>Maud O'Leary</td>
<td>3rd June 2015</td>
</tr>
</tbody>
</table>

### Change Record

<table>
<thead>
<tr>
<th>Version</th>
<th>Details E.g. Updated or full review</th>
<th>Date</th>
<th>Author</th>
<th>Change details</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Summary of changes made to last approved version:
Equality and Diversity?

The **Equality Act 2010** seeks equal opportunities in the workplace and in wider society; and prohibits discrimination on the grounds of any of the following protected characteristics in relation to goods, services and employee protection;

- Age
- Disability
- Gender Reassignment
- Race
- Pregnancy/maternity
- Marriage/civil partnership
- Religion and Belief
- Sexual orientation
- Gender

The Equality Act aims, and in particular its General Duties, applies across the Council and to any organisation delivering services on a contractual, commissioned or voluntary basis on behalf of the Council. Although our legal duties relate to equality, our approach in Luton extends to the promotion of community cohesion and social inclusion. Our commitment to social justice goes beyond anti-discrimination to include fairness of treatment, dignity and respect.

**Feedback:**

Our customers expect first class service and we aim to provide it. We therefore welcome feedback about our policies and procedures. If you have any comments about this document please e-mail: [RPRComplaints@luton.gov.uk](mailto:RPRComplaints@luton.gov.uk) for author or other as agreed.
## Contents

1. Introduction & Context  
   - Scope  
   - Ordinary Residence  
   - Definitions  
   - Decision Making  

2. Guiding Principles

3. Step One – Confirming Intention to move

4. Step Two – Preparing for the move

5. Step Three – Assessment & care and support planning

6. Step Four – The move

7. Disputes

8. Making a complaint

9. Appendix 1 Wellbeing Principle
1. **Introduction and Context**

1.1 Luton Council recognises that there are many reasons why an adult with care and support needs may decide to move home.

1.2 In circumstances where a person moves within an authority that is already providing their care and support then that authority must continue meet their needs.

1.3 Where the person chooses to live in another local authority the local authority that is currently arranging their care and support and the local authority they are moving to must work together to ensure continuity of care.

1.4 The process for continuity of care is set out in Section 37-39 of the Care Act and the Care & Support (Continuity of Care) Regulations 2014.

**Scope**

1.3 Where an adult’s needs for care and support are being met by the first authority and the authority has been notified that they intend to move to a second authority

1.4 Where an adult is not having care and support needs met by the first authority but the first authority is keeping a care account and they have been notified that the adult intends to move to a second authority

1.5 Where an adult’s needs for care and support are being met by the first authority arranging for provision of accommodation in the area of a second authority and the adult notifies the second authority that they intend to move out of that accommodation but will remain and be provided with care and support at home or in the community in the second authorities area.

1.6 This does not apply to people receiving support under the children’s legislation. However, any transition assessments and support plans for a child’s carer for carer’s needs which are being met must be provided to the second authority.

**Ordinary residence**

1.7 Whether the adult is ordinarily resident in the Luton area is crucial in deciding whether their care and support needs must be met by this Luton Borough Council. See the Ordinary Residence Policy.

1.8 If Adults are placed by another local authority for example in a care home, supported living arrangement or in a shared lives scheme in the Luton area, they would be “deemed” to be the responsibility of that other local authority and this Continuity of Care Policy should not apply to those individuals. Please see the Cross Boarder Policy & Procedure.
1.9 **Definitions**

- First Authority – means the local authority where the adult lives and is ordinary resident prior to moving
- Second Authority – means the local authority the person wishes to move to
- Assessment - refers to both needs assessment and carers assessment

**Decision making**

1.10 The Customer Service Centre will receive notifications from the first authority, process it on Liquid Logic and forward to the most appropriate team for action.

1.11 In most cases decisions about funding will be made by team managers or service managers. There may be occasions where decisions are referred to the Resource Allocations Panel.

1.12 The decision maker will have to apply this Policy and the principles which flow from the LA’s general duties re promoting an individual’s wellbeing; preventing, reducing or delaying any deterioration their health and wellbeing; duties to provide information and advice and in relation to the Local Authority’s equalities duties to adults with protected characteristics

2. **Guiding Principle**

2.1 Luton Council aims to ensure that the adult’s wellbeing\(^1\) is maintained throughout the move, and that the adult is confident that arrangements to meet their needs will be in place without disruption during and after the move.

3. **Step One – Confirming intention to move**

3.1 The Continuity of Care process starts when the second authority is notified by the first authority, the adult or their representative about the adult’s

---

\(^1\) Section 1 of the Care Act 2014 sets out the *Wellbeing Principle* which is embedded throughout the act. Appendix 1 provides an overview of the general duties, principles and definitions
intention to move and the second authority has assured itself that the adult’s intention to move is genuine.

3.2 To do this the second authority should:
   - establish and maintain contact with the person and their carer to keep abreast of their intentions to move;
   - continue to speak with the first authority to get their view on the person’s intentions;
   - ask if the person has any information or contacts that can help to establish their intention.

3.3 When satisfied the second authority must provide the adult and their carer (if they are intending to move) with accessible information about the types of care and support available to people with similar needs in their area so that differences in the range of these services are apparent. This should include:
   - support for carers;
   - the local care market and organisations that could meet their needs;
   - the local authority’s charging policy, including any charges which the person may be expected to meet for particular services in that area.

3.4 Where an adult currently receives a direct payment the first authority should advise them that they will need to consider any contractual arrangements they have in place. For example if a personal assistant is not moving with them.

3.5 The adult may request assistance from either the first or second authority to help them understand the implications of their move on their care and support. This may include identifying the need for an independent advocate.

3.6 Where the adult lacks capacity to make a decision but the family wish to move the adult close to where they live, the authority must support the adult to be as involved as possible in the decision and must carry out a capacity assessment and where necessary take ‘best interests’ decision. Requirements of the Mental Capacity Act 2005 apply to all those who may lack capacity.

4. Step Two – Preparing for the move

4.1 Once the second authority is assured that the intention to move is genuine it must inform the first authority. Each authority should be name a member of
staff to lead on the case. These contacts will be jointly responsible for maintaining contact with the adult and facilitating continuity of care.

4.2 The first authority must supply the second authority with:
- a copy of the person’s most recent care and support plan;
- a copy of the most recent support plan where the person’s carer is moving with them; and
- any other information relating to the person or the carer (whether or not the carer has needs for support), that the second authority may request.

4.3 The most recent needs assessment (if needs are not likely to change as a result of the move) any financial assessment and any safeguarding plan may also be requested. A new referral for Deprivation of Liberty (if required) must be made by the second authority.

4.4 The second authority must provide the adult, and carer with any other relevant information not yet provided.

5. Step Three – Assessment and care and support planning

5.1 If an independent advocate is required they must be provided by the second authority.

5.2 The second authority must carry out an assessment and a carer’s assessment where there will be a new carer. If the person has health needs both authorities should work with their Clinical Commission Groups to ensure these are dealt with and a joint assessment and plan considered.

5.3 The first authority must keep in contact with the second authority and the adult and carer throughout the process keeping up to date with progress and helping to ensure arrangements are in place for the day of the move.

5.4 The assessment must identify the adult’s needs and desired outcomes; these could be different to those identified by the first authority because as the adult’s circumstances have changed. Where Luton Council is the second authority Luton’s Assessment & Eligibility Framework must be followed.

5.5 The second authority must involve the adult, carer and any other individual requested by the person in the development of the care and support plan.

5.6 The care and support plan and any personal budget should be agreed in advance of the move and should include arrangements for the day of the move and set out any differences from their original plan and personal budget. A copy of this must be provided to the adult carer and anyone else identified by them. Please refer to Luton Council’s Support Planning Policy.
6. Step Four – The Move

6.1 The first authority is responsible for the care and support and the person needs in their original home and when moving. The second authority is responsible for providing care and support when the person has moved into their new area. The person moving is responsible for paying for the move and their belongings and furniture.

6.2 If the second authority has not completed an assessment or put a new support plan in place then they must put in place arrangements to meet the care and support needs identified by the first authority from the day of the move until a new care and support plan is in place.

6.3 The Adult and/or carer should not be on an interim care and support package for a prolonged period of time so a tailored care and support package must be prepared in a timely way.

6.4 When preparing interim arrangements for care and support plan, the second authority must have regard to:

- Care and support plan: The adult’s care and support plan and the carer’s support plan if the carer is also moving, which were provided by the first authority. The second authority should discuss with the adult and the carer how to meet their eligible needs and any other needs that the first authority was meeting that are not deemed as eligible but were included in either plan.
- Outcomes: Whether the outcomes that the adult and the carer were achieving in day-to-day life in their first authority are the outcomes they want to achieve in the new authority, or whether their aims have changed because of the move.
- Preferences & View – How these will be met during the interim period

6.3 Equipment installed and adaptations made to the person’s original home by the first authority should move to the second authority where it is the person’s preference, is suitable for the new home and is cost effective.

6.4 The second authority should discuss equipment on long term loan from the NHS with the relevant NHS body.

6.5 If the person’s move is delayed they would normally continue to be an ordinary resident of the first authority, which would remain responsible for meeting their care and support needs. Both authorities should assess the
reasons for the delay and make a decision about whether or not to continue to prepare for continuity of care.

6.6 If a move does not take place the Care Act provides for the second authority to recover any cost incurred from the first if reasonable to do so. In deciding whether or not to recover costs the second authority should consider whether the first authority delayed telling them that a move would not take place, or whether the first authority was not aware and therefore unable to tell them.

7. Disputes

7.1 Any dispute between the authorities should not prevent, delay or adversely affect meeting the person’s needs.

7.2 Disputes about ordinary residence should be referred to Luton Council’s Legal team.

8. Making Complaints

8.1 Adults and/or carers can make complaints if they are not satisfied with the decision made by Luton Borough Council and they should be provided with details of the LBC’s Complaints Procedure.
**APPENDIX 1**

**Wellbeing Principle**
The Council has a duty to promote the wellbeing of the individual particularly when carrying out any care and support functions and making decisions in relation to them. The wellbeing principle underpins the whole of the Care Act and its associated regulations and guidance. It applies to adults, carers and, in some circumstances, to children in transition, their carers and to young carers. The wellbeing principle applies equally to people who do not have eligible needs if they come into contact with the care system. Commissioners of new services will also need to incorporate/reflect the wellbeing principle in new services which are developed and commissioned.

**Definition**
The Care Act recognises that ‘Wellbeing’ is a broad concept and describes it as relating to the following nine areas in particular:
- Personal dignity (including treatment of the individual with respect);
- Physical and mental health and emotional wellbeing;
- Protection from abuse and neglect;
- Control by the individual over day to day life (including over care and/or support provided and the way it is provided);
- Participation in work, education, training or recreation;
- Social and economic wellbeing;
- Domestic, family and personal relationships;
- Suitability of living accommodation;
- The individual’s contribution to society.

**Promoting wellbeing**
Promoting wellbeing means actively seeking improvement in the aspects of wellbeing described above when carrying out a care and support function in relation to an individual. This applies at any stage of the process. It is not always about the Council directly meeting needs, but includes a focus on providing information and advice to delay and prevent needs from developing and support people to live as independently as possible for as long as possible. There is no set approach. Promoting wellbeing will depend on the individual’s needs, goals and wishes. The Council should consider each person’s case on its own merits, based upon what the person wants to achieve and how the Council’s actions will affect their wellbeing. All the nine aspects of wellbeing are of equal importance. However it is likely that some aspects will be more relevant to one person than another. The Council should adopt a flexible person centred approach that focuses on those aspects that matter most to the person concerned.
In addition to the wellbeing principle, the Care Act sets out a number of other key principles which local authorities must have regard to when carrying out the same activities or functions.

<table>
<thead>
<tr>
<th>Key Principle</th>
<th>Interpretation from the Care Act Guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td>The importance of beginning with the assumption that the individual is best placed to judge the individual’s wellbeing;</td>
<td>Building on the principles of the Mental Capacity Act, the local authority should assume that the person themselves knows best their own outcomes, goals and wellbeing and assumptions should not be made.</td>
</tr>
<tr>
<td>The individual’s views, wishes, feelings and beliefs;</td>
<td>Considering the person’s views and wishes is critical to a person-centred system. Where particular views, feelings or beliefs (including religious beliefs) impact on the choices that a person may wish to make about their care, these should be taken into account. This is especially important where a person has expressed views in the past, but no longer has capacity to make decisions themselves.</td>
</tr>
<tr>
<td>The importance of preventing or delaying the development of needs for care and support and the importance of reducing needs that already exist</td>
<td>At every interaction with a person, the Council should consider whether or how the person’s needs could be reduced or other needs could be delayed from arising. Effective interventions at the right time can stop needs from escalating, and help people maintain their independence for longer.</td>
</tr>
<tr>
<td>The need to ensure that decisions are made having regard to all the individual’s circumstances</td>
<td>Decisions should not be based only on their age, appearance, any condition they have or aspects of behaviour which might lead to unjustified assumptions. Local authorities should not make judgments based on preconceptions about the person’s circumstances, but should in every case work to understand their individual needs and goals.</td>
</tr>
<tr>
<td>The importance of the individual participating as fully as possible</td>
<td>By being provided with the information and support necessary to enable the individual to participate. Care and support should be personal, and local.</td>
</tr>
<tr>
<td>The importance of achieving a balance between the individual's wellbeing and that of any friends or relatives who are involved in caring for the individual</td>
<td>People should be considered in the context of their families and support networks, not just as isolated individuals with needs. Local authorities should take into account the impact of an individual's need on those who support them, and take steps to help others access information or support.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>The need to protect people from abuse and neglect</td>
<td>In any activity which a local authority undertakes, it should consider how to ensure that the person is and remains protected from abuse or neglect. This is not confined only to safeguarding issues, but should be a general principle applied in every case.</td>
</tr>
<tr>
<td>The need to ensure that any restriction on the individual's rights or freedom of action that is involved in the exercise of the function is kept to the minimum necessary for achieving the purpose for which the function is being exercised</td>
<td>Where the local authority has to take actions which restrict rights or freedoms, they should ensure that the course followed is the least restrictive necessary.</td>
</tr>
</tbody>
</table>

Neither these principles nor the requirement to promote wellbeing require the Council to make a specific decision or undertake a particular action. The steps the Council should take will depend entirely on the circumstances of each case, having regard to these principles, for the purpose of setting common expectations for how the Council should approach and engage with people.