



Social care and support

Reduction to a person's support package

Date: August 2020

Councils must meet the eligible social care needs of disabled people as well as those of carers and the duty to meet eligible needs is one that exists regardless of any resource problems a local authority (LA) may have.

Although LA's should review care packages at least once a year, [the Statutory Care Act Guidance](#) stresses that the 'review must not be used as a mechanism to arbitrarily reduce the level of a person's personal budget'.

If, as a result of a reassessment, the support package is reduced or changed in a significant way, then the law requires that the council must provide a detailed and convincing explanation about why this is happening i.e. because the person's condition has improved significantly, and they no longer need funding to meet this need.

The LA reasoning to accompany this decision should give adequate weight and consideration to all relevant professional opinions. It should not excessively rely upon the non-expert view of a social worker (or equivalent 'case manager') in the face of evidence to the contrary from other more appropriately qualified and experienced experts (such as GP's, Physio's and Occupational Therapists).

The fact that a LA has financial problems or is using its own locally designed Resource Allocation System to calculate a person's weekly personal budget isn't a lawful reason.

Eligible needs must be met, and the persons support cannot be cut unless there is strong evidence as to why it is no longer required. LAs also cannot adopt one size fits all policies or ceilings on the cost of a person's care or its availability. That is, saying that they only provide a maximum of four weeks respite care a year for everyone.

As LAs must meet the eligible needs of disabled adults (and their carers) it is unlawful for authorities to impose limits on what they are prepared to pay for care packages as everyone's needs are unique and personal to them.

This in essence means that eligible needs must be met regardless of cost – as [the Statutory Guidance](#) to the English Care Act explains, a LA's finances are relevant when it decides how to meet the eligible needs of an individual '*but not whether those needs are met*' (para 10.27). *It goes on to say that LAs 'should not set arbitrary upper limits on the costs [they are] willing to pay to meet needs through certain routes'.*

Occasionally LAs may suggest that, although a person's eligible needs have not changed, current funding can be reduced as the need can be met by a less expensive method. This may

be that a different care agency is available that can provide the necessary care at a lower hourly cost. Where this is raised the LA must be able to prove the following:

- That the cheaper arrangements must actually exist already and are therefore not just a hypothetical alternative.
- These alternative support arrangements must absolutely meet all of the person's eligible needs. Often a key component of a person's care and support plan is to maintain continuity and to ensure that staff have specific training and or skills to ensure this.
- That the change of continuity **wont adversely affect the person's physical or mental wellbeing**. Where continuity is crucial to a person's support – for example because they may become distressed by changed routines or have had previous bad experiences of change – then this is likely a significant factor against any proposed change.
- That there won't be a significant impact on the persons wellbeing.
The Care Act 2014 requires LAs to promote the wellbeing of adults in need and carers and to do this in a way that satisfies certain principles. Such as the assumption that the individual is best placed to judge their well-being and the duty to promote their control over their day-to-day life, including over the care and support they receive and that '*independent living*' (within the meaning of Article 19 of the UN Convention on the Rights of People with Disabilities) is a guiding principle of the Care Act. Article 19 stresses the right to choose where they live and with whom they live (and that they are not obliged to live in a particular living arrangement) as well as their right to a range of social care services '*necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community*'.

Authorities must also **not assume** a carer is willing or able to provide any care, **including additional care arising from a reduction in the care package**.

It would be considered a maladministration for a reduction to occur without properly assessing the carer and explicitly clarifying and recording whether they are 'able and willing' to provide additional care.

We can help

If you have any questions about social care, please contact us using Tel: 0333 1212 300 or Email: info@downs-syndrome.org.uk. If our information officers are unable to help, they will refer you to our social care adviser.

Contact us

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