

Facts for Families:

Challenging funding decisions

Do you buy your or your loved one's support through a Direct Payment or Individual Service Fund? Has the number of hours you can buy gone down?

Some people are not receiving the funding they need to continue to buy the same amount of support that they have had in the past.

This is a particular problem if you buy support through a direct payment or individual service fund.

Providers are having to charge councils more each year. In particular, this is due to cost increases caused by increases to National Living Wage.

Unless the council increases the funding for each person, this cost increase means that you will be able to buy fewer hours support. And that amounts to a cut in support.

What this guide does

Councils must meet the needs of people assessed as having 'eligible needs.' If you believe that someone's needs are not being met, then you can challenge the council's decision.

This guide explains how council funding works, your rights and how to challenge if you disagree with a decision.

What rights do you have to care and support?

Assessing and meeting need

If you live in England the **Care Act (2014)** is the law covering your rights to funding and support. In Wales, it is the **Social Services and Well-being (Wales) Act (2014)**. Different laws apply in Scotland and Northern Ireland.

Both acts say that your council must:

- Assess to see if someone has eligible needs,
- Provide funding to ensure that someone can access services to meet eligible needs,
- Consider the well-being of the individual and promote independence.

Someone will have eligible needs if they need help to do two or more of the following things: dressing, personal care, maintaining a home environment, maintaining social relationships, accessing the community and accessing work, education or volunteering opportunities.

The council will work with you to develop your care and support plan, based on your needs assessment. It must review this plan regularly.

Next, the council will allocate your funding. Funding is determined by your eligible needs, the services needed to meet those needs, and any other ways you can pay for support. The funding provided by the local authority is known as your personal budget.

When deciding a personal budget the council must:

- Ensure that funding is sufficient to meet eligible needs
- Consider the local cost of support services when calculating the level of funding
- Provide information about how it has calculated the personal budget

The council must also consider the eligible needs and wellbeing of family carers, who are entitled to an assessment in their own right. Family carers' needs may be met by providing additional support to the disabled person or by other means.

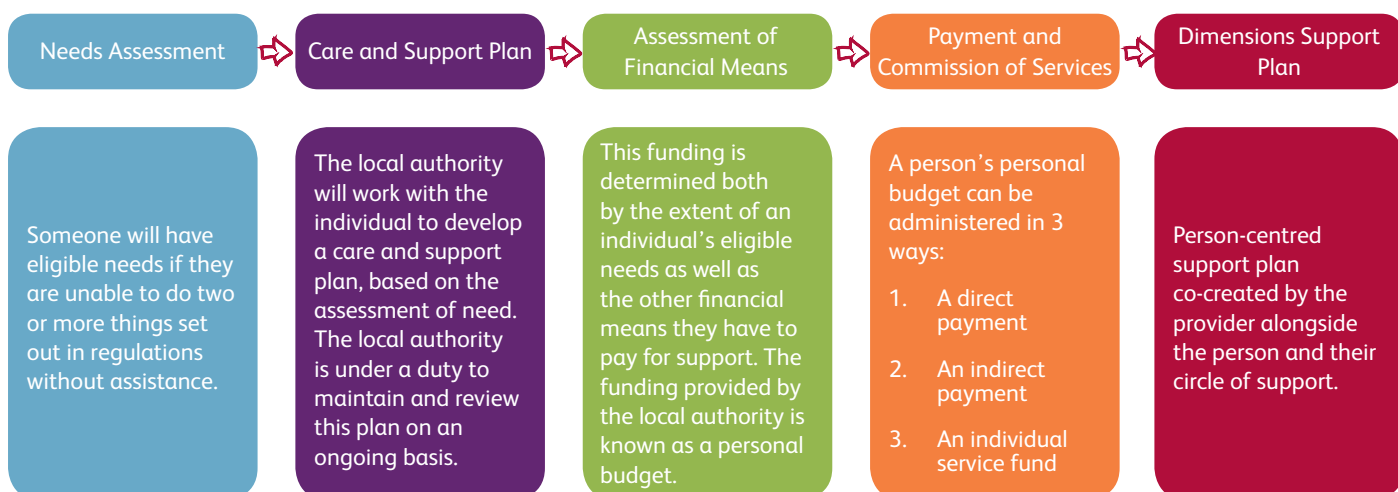
The council can consider its available resources as part of its decision making. But resources alone should not drive its funding decisions; well-being and the promotion of independent living should be the primary consideration.

If a council does not increase a personal budget when costs go up, it must show how keeping the budget the same continues to meet the individual's eligible needs.

Using funding and accessing services

A personal budget can be used in 3 ways and it is up to you to decide how they would like it administered:

1. A direct payment – the personal budget is given to you directly. You can buy anything you want that will help you, e.g. employing a personal assistant.
2. An indirect payment – your personal budget is managed by the council. They will use the money to buy support. This will lead to a service provider employing support workers who will deliver your care and support.
3. An individual service fund – your personal budget is managed by the council, but you choose how it buys support. The organisation providing support will be directly accountable to you.



How can you challenge a decision about eligibility and funding?

A council can be challenged on the basis of:

- The assessment of eligible need
- The amount of funding provided to secure services to meet assessed eligible need
- The process of reassessment and review to ensure eligible needs continue to be met

The first step for challenging a decision is to make a complaint to the council itself. All councils will have a complaints procedure to follow. It is important that a complaint sets out clearly what the main reasons for making the complaint are.

You can complain about the assessment if:

- You think that the assessment process and reasons for the outcome of the assessment have not been recorded properly
- You think the assessment has not identified all eligible needs or has described those needs incorrectly
- You think the assessment has not fully involved the person being assessed
- You think the suggested services are inappropriate or inadequate

You can complain about your personal budget if:

- You think the council hasn't given enough funding to buy services that meet your eligible needs
- You think the council hasn't considered the local cost of those services
- You think the council hasn't explained how it has calculated your personal budget
- You think the council hasn't reviewed your personal budget to meet increases in costs

Making a complaint

You should write to your council's adult social care department. Your letter should include:

- Relevant details, including the name of the person receiving the personal budget and dates of assessments, decisions etc.
- Clear statements about your concerns, with evidence. For example:
'I am concerned about the way in which X's needs have been described following the needs assessment. X has not been assessed as having an eligible need for 'managing and maintaining nutrition'. X has a SALT assessment that identifies difficulty with swallowing, X needs to be supervised when eating and have food chopped into small pieces at all meals'.
- A clear statement about what remedy is needed, for example a review of the assessment, or an apology from the authority.

Other tips for making a complaint:

- Be as concise as possible – this makes it easier for the authority to understand the issues and desired outcome.
- Be polite – keep the communication focussed on the local authority's duties and how these haven't been met.
- Keep a record of all communication and the date on which it was sent and when a response was received.

If your issue is not resolved through a complaint to the local authority directly, then it can be referred to the Ombudsman for review.

In England this is the **Local Government & Social Care Ombudsman**.

In Wales this is **Public Services Ombudsman for Wales**.

The Ombudsman can review cases where a service or administrative mistake has impacted on your assessment and funding.

Other ways to take concerns forward

It is always best to try to resolve issues through the council's complaints process. But if you have no luck there, the following approaches may help:

Contact a lawyer

Legal advice can help you challenge the council's decision. Ask your locality manager or a Dimensions Family Consultant to refer your case to our legal network for free, early legal advice.

Contact your local councillor

Local councillors oversee local authority departments. You can contact the local councillor for your ward, and the councillor responsible for adult social care in the council's cabinet.

Local councillors hold regular surgeries in their ward to listen to constituents' concerns.

All councils should have a directory of councillors on their website.

Contact your MP

MPs can take up case work and assist constituents to challenge decisions that have been made by public bodies.

MPs hold regular surgeries in their constituency to listen to constituents' concerns.

You can find out who your MP is and how to contact them here:

<https://www.parliament.uk/mps-lords-and-offices/mps/>

Proving life can get better