

Adult social care: Information, advocacy and rights

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Inquiry into challenging adult social care decisions

The decisions local councils make about older and disabled adults' care and support should comply with both equality and human rights standards and with social care laws.

Decisions made determine the extent to which people:



Have choice, control and dignity in their day to day lives.



Are able to maintain the relationships that matter to them



Are able to live independently and to participate in their community

With such important decisions being made in a system under pressure, it is vital that there are effective ways for people to challenge decisions.

We published our inquiry report in February

What we found:

- A system that is confusing, inconsistent, and subject to delays for challenging and seeking redress
- **Information that is often unclear and inaccessible**
- **Challenges in access to advocacy and legal support**
- Inadequate collection of equality data and missed opportunities to learn from challenges and complaints
- Proper scrutiny, within local authorities and beyond, was important to improvement


The report made a number of recommendations ...

Providing the right information, in the right format, at the right time

Local authorities should review their compliance with provisions under the Care Act 2014 in England in relation to accessible information to ensure that:

- they identify people's communication needs at the outset and communicate with them in accessible ways
- information is available in accessible and alternative formats online and in hard copy - if appropriate
- people are told how to access other formats and communication support
- they meet their obligations under the reasonable adjustments provisions of the Equality Act 2010.

Local authorities should always give care users and carers details of general and specialist local and national advice services in line with the Care Act 2014.



“ ... our experience is that people are not well informed as to what their statutory rights are ... it can be quite difficult for people to find information.

Legal advice charity

Providing the support needed to challenge effectively

The UK Government should bring advocacy for adult social care complaints in England in line with the existing statutory entitlement for the health sector (the independent complaints advocacy service).

Local authorities should review their compliance with provisions under the Care Act 2014 in relation to advocates supporting individuals to challenge decisions.

The UK Government should urgently review the issues with legal aid for community care and the impact this has on an individual's ability to seek urgent specialist advice.



Equality and human rights in social care

Human rights

- Protects our right to life, dignity, freedom from poor treatment
- Supports independence, relationships, community connections
- Whatever our needs or age, we can live our lives in the way we choose to

Equality

- Everyone is treated with respect, whatever their background
- Freedom from discrimination or harassment
- Policies and practices consider the needs of different groups

Our approach to social care

- Explains that social care plays an important role in protecting our human rights and equality should be built into the design and delivery of social care
- Illustrates what social care looks like, built on equality and human rights
- Sets out nine principles, which are standards we ask governments, regulators, social care commissioners and providers to meet
- One of our principles is **accessible** (social care services should be easy to navigate and help people to make informed choices. Services must anticipate the needs of disabled people and any adjustments required, including independent advocacy)
- Principles useful for people with care needs as well as carers, advisers

Provisions supporting accessible information

Human rights Act

- Article 8 (the right to family and private life) under the **Human Rights Act**.

Equality Act

- The Public Sector Equality Duty (giving consideration to preventing discrimination, promoting equality, encouraging good relations between people with different protected characteristics)
- Reasonable adjustments provisions (meeting the needs of disabled people)
- Non-discrimination provisions (preventing unlawful discrimination, harassment and victimisation)

Human rights treaties

- Article 19 (the right to independent living) of the **Convention on the Rights of Persons with Disabilities**
- Article 11 (right to an adequate standard of living) and Article 12 (right to physical and mental health) of the **International Covenant on Economic, Social and Cultural Rights**.

Equality Act 2010: The duty to make reasonable adjustments

“The duty to make reasonable adjustments requires service providers to take positive steps to ensure that disabled people can access services. This goes beyond simply avoiding discrimination. It requires service providers to anticipate the needs of potential disabled customers for reasonable adjustments.

“The policy of the Act is not a minimalist policy of simply ensuring that some access is available to disabled people; it is, so far as is reasonably practicable, to approximate the access enjoyed by disabled people to that enjoyed by the rest of the public.

“The purpose of the duty to make reasonable adjustments is to provide access to a service as close as it is reasonably possible to get to the standard normally offered to the public at large.

Equality Act 2010 Code of Practice

Services, public functions and associations - Statutory Code of Practice

What next?

We are committed to following up the inquiry in this year's business plan, our work will include:

- **Promotion of our findings and recommendations**, informing others about the inquiry
- **Working with stakeholders inc. governments and inspectorates to influence policy** to ensure implementation of our recommendations and the principles for an equality and human rights-based approach to social care
- **Working with local authorities** to support compliance with equality and human rights standards.