Factsheet

What to do if your child's care package is reduced

CEREBRA
Working wonders for children with brain conditions

The problem:

Families often ask for help from our Legal Entitlements and Problem-Solving (LEaP) Project because they're unhappy with the way a local authority has changed or reduced their child's care package.

For example:

- a council panel reduces a family's care package from 8 hours to 6 hours a week because of "the increased cost of agency staff"
- direct payments are reduced without a re-assessment
- a social worker says that a service is no longer available and there are no alternatives on offer

The law:

Councils must meet the eligible social care needs of disabled children. A care package should be based on an assessment of those needs and it shouldn't be changed or reduced without a re-assessment.

For example, if a child has been assessed as being eligible for 8 hours of support per week, then the council is required to provide this support, regardless of resources. The courts have held that local authorities cannot 'trim the assessment of need to fit the available provision' [1], i.e. they can't adjust a child's level of need to suit their own resources. Once a decision has been made that a child has a certain level of need, the council must meet those needs.

If, as a result of a reassessment, the support package is reduced or changed in a significant way, the council must provide a detailed and convincing explanation as to why this is happening (for example because the child's condition has improved substantially). The council must demonstrate why the previous level of support is no longer required.

Councils can't rely on budgetary constraints as the sole reason for cutting a care package. When a council has decided that a child does have eligible needs, it is allowed to take its resources into account in deciding ***how*** to meet those needs, but not ***whether*** those needs are met.

When a council has decided that a child does have eligible needs, it is allowed to take its resources into account in deciding ***how*** to meet those needs. It does not have to provide a 'gold standard' service if a cheaper alternative would meet a child's needs. However, any cheaper alternative must actually exist – a council can't just suggest a care package which doesn't in reality meet a child's needs or cost less. Councils can't impose arbitrary limits on what they are prepared to pay for care packages.

Councils which fail to give convincing reasons for reductions in care packages are likely to be criticised by the Ombudsman[2].

The solution:

Know your rights

- Read our Parent Guides on Social Care (https://cerebra.org.uk/download/social-care-in-england/and https://cerebra.org.uk/download/social-care-in-wales/) for more information about the assessment process and how councils decide which needs are eligible for support.

Collect the evidence

- Gather any letters, reports or other documents which show that your child's care needs have stayed the same (or increased) – ask the professionals involved with your family, e.g. your G.P, consultants, therapists, teachers etc.

Get it in writing

- Use our template letter for families in England (https://cerebra.org.uk/download/letter-to-challenge-a-councils-decision-that-a-child-parent-isnt-eligible-for-support/) and Wales (https://cerebra.org.uk/download/letter-to-challenge-a-councils-decision-that-a-child-parent-isnt-eligible-for-support/) to challenge a proposed cut in your child's care package).

Make a complaint

- Every local authority must have (and publicise) a process for dealing with complaints about children's social care. If you're unhappy with the council's response, you can make a complaint. Our Accessing Public Services Toolkit (https://cerebra.org.uk/download/accessing-public-services-toolkit/) has more information and template letters.

References

[1] R v Islington LBC ex p Rixon (1997-98) 1 CCLR 119

[2] See, for example, the Local Government Ombudsman's report about a complaint against Thurrock Council (10 October 2013 -https://www.lgo.org.uk/information-centre/news/2013/oct/thurrock-council-fails-to-provide-adequate-care-for-mother-and-child#!). Summaries of reports issued by the Public Services Ombudsman for Wales are available at https://www.ombudsman.wales/findings/

First edition 2017. This edition 2023. Review date 2026.

This factsheet applies to England and Wales

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