

Community Care

Your legal rights



*Community
Legal Service*



If you or someone you know or look after find it difficult to manage day-to-day living, you may be able to get help in the form of community care. This leaflet explains how to find out what help you may be able to get, and whether you will have to pay for it.

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The leaflets in this series give you an outline of your legal rights. They are not a complete guide to the law and are not intended to be a guide to how the law will apply to you or to any specific situation. The leaflets are regularly updated but the law may have changed since this was printed, so information in it may be incorrect or out of date.

If you have a problem, you will need to get more information or personal advice to work out the best way to solve it. See 'Further help' on page 15 for sources of information and advice.

Many of us will need a helping hand with everyday tasks at some point in our lives. You may have an impairment or illness, or you may look after a child or adult who cannot look after themselves. This may be someone who has a physical or learning disability, or someone who is elderly. Whoever they are, they may be able to get 'community care' – help which can include anything from meals on wheels to temporary or permanent stays in a residential home.

Who decides what sort of care I need?

The first step to getting help is to contact your local council's social services department and tell them your situation.

If you have a disability, your council must 'assess' you (find out what sort of help and support you need). The law defines people with a disability as:

- people who are blind, deaf or dumb;
- other people who are seriously or permanently handicapped by an illness, injury or congenital deformity, or who are suffering from a mental disorder as defined under the Mental Health Act; and
- people who are partially sighted or hard of hearing.

Even if you don't fit the legal definition of disability, you still have the right to an assessment if your council thinks you may need community care services (for example, things like someone to help you get up and get dressed).

You can also ask for an assessment for someone else, if they need help (for example, a relative or neighbour).

What does an assessment look at?

If your assessment shows that you need certain services, your council must usually provide them. These services include:

- practical help at home;
- equipment to help with a disability;
- help with adapting your home;
- getting meals at home or somewhere else;
- being given (or given help to get) a phone or any special equipment you need to use one;
- help to use educational and recreational facilities at home and outside (for instance a place at a Day Centre), including help with getting to and from those facilities; and
- holidays.

Your assessment should also cover any health services you need. If you live in an area where a Care Trust has been set up to deliver both health and social care services, it will carry out your assessment. If you're only concerned about help to do with your health, contact your GP. Your doctor can contact other people who provide healthcare if they need to, to work out what you need. Different areas have different rules about what you can get. But you may be able to get, for example, visits from community health providers at home (such as a district nurse, health visitor, physiotherapist or chiropodist).

Do I have to be on low income to be assessed?

You should be able to have an assessment, no matter how much money you have. If the council refuses to assess you because it thinks you could afford to buy care for yourself, you should get expert advice (see 'Further help' on page 22).

Can I get help if I look after someone?

If someone relies on you for care on a regular basis, you can ask to be assessed under the Carers Acts 1995 and 2000. This type of assessment will be carried out by social services, and is meant to support carers by making sure that:

- the person being cared for gets the right services; and
- the carer has a choice over the type of caring tasks they undertake.

If you care for someone, and you need support or advice, contact Carers UK (see 'Further help' on page 22) or the government website www.carers.gov.uk.

How is the assessment done?

Each council has its own way of working out what help you might be able to get. You can find out what your council's policy is in its long-term care charter called 'Better care, higher standards'. You should be able to get this from the social services department. You may also find it in your GP's surgery, Citizens Advice Bureau or library.

You (and anyone who cares for you) should be fully involved in the assessment and you should get the chance to say what you feel you need. If you need an interpreter to help you, the council should provide one.

The aim of an assessment is to:

- find out what sort of support you need;
- decide about the services that might help; and

- look at your finances, including whether you might be able to claim any benefits.

You may be asked questions about:

- the tasks you can and can't do;
- the tasks you find difficult some of the time;
- whether you have to follow a special diet; and
- if you have special needs (because of your religious or ethnic group, for example).

Who does the assessment?

The assessment will often be done in your home, but it could also be done at a day centre or your GP's surgery. The person assessing you will generally be from social services or possibly from the NHS or a Care Trust. Other people might take part, too. For example, an occupational therapist might give advice on making your home easier for you to live in (such as fitting stair or grab rails, bath seats or special taps).

The local housing authority may also be asked for its views on certain issues, such as whether you need to move to sheltered housing.

The person who assesses you should keep notes of:

- what is said;
- the things they have found you need; and
- whether there is anything you and they disagree about.

You should normally get a written record of the assessment, which may be in the form of a care plan (see right). Even if you are not going to get help, you should get a statement to that effect along with the reasons why.

You usually have a right to see any other personal information which social services departments hold about you. You can also ask them to change anything you think is wrong.

What happens after my assessment?

Part of the assessment process is to decide what help you qualify for. Once that has been decided, a care plan should be drawn up for you.

Councils are allowed to 'ration' their services by limiting who can get them. They often do this by deciding that only those people who need a service most can have it. Recent government guidance says that councils' policies on who can get care should take into account the extent to which people are at risk. But if you don't 'qualify', they don't have to give you the help. For example, you might need help with household cleaning but you don't qualify because the council says it will, in general, only give that kind of help to people who also need help with washing and dressing themselves.

If you find yourself in this position, you can challenge the decision (see 'What can I do if I have a problem with getting the care I need?' on page 19). And even if you're not eligible for help, councils should still provide you with information or advice.

What is a care plan?

A care plan is a record that should set out your needs, what services you will get, any charges to be made and a date when the plan will be reviewed. The council may give you some services itself. It may also arrange for you to get some services from other organisations, such as voluntary groups or private care agencies. If you have a carer, your plan should also show what help your carer has agreed to give you.

Your care plan should be looked at from time to time, normally within 3 months of the help being provided and then at least every year. But if your circumstances change at any point, you can ask to be assessed again. And if the council wants to take away or reduce what you get, it must reassess you first. It cannot take away services solely because it has budget problems, nor if that would leave you at 'severe physical risk'.

Once your care plan has been drawn up, you should start getting that care within a reasonable time. Social services may put you on a waiting list (as long as it is not unreasonably long), but if they do, they should make arrangements to make sure you do not suffer while you are waiting for the services you've been promised. If you consider the waiting list too long you can challenge the decision (see 'What can I do if I have a problem with getting the care I need?', on page 19.)

The council should in general favour care plans that promote independence of disabled people. This support should however be provided in the most cost effective way they can. So, for example, the council may want to move you into a care home because they believe it would better meet your needs and because it would cost significantly less than giving you the care you need in your own home.

You have the right to say you don't want to move into a care home. But if you choose to stay in your own home, you may not get all the help you need. For example, if the council would have to pay £140 a week towards the cost of a place in a care home, they might argue that they should give you care at home only worth approximately that amount, even if that wouldn't be enough for your needs. If you are unhappy with what the council has decided for you, you can challenge their decision (see 'What can I do if I have a problem with getting the care I need?' on page 19).

Your assessment might say that you need short-term 'intermediate care' at home or in a care home. This may include both health and social services. Intermediate care is a special service that can only be provided for a limited time (usually no more than 6 weeks) so that you don't have to go into hospital or to stay there when you don't really need to.

Who pays if I get care in my home?

Councils should give you some services free of charge. If you have been kept in hospital because of a mental illness or disorder and you need care when you come out ('aftercare'), you cannot, in certain cases, be asked to pay for that care. Any help or extra help that you get as part of 'intermediate care' should also be free. Otherwise, you may have to pay for your services.

Councils must not take your financial circumstances into account when deciding what you will get. And your friends or family cannot be made to pay for your care – only the person getting the care can be charged.

How much will I have to pay?

When working out how much to charge you, councils should take into account:

- how much the service costs; and
- how much you could reasonably be expected to pay. To work this out, they are allowed to ask you how much income you get and what savings you have.

They should also take into account government guidelines on charging which aim to ensure that councils are reasonably consistent and fair and do not leave people struggling to pay. If you feel you cannot pay, you can ask social services to review a charge. You should do this particularly if you think they haven't taken into account any extra things you have to pay for because of a disability or other problem.

Your services cannot be taken away if you don't pay, but the council can try and get you to pay what you owe.

'Direct payments'

Instead of giving you services, councils can give you direct payments – money to pay for your own care (if you meet certain conditions). If you are a carer, you may also be able to get direct payments.

You can use direct payments to pay for almost any care that you need. For example, if you can't do your shopping alone, you could use a direct payment to help you do it yourself or to pay someone to do it for you. Or you might pay for some care while your carer has a break. You can't use direct payments to pay for permanent places in residential or nursing homes or to buy care from the council.

Direct payments give you more choice about who cares for you and how. But if you use direct payments, it may mean you have to become an employer. This means you will have to sort out contracts, and deduct tax and national insurance. Your council may be able to give you advice and assistance about dealing with these things.

You can decide at any time that you don't want to get direct payments any more, and would rather have services arranged for you.

The council can stop direct payments if it thinks:

- your needs are no longer being met;
- you can't manage your payments; or
- you aren't spending the money properly.

However, they should warn you and give you the chance to discuss the matter before this happens.

What if I am unhappy with an assessment?

You can use your council's complaints system if you are not happy with your assessment. For example, if:

- the council refuses to assess you;
- they leave you waiting a long time to be assessed; or

- you are not happy with how the assessment was done.

You can also complain about the result of your assessment. For example, if:

- you think you are not getting the services you need;
- you think you are being asked to pay too much for the services you use; or
- you have problems with the services themselves.

If a Care Trust did your assessment, you could complain to the Trust in the first place, but the council is ultimately responsible for providing the services. The National Care Standards Commission oversees care services, which from April 2003 includes those provided in your home and carried out by agency staff, so you could also complain to its local office. Similar regulations should be in place in Wales from January 2004 (See 'Further help' on page 22 for contact details).

For more, see 'What can I do if I have a problem getting the care I need?' on page 19).

What if I am coming out of hospital?

If you are in an NHS hospital, you should be assessed before you are discharged to work out what support or services you might need.

This assessment looks at whether:

- your needs are such that the NHS should remain responsible (even if you go into a care home or return to live in your own home usually called 'continuing care'); or
- you need to go into a care home with social services support and get some nursing care there; or
- you can go home and get health care you need as an outpatient, in your own home or at a local centre.

After you've been assessed you should be given written details of:

- how much you are likely to have to pay for care after you leave hospital;
- any benefits you might be able to get; and
- which parts of your care will be arranged and paid for by the NHS.

Local NHS authorities, like councils, have limited budgets. They can decide, within limits, what services they can afford and who will get them. Strategic health authorities, Primary Care Trusts (in England) and Local Health Boards (in Wales) must publish a 'continuing care statement' describing the services they will give to patients who have 'non-acute' needs (people who are in longer-term or respite care, for example). This statement should contain an explanation of how the authority decides which patients will qualify for NHS support.

This means that, for example, if you are in hospital and are assessed as needing to be discharged to a nursing home, you could ask your local Trust or Board to pay for this care because you come within its 'continuing care eligibility criteria'. If it agrees to this, it will pay all the nursing home's fees and you will pay nothing.

If your assessment shows you need some nursing care in a nursing home, but not of the kind that qualifies as 'continuing care', you will get some NHS help with the fees if you want it – but only to cover those parts of nursing care that require a registered nurse (see 'What if I need nursing care?' on page 11).

If you qualify for other specialist NHS ongoing healthcare services as an outpatient (such as diabetic advice, physiotherapy or chiropody), these will be free whether you get them in your own home, at a day centre or in a residential or nursing home.

What if I don't agree with what has been decided for me?

If your assessment says you don't qualify for NHS continuing care and you don't agree with it, you may have a 'right to a review' of the decision by an independent panel of people. But this panel will not look at whether the policies are fair, only at whether the rules have been applied properly to your case.

You should not have to leave NHS care while your review is taking place, which should be within 2 weeks of your request. You should receive the result of the review in writing. If you're not happy with its findings – or if you think the continuing care rules themselves are the problem – you can complain using the NHS complaints procedure (see 'What if I have a problem with NHS care?' on page 20).

You can also normally refuse to be discharged from NHS care into a nursing or residential home if the NHS will not pay for your care. You cannot generally stay in an NHS hospital forever, though, so all the organisations involved should try to come up with suitable alternatives. These could be, for example, a package of services that mean you could go back to your own home.

You can ask to be reassessed if your situation changes and you think you may now meet the rules for NHS continuing support.

What happens if I need to move into a residential care home?

Your council should make sure it can give residential home places to people who have the kind of needs which mean they can't reasonably be expected to live at home or in supported accommodation (for example, a warden-assisted home).

The council will look at your income and savings, and other things you own, to decide whether you could arrange and pay for that care yourself or if it must help pay your fees. You should always be told how the council has worked out the amount you will pay, and you can ask for this in writing.

In some cases, residential care is free, no matter how much money you have. This includes:

- moving into a home as an NHS continuing care patient;
- getting temporary 'intermediate care'; and
- going into residential care after being held in hospital under certain parts of the Mental Health Act.

In most cases, though, you will have to pay at least some of the fees.

If you qualify for help, the social services department usually pays the fees. You will then have to pay some of this back, depending on how much money you have.

What if I need nursing care?

If you are in a residential home and you need nursing care, the NHS will normally provide it directly, via community nursing, free of charge. But if you're assessed as needing to move into a nursing home to meet your nursing care needs, whether you're moving from your own home, another residential home or from hospital, an NHS nurse will decide what parts of your care require a registered nurse. The NHS will be responsible for paying for that part of your care, regardless of your income or savings.

If you're assessed as not needing to go into a nursing home but you decide to pay to go into one anyway, you won't be entitled to get the NHS to pay for the nursing care. But if your needs change, your case can be reviewed.

In England, the nurse will determine whether your nursing needs are low, medium or high and the NHS will pay the corresponding level of fees to meet those needs. (In Wales, a flat-rate fee is paid for your nursing care). This should normally be reviewed within 3 months of going into the home, and then at least every year.

If you're unhappy with the nurse's decision, you should contact your local 'nursing home co-ordinator' ('care home co-ordinator' in Wales) at the council or your local health Trust or Board in the first instance. You can also ask for a decision to be reviewed in the same way as a 'continuing care' assessment on coming out of hospital.

Your care plan should set out the services to be provided by the council, for which you may have to pay, and the care paid for by the NHS. Once you're in the home, you should query any fees which may include charges for nursing care that are already being paid for by the NHS.

What do I have to pay?

You may have to pay towards the fees for services not paid for by the NHS, such as accommodation and personal care. What you pay is based on a set of rules that take into account:

- how much 'capital' you have (including savings, stocks and shares and property you own); and
- your income (how much money you have coming in each week, including benefits).

The rules are complicated and only the main points are set out here.

Organisations including Age Concern, Help the Aged and Counsel and Care can give you more information (see 'Further help' on page 22 for details).

The council looks only at your own income and savings. They cannot take into account money or income that belongs to your husband or wife or family (but see 'What must my husband or wife do for me?' on page 15).

If you have £19,500 or more in capital, you will have to pay all the fees, whatever your income is (though this figure can change over time) and you will also normally have to find a residential care home yourself. If you can't do this, and there is no-one to do it for you, the council must help you (but you still have to pay the full fee).

If you have less than £19,500 or when your savings drop to this level, the council will look at how much you could afford to pay. All your income (except some items which don't count) will have to go towards paying your care costs, apart from a small amount which you must be left with ('a personal expenses allowance'). If your income falls, you pay less and the council picks up more of the bill.

Will I have to sell my home?

The value of your home (or your share of it) may count. If it does, and it takes the total of your capital to over £19,500, you will have to pay all your care-home fees. You may be able to pay for these out of your other savings or from your income. If not, you may need to sell your home to raise the money.

However, the value of your home will not count if someone close to you lives in it. This includes:

- your husband or wife or unmarried partner (or, in some cases, your former partner);
- a relative who is 60 or over;
- a relative under 60 who is 'incapacitated' (for example, someone who is receiving a sickness or disability benefit); or

- a child or step-child of yours under 16 who you support.

The council is able (if it chooses) to ignore the value of your house if someone else lives there (for example, a carer who is under 60).

If you own your home jointly with someone who does not fit into any of the categories above (for example, a relative under 60 or a friend), your share has to be valued. But if the person who owns your home with you won't or can't buy your share from you, the value of your share may be judged very low, so will make little or no difference to what you must pay.

Your home's value is also not taken into account if you are only going into a residential or nursing home temporarily.

Even if the value of your home is counted, it is not included in any calculations for the first 12 weeks after you take up a permanent place in care.

If you would need to sell your home to pay for care, you may not have to do this straight away if you can agree a 'deferred-payment' arrangement with your local authority. Under this scheme the council puts off collecting your contribution, instead putting a 'legal charge' on your property. It is then able to claim back the money you owe when the property is eventually sold (or your estate is sorted out). Your local social services department will be able to give you more information about this.

When can I be forced to sell my home?

You cannot be forced to sell your home without a court order. But if you don't sell, and you end up owing fees to the council, it can put a 'legal charge' on your property without your permission.

If you do have to sell your home, you may be able to get benefits to help you pay care fees until it is sold (see 'What benefits might I be able to claim?', below). And if your property takes some time to sell, the council may put off collecting any fees from you until you have sold it.

What benefits might I be able to claim?

If you are moving permanently into residential care, you may be eligible for some welfare benefits. The system for older people is due to change in October 2003 and not all the details are available at the time of writing. A few pointers, based on current benefit rules are set out below:

- If you move into a residential care home that you pay for yourself, you may be able to claim benefits such as Attendance Allowance or Disability Living Allowance. But if the council is paying part of the fees, some benefits may be stopped after you have been in the home for four weeks.
- If you have a low income, but the value of your home means that you cannot get help from the council, you may be able to get Income Support (also called the Minimum Income Guarantee or MIG) to help you pay home fees while you are waiting to sell your property. This can last for up to 26 weeks. From October 2003 for people over 60, the Minimum Income Guarantee is to be replaced by Pension Credit.

- If your savings were too high to qualify for income-related benefits before you moved into a home, you may find you become eligible once you have moved – the savings limits are higher for people living in residential care. In some cases, the value of your home does not count. For those over 65, the Pension Credit will include more generous treatment of second pensions and saving in determining benefits.
- If you are married and move into residential care, but your husband or wife remains at home, the things you own jointly will not be taken into account (except savings which will be treated as if owned 50:50. The amount of income support will be worked out as if you were a single person. And if you and your husband or wife live in different residential care homes or nursing homes, you will be treated as if you were both single for these purposes.

For more about claiming benefits, contact your local social security office, Job Centre or Job Centre Plus, or the Pensions Service if you are a pensioner. Or see the Department of Work and Pensions website (see 'Further help' on page 22). For more about your rights when claiming benefits, see the Community Legal Service leaflet, 'Welfare benefits'.

What must my husband or wife do for me?

By law, husbands and wives must support each other (called 'liable relatives'). Your husband's or wife's income and capital cannot be taken into account in working out what you have to pay or the benefits you get in residential care. But they can be asked if they will pay for some of the cost of your care. This is only for married couples – unmarried partners (and other relatives) are not 'liable relatives'.

There are no rules about how much a liable relative has to pay. Your husband or wife can try to negotiate an amount that seems reasonable. They do not have to give the authorities any information about their income or savings. If they can't reach an agreement, the council may apply through the courts if they really think that your husband or wife should help with the costs of your care.

None of this should make any difference to the care you get. You must still get the care you need, even if your husband or wife refuses to help pay for it.

What choice of home do I have?

If you need NHS continuing inpatient care, it is up to the NHS where you will go to get the medical care you need. However, your wishes should be taken into account as much as they can.

If the council is paying for some or all of your care, you can, within certain limits, choose the home you want. However, if you are waiting to leave hospital to move into a home, and the one you want has no places in the near future, you may have to go to another one until there is a place for you.

Once the council decides to help pay for your place in a home, you should be given details of what it would normally expect to pay for a home that meets your needs (called the council's 'standard rate'). This rate should be realistic. The council cannot say it will pay no more than £200 a week, for example, if that amount could not give you the kind of care you need in your area.

You should be given a list of homes in the area that are within the council's price range. However, you can choose any home (including one outside your council's area, to be near your children, for example), as long as:

- it has a place available;
- it can meet your needs as they have been assessed; and
- it is willing to accept the council's terms and conditions (including, in general, the price).

If you cannot find a home within the price range that can meet your needs, the council should increase its limit. If it won't, you may need to complain.

What if I want to move to a home that costs more than the council will pay?

You do not have to limit your choice to homes that come within the council's price range. But if you go for a more expensive home, you will need to get someone to pay the extra over what the council will pay. This could be a friend, relative or charity (but cannot be your husband or wife). You can't normally top-up the fees yourself (there are very specific circumstances when you can – ask your council for details).

If you do have someone to pay the extra, but after some time they can't carry on doing this, you may have to move to a home that costs less.

When you make your own arrangements for care, you can obviously choose whichever home you like. But it is worth bearing in mind that you may at some point in the future be able to get some help with fees (if your savings run down, for example). If this happens and you are living in a home that costs more than the council normally pays for someone with your needs, you may have to move.

Can I go to a home for a 'trial' period?

If you want to go to a home for a 'trial' period before deciding whether residential care is right for you, you will generally be considered a temporary resident for the purposes of working out charges and benefits (see 'What if my move into a home is temporary?', right). Any Housing Benefit, Income Support housing costs or Council Tax Benefit you get for your own home will only be paid for 13 weeks of any 'trial' period.

What if my move into a home is temporary?

You may only need to go into a home temporarily – perhaps for a short-term break, while you get over an illness, or while you're waiting for a place in sheltered housing. Your assessment should show whether your stay is a temporary or permanent one.

You should not be charged anything for a short-term stay that is part of 'intermediate care'. There may be charges to pay for other temporary stays, but the rules for working out how much you pay towards them allow for the fact that you will still have your own home to keep up. Any charge must be 'reasonable'.

If you are only going to be in the home for a short time, the council does not have to do a 'means test' (a test to see if you are able to get financial help) for the first eight weeks of a stay.

If you are means tested for a temporary stay, the council looks at your income and savings in the same way it does if you are staying permanently. However, there are some important conditions relating to how they do this.

- The value of your home cannot be included if you plan to go back and live there after your stay, or if you are trying to sell it to buy somewhere that will better suit your future needs.
- Certain parts of your income won't be taken into account. For example, Attendance Allowance and Disability Living Allowance are not counted, and nor are any benefits that you get to help towards your housing costs (for example, Housing Benefit or Income Support housing costs).
- The council must take into account bills that you still have to pay for your home (for example, water rates and home insurance).
- The value of your home is not counted in your capital for a temporary stay.
- You are not assessed separately from your husband or wife or partner. So how much capital and income you have between you will be considered in deciding whether you are entitled to any benefits.

As with permanent care, 'liable relatives' can be asked to help pay for the cost of your temporary stay.

What rights do I have when I am in a care home?

All care homes, both residential and nursing, have to meet certain requirements before they can be registered with the National Care Standards Commission. The government and Welsh Assembly lay down national standards setting out what you can expect from a home. These apply to any home no matter who is paying for your care.

Your home should produce a brochure, which spells out its facilities and fees, and a contract which sets out, for example:

- You may be able to get Minimum Income Guarantee (Income Support) or Pension Credit to help you pay any fees while you are temporarily in a home. The rules are different to those for permanent residents.
- You will be treated as if you were still living in your own home, so the 'at home' rules apply. For example, if you have more than £8000 (or £12,000 if you are over 60), you won't be able to get Income Support. (The introduction of Pension Credit will change the savings rules for those over 65).
 - the room you will live in;
 - the care and services you will get;
 - things that are not included in your fees; and

- the notice period you must give if you want to leave.

The contract is either with you, if you arranged the care yourself, or with the council or the NHS, if they arranged your care. Either way, you should get a copy of the contract. If you didn't arrange the place yourself, you won't have a formal contract, but you still have legal rights. You should be given an agreement (which may be part of your care plan), which tells you exactly what care you should get and who you can complain to if you are not happy with it.

All registered homes must have a complaints procedure and should be able to give you information about how to complain. If you can't sort the matter out with the home, you can contact the inspection unit of the care standards body in your area (currently the National Care Standards Commission in England and Care Standards Inspectorate in Wales, though planned new inspectorates may take over some of their functions).

You can also use the local authority and NHS complaints procedures, outlined below, to complain about the elements of care in the home that they provide or arrange.

What can I do if I have a problem with getting the care I need?

By law, social services departments must have a complaints procedure and a complaints officer to supervise it. They must be able to give you information about:

- how to make a complaint;
- how quickly they should deal with it; and
- where you can get help with making a complaint.

Normally, councils will try to deal with complaints informally, perhaps by seeing if you and the social services officer you usually deal with can sort things out between you.

If this 'informal stage' doesn't solve your problem, you may want (or be asked) to go to a more 'formal' stage. This starts with you putting your complaint in writing. The complaints officer should help you do this.

If you're not happy with what happens after you have been through the formal stage, you can ask for your complaint to be looked at by a review panel. This will include one person who is not part of the council. You can go to the panel's meeting and you can have someone there to speak for you if you want.

If your complaint is still not sorted out, you should contact the Local Government Ombudsman or Local Ombudsman for Wales, who may be able to help (see 'Further help' on page 22).

Councils must have a 'monitoring officer' (someone who makes sure that the council is doing what the law says it must do). So if you think your council has broken the law (for example, if they won't pay for your residential care when you think the law says they should), you can ask the 'monitoring officer' to look at your case. Your local councillor or member of parliament might also be able to help.

If these don't sort your problem out, you can also ask the Secretary of State for Health (in England) or the Welsh Assembly (in Wales). However, you will need to get legal advice before you do this.

Another possibility is to use (or threaten to use) the courts, either to :

- sue the council for a 'breach of its legal duty' (this can be difficult to prove); or
- get a judge to rule on whether the council's actions were legal, rational and reasonable (a process called 'judicial review').

You will need legal advice in either case. If you cannot afford to pay for a solicitor, and you meet other conditions, you may be able to get public funding (which used to be called legal aid). See 'The Community Legal Service' on page 23 for how to find out more about this.

What if I have a problem with NHS care?

You can complain about any area of health care from the NHS. Your local community health council or, where they have been set up, your local Patient Advice and Liaison Service (England) or Patient Support (Wales) should have information about the NHS complaints system and about independent help (complaints advocacy) in your area (see 'Further help' on page 22 for details).

The government is considering reforms of the NHS complaints system. Currently, if you have a problem, first contact the hospital, surgery or clinic involved. They should have a leaflet telling you how to make your complaint. If you can't sort things out at this stage, you can ask the NHS Trust Health Board, or health authority to have your complaint reviewed by an independent panel. However, in some cases, they don't have to agree to this. If you are still not happy with the result of your complaint, you may be able to take your complaint to the Health Service Ombudsman.

Further help

Community Legal Service Direct

A free, easy-to-use service to help you solve your legal problems.

Call: 0845 345 4 345

to speak to a qualified legal adviser about Welfare Benefits, Debt or Education or find local advice services for other problems.

Log on at: www.clsdirect.org.uk

to search for a quality local legal adviser or solicitor or find links to other sources of online information and help.

Community Health Councils (CHCs)

These are currently the community's watchdogs for health services. They can offer free confidential advice and help on making a complaint about an NHS service. Details of your nearest CHC should be in the phone directory. They will be abolished in England in September 2003 – thereafter, contact NHS Direct (phone: 0845 46 47, www.nhsdirect.nhs.uk) for details of independent complaints advisers in your area.

The Health Service Ombudsman

phone: 020 7217 4051 or 0845 0154033 (England)

phone: 029 2039 4621 or 0845 6010987 (Wales)

www.ombudsman.org.uk

Age Concern

phone: 0800 009966, 7am to 7pm every day to request written information (Monday to Friday 9am to 5pm if you want to speak to an adviser)

www.ageconcern.org.uk

Help the Aged

phone: 020 7278 1114 (9am to 4pm Monday to Friday)

Seniorline: 0808 800 6565, office hours

Care Fees Advisory Service 0500 767476, office hours

www.helptheaged.org.uk

Counsel and Care

phone: 0845 300 7585

Monday to Friday 10am to 1pm

www.counselandcare.org.uk

Carers UK

phone: 020 7490 8818 (Monday to Friday 9am to 5pm)

Carersline: 0808 808 7777 (Monday to Friday 10am to 12 noon and 2pm to 4pm)

www.carersonline.org.uk

Local Government Ombudsman (England)

phone: 0845 602 1983

www.lgo.org.uk

Local Government Ombudsman (Wales)

phone: 01656 661325

www.ombudsman-wales.org

National Care Standards Commission (England)

phone. 0191 233 3600

www.carestandards.org.uk

Care Standards Inspectorate for Wales

phone. 01443 848450

www.wales.gov.uk/subisocialpolicycarestandards/index.htm

The Community Legal Service

The Community Legal Service has been set up to help you find the right legal information and advice to solve your problems.

You can get help through a national network of organisations including Citizens Advice Bureaux, Law Centres, many independent advice centres and thousands of high street solicitors. All of these services meet quality standards set by the Legal Services Commission. Look for the Community Legal Service logo, shown below.

Many of the organisations offer some or all of their services for free. If you cannot afford to pay for advice you may be eligible for financial support through the Community Legal Service Fund (Legal Aid). You can order leaflets about funding from the LSC Leaflet line on 0845 3000 343. You can also use a Legal Aid eligibility calculator on the CLS Direct website at www.clsdirect.org.uk

*Community
Legal Service*



The Legal Services Commission (LSC)

The Community Legal Service and the Community Legal Service Fund are managed by the Legal Services Commission. To find out more about us visit our website at www.legalservices.gov.uk or find the details for your local Legal Services Commission office in the phone book.

legal services
COMMISSION

The leaflets are also available online at: www.clsdirect.org.uk

- 1 Dealing with Debt
- 2 Employment
- 3 Divorce and Separation
- 4 Renting and Letting
- 5 Buying and Selling Property
- 6 Losing your Home
- 7 The Human Rights Act
- 8 Claiming Asylum
- 9 Welfare Benefits
- 10 Wills and Probate
- 11 Dealing with the Police
- 12 No-win, No-fee Actions
- 13 Problems with Goods and Services
- 14 Medical Accidents
- 15 Equal Opportunities
- 16 Racial Discrimination
- 17 Personal Injury
- 18 Rights for Disabled People
- 19 Community Care**
- 20 Education
- 21 Immigration and Nationality
- 22 Mental Health
- 23 Alternatives to Court
- 24 Family Mediation

The leaflets are also available in Welsh, Braille and Audio

To order any of these leaflets contact the LSC leaflet line on **0845 3000 343** or email LSCleafletline@stivesdirect.com or Fax 01732 860 270



This leaflet is published by the Legal Services Commission (LSC). It was written in association with Luke Clements, a solicitor specialising in community care issues, and Sue Bloomfield.



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